ABRIDGMENT
OF THE
COMMON LAW

MANUSCRIPT
I

Forfeiture 619-10 1 (4)

26 Two condicon nor either of them to alien, alienation by one is a forfeiture of both 1: Cro: 136.

27 With ye land that a man forfeits he forfeits ye Charters belonging to that Land Stanf: Cor: 187.

28 What rights & entries are forfeited by ye Statute of 26: h: 8: 33: h: 8: Hob: 340.

29 Tenant in taile makes a feofment and then is attainted of treason he hath still a right remaining in him which his heirs must claime for him by a descendit jus & therefore hath power to forfeit it Hob: 341.

30 Actions in privity shall not passe in general words of a Statute of attainder & though Conditions be mentioned in 33: h: 8: c 1 yet Conditions of privity & that are inseperably inherent in the person are not given Hob: 342.

31 Many things may be granted that cannot be forfeited: A man seised in the right of his wife may grant & yet not forfeit vide plus 2: Leon: pag: 126.

32 A lease as long as it is in contingency cannot be forfeited as if a Mortgagor be attainted & pardoned betwixt ye Mortgage and day of Redempcon 1: Leon: pag: 260.

33 Lessee for life levyes a fyne to a disseisor it is a forfeiture of his right to him that hath but a right 3: Cro: 450.

34 No forfeiture of a tenant for life cannot præjudice him in the reversion or remainder 3: Cro: 598.

35 Tenant for life remainder for life, remainder for life levyes a fyne sur Conus: & Conusee brings a quid juris clamat against tenant for life who making

B

default is judged to attorne: this is no forfeiture in Tenant for life being ye act of ye Court but it is to him in ye remainder though no discontinuance but because in a Court record he seeks to disinherit ye reversion 3: Cro: 757.

36 There is a difference between a fyne levyed by him for life & him in remainder in taile, & a fyne levyed by tenant for life & him in remainder in fee ye first is a forfeiture but not ye last 3: Cro: 828.

37 If my Keeper of my Parke will not execute a warrant of mine or suffer it to be served this is no forfeiture of his office so if he will not suffer his Master to hunt there this is but a misfeasance aliter of nonfeasance. Moore 9.

38 Lessee for years remainder for life Lessee for years alieny in fee Tenant for life dyes he in ye remainder in fee may enter Moore 9.

39 Lessee in reversion of ye King to commence upon ye forfeiture surrender &c of a former Lease if ye first Lessee be outlawed this is a royall forfeiture & not intended, but such a forfeiture as is in tenure or estate Moore 238.

40 One being bound to ye good behaviour called one a Peller lyer drunkard & said I will make thee a poore Kicton & also was endicted quia vi et armis clausum fregit & averia cepit & abduxit & injuste detinet videtur no forfeiture of ye recognizance for he that forfeits must doe some act which imports to doe violence to his body Moore 249.

41 Lessee for life bargaines & sells ye Lands to one & his heeres & afterwards suffers a common recovery to ye use of ye bargainor it is a forfeiture Moore 271.

42 The King is intituled to all ye Lands that Traitors had at ye time of ye Treason & therefore betwixt ye Treason & attainder of A: it is not good to make him Conusee of a fyne Moore 196.

43 See very good cases where ye reversion is pluckt out & where it is not pluckt out & yet no forfeiture: Confirme 10: Moore 383.

44 If one hath ye custody of a house for life, & denyes ye owner to enter this is a forfeiture of ye custody Moo: 787.

45 An Annuity pro Consilio cannot be granted over or forfeited for it is but a confidence: Cardinall Poole seised of Lands in ye right of his Church & attainted of Treason he shall forfeit ye profitts of those Lands 2: Leon: pl: 169.

46 He that hath not privity of title shall nilesse take advantage of a forfeiture Latch: 227.

47 If a Person lyes in waite to kill me, & I kill him, I forfeite nothing Benl: 29.

48 Tenant for life & ye reversion in fee make a Lease for life it is a forfeiture Benl: 32.

49 Tenant for life of an Advowson Levies a fine ye reversioner may enter for ye forfeiture Ben: 133.

50 A fine levyed upon a release made to tenant for life by a strange is not a forfeiture of his estate but if he take a fyne sur Conusance de droit come ceo &c it is a forfeiture 5: Leon: 36.

(4)

51 Lessee for years in an action of debt for rent against him claimed fee by bargaine and sale of his Lessor the pl̄t traverseth ye Bargaine & sale it was urged this was ~~urged~~ no forfeiture for both parties were at large but notwithstanding ye Traverse ꝑ Curiā ye Claime is a forfeiture which cannot be saved by matter subsequent 3: Leon: 169.

52 Ten.t for life remainder in taile, remainder in taile & ye first rem.d levy a fyne to one that grants a rent charge to ye ten.t for life, ye first rem.d dyes without issue ye 2.d rem.d enters ten.t for life distraines: It is neither discontinuance nor forfeiture: nor discontinuance for each gives but his owne estate, nor forfeiture, it shall be first construed to be ye fine of him in ye rem.d, afterwards of ye Ten.t for life 1: Co: 96: a: b:

53 Ten.t for life remainder in taile, rem.d in fee enfeoffs ye rem.d in fee, it is a forfeiture & devests ye estate tail in rem.d 1: Co: 140: a.

54 B: Ten.t for life rem.d in fee B: leases for years and grants to A: for life from a day to come, Lessee for years atturns after ye day, ye terme expires, A: enters & leaseth at will B: levyes a fine come ceo to Tenant at will, he in ye rem.d enters & his entry judged lawfull 2: Co: 55: a.

Franchise

1 The Bailiffe of a liberty may make Enquisicon & Extent upon an Elegit by warrant from ye sheriffe directed to him 1: Cro: 232.

2 One declares agt a bailiffe of Westminster for not executing a writt he ought to declare of what liberty he is bailiffe or whether he hath execucon or returne of writts 1: Cro: 240.

3 The bailiffe of a Liberty may well make deputy: & ye King may have Liberties as he hath by suppression of ye Abbyes which are not extinct but revived by 32: h: 8.

4 The King is ye origin all of all franchises & a quo warranto is ye King writt 1: Bul: 55.

5 Every franchise hath its comencemt from ye Crowne notwithstanding hath power & justice remaining in him & this is tacita Exceptio in all grants by ye King 1: Bul: 160.

6 To enter ordrs in a Corporacon by a pretended Court is good cause to disfranchise such Sty: 480.

7 Det brought agt ye Deane & Chapter of Paules for an escape suffered by their bailiffe of a franchise where they had ye returne of writts It lyes not agt them but agt ye baily for ye writt is directed to him: also an obligacon according to 32: h: 6: ought to be taken in his name: & for an ill returne he shall be fined Noy 70.

8 In a franchise ye parties are at issue upon a matter tryable out of ye franchise ye record shall not be sent in C: B: & there tryed 1: Leon: pl: 117.

9 Two Citizens of London sued in C: B: & ye Major & Aldermen would have ye plt to put it to compromise which he refusing they disfranchised him ye Court directed their writt to restore him & assest a fine of two marks on all that were parties to ye disfranchisement which they pd & ye Citizen was restored 3: Cro: 33.

What franchises comeing to ye Crowne shall be extinct & what shall not 3: Cro: 592. 10

The Pillory & Tumbrell ought to be provided by ye Lord of the Liberty & not by ye Vill: unless there be a prescripcon to ye contrary 3: Cro: 698. 11

None but ye Lord of a Mannor or Person of ye Church can Eject of Pidgeon houses Moo: 238. 12

The King makes ye Citty of G: a County saving to ye King liberty for his Justices of Assise &c to keep their Sessions there It is a good saving & ye Justices &c in their sessions there may have & determine offences within ye County but of no offence done within ye City although committed during ye time of their sessions Moo: [illegible]. 13

The Conqueror extinguishes all franchises but not ye Laws of ye Land without Proclamation & see what may be pleaded by prescripcon & what by Charter Moore 640. 14

Freehold

Where one shall not have a freehold but only vestura terrae vide Exp: parol: 61: Owen 37. 1

In Trespasse ye Deft pleaded ye freehold of D: & so justified as his bailiffe without saying at his comandm: ye Plt replyed yt ye sd D: was seised in fee & made a Lease to him by vertue whereof he was possest absqz hoc yt ye Lessor made ye Deft his bailiffe post dimissionem: Judged by this Lease a freehold past to ye Plt & he ought to have traverst a freehold in ye Lessor for that would have destroyed ye Plts justificacon: A grant to a man till he be promoted to such a benefice or dumodo se bene gesserit these are freeholds: & livery in ye principall case need not to be specially alledged though it be a freehold by implicacon or operation of Law Ow: 118. 2

3 A man cannot have a terme for years in his owne right & a freehold in auter droit to consist together (as if a man Lessee for years takes ye feme Lessor for wife) but a man may have a ~~fee~~ freehold in his owne right & a terme in auter droit, & therefore if a man Lessor takes a feme Lessee for wife ye terme is not drowned 1: instit: 338: b: q.

4 Tenant in taile in remainder upon an estate for life is attainted of felony Qu: if ye Lying during ye life of tenant in taile shall have ye freehold 1: Leon: pl: 169.

5 A: being possest of a terme for years in Lands grants a rent to B: for his life issuing out of ye Lands though this cannot be a grant to make a freehold yet it shall be a grant as it may be viz: a grant for so many years as ye terme endureth, if he live soe long for it is not a ~~[illegible]~~ frank-tenement in Law but a chattell 1: Cro: 183.

6 No franck tenant can begin in ye future 3: Cro: 45: Moore 393.

7 An estate of freehold cannot by ye Common Law commence in future, but ought to take presently either in possession, reversion or remainder, for a man cannot make present livery to a future estate 5: Co: 94: b.

Forrest

Quo warranto for a forrest no subject can have one v.e plus 2: Bul: 295. 1
Quo warranto for having a Parke within ye Kings forrest. It is a — 2
royall franchise: it is a certain Territory of ground priviledged for
wild beasts & foules of ye forrest to rest & abide in in ye safe protection
of ye King for his pleasure: it consists of 4 things (1) vert (2) —
venison (3) particular Laws & Priviledges (4) certain officers: A
Parke consists of soile inclosure — & game 1 slightly to inclose a
parke within a forrest ~~is a forfeiture of ye Parke~~ Bridgm: 25.
A forrest is many times without any paroch & therefore it shall not 3
be intended within any paroch except it be shewed in ye pleading
on ye other side Lane 33.
Proclamation must be made of making a Parke before it be 4
made Moore 119.

Forgery.

Forgery of a rent charge or of a Lease for years is within 5: ~~Eliz but~~ 1
forgery of an Assignment or a rent charge in esse or of a Lease for years is —
not, for that dos not charge ye Inheritance of any Noy 42.
The Obligee raiseth out Libris & puts in Marcis, no forgery punish= 2
able for it is no prejudice but to himselfe for by that ye obligation is
void Noy 99.
If he that writes a Will omitts a thing that was appointed to be 3
put in that is not forgery: but if ye devise had been to A: for life
remainder to B: in fee & he that writes ye Will omitts ye estate for life
to A: by which ye fee is presently to B: that is forgery Noy 101.
L: was censured for inserting ye name of a speciall baily in ye sherriffes 4
warrant Noy 101.

5 If an Accon of forgery of Deeds be brought ag: 2: for forgeing and publishing & it is found yt one forged & ye other published ye plt shall have judgem: Hutton 60.

6 There is an obligation made & ye obligor & ye obligee conferred ab: it and ye obligor said to ye obligee he had forg'd this this is Action: for it refers to a certainty Winch 76.

7 Forgery shall not be intended unlesse precisely alledged 3: Cro: 554.

8 B: makes an obliga of a 100th to A: for ye true behaviour of his son bound an Apprentice to A: and A: after ye sealing & delivery had raised out Libris & put in Marcis judged no forgery for he makes his obligation void & prejudices no other person but himselfe but if he had increast the summe or diminisht it to avoid any Collateral prejudice to himselfe aliter, but it is a misdemeanor Moore 619.

9 If one make a Deed of feoffm: in December & after it & before livery & seisin executed ye feoffor by good assurance sells ye land to another & after this ye feoffee receives livery & seisin from ye feoffor this is forgery in both: and if ye feoffee cause ye livery to be indorst generally this is forgery for it is a writing with an intent to defeat a meane assurance so to antedate a Deed for such a purpose Moore 655.

10 Second forgery after conviction of a former is felony by 5: Eliz: a copy of ye indictm: in this case yes granted: no accessary can be in forgery but all are principalls Moore 666.

11 To omitt a thing or a Legacy appointed to be inserted in a Will is not forgery but if he be directed to give ye Land to one for life remainder to another in fee & he omitts ye estate for life it is forgery: If one write a Will without direction & bring it to ye devisor, & he allows it, this is

good: but to fill up blanks & bring it to him being not perfect in his senses is a misdemeanor Moore 760.

A Deed upon vehement presumptions of forgery damned in ye Starr: Chamber Moore 815. 12

That forgery of a Deed conveying Chattells, Personalls & also a Deed of Assignement of Lease of Lands in Ireland is not within 5: Eli: c: 14: 3: Leon: 170. 13

Falsify Recovery

Scire fa: ag. Ten. in taile (& by his ill pleading) Execution against his Lands & pending ye Scire fac: he demiseth ye Lands Judged ye the Lessee for ye Lease made after verdict ag. ye issue in taile could not falsify Bridgm: 65: vide Winch Recovery 12. 1

If ye Recovery passe upon an issue tryed by verdict he shall never falsify in ye point tryed but ye issue in taile may falsify ye recovery in any other matter as that ye ten. in taile might have pleaded a collateral warranty or release 1: instit: 361: a. 2

A stranger shall not falsify that which is only to ye writt 3: Cro: 41. 3

A Disseisor enfeoft a stranger & ye Disseisee brought an Assise ag. the disseisor only, & ye feoffee pending ye Assise let ye Land to ye plt: the disseisor pleads to ye assise nul tort, nul disseisin, & the disseisee recovered: Judged ye Termor for years may falsify this recovery: for the Termor did not claime by him ag. whom the recovery was had, & ye freehold out of which ye terme is derived is not recovered: and ye doubt at ye Comon Law was if ye Termor might falsify where ye recovery was ag. his Lessor: but where ye recovery is not ag. ye reversioner but ag. a stranger 4

ye Lessee may falsify in point tryed: Every stranger to a recovery may falsifye (for he cannot have error or attaint) if he came not in pending ye writt, by him ag. whom ye Recovery was for then he is bound 3: Cro: 284.

5 A stranger cannot falsifye a recovery by reason of Joynten ancy or nontenancy or other such dilatories but only for matter of substance if there be Covin he may falsifye for ye cause: 3: Cro: 471.

Ten. for life remainder in taile he in rem. lets for years to begin after ye death of ten. for life: Ten. for life afterwards suffers a recovery with voucher of him in ye remainder & dies ye Lessee may falsifye this recovery for ten. for life hath noe such power & ye recovery is ag. ten. for life 3: Cro: 718.

6 Ten. in taile enfeofs his son of full age & then disseiseth him & levyes a fyne with proclamation & before ye last proclam: ye son enters & makes a feofm. ye proclam: expires, father & son dyes ye feoffee makes a Lease for years to a stranger & dyes seised ag. whose issue ye issue in taile brings formed: & recovers by a faint defence: Termor for years brings Ejec: fir: & judg. he may falsifye ye recovery, for ye in taile was bound by the fyne, but because it appeared by plea ye fyne was levyed to ye use of ye Termor & not averred to any other use his term was extinguisht & therefore could not falsifye Moore 391.

Where ye rem. or ye reversion expectant on estate taile may falsifye recov: Taile 46.

7 The Grantees cannot falsifye ye recovery it being suffered by one not chargeable at all with ye rent

8 By ye Comon Law none can falsifye a recovery of a freehold but he that hath a freehold 6: Co: 57: a.

Feesimple

Where a devise in a Will shall be judged a feesimple in respect of a conditional charge imposed upon it Bridgm: 85. 1

If the father seised in fee of Lands deviseth them to his eldest son and to his heirs upon condition yt he should pay his debts within a year & if he failed yt his Executors should sell & pay his debts (resolved) although ye heir hath a fee yet he hath it as a purchaser being tied with a condition 1: Cro: pag: 115. 2

When ye right of feesimple is perpetually by judgemt of law in aberance there he that hath ye qualified fee may charge or alien it concurrenti as his est but where it is such aberance that possibly may come in esse then it cannot be charged untill it come in esse 1: instit: 343: a. 3

Grandfather father & son ye grandfather seised in fee deviseth it to ye father for life ye remainder to ye son & ye heirs males of his body ~~begotten~~ remainder to ye right heirs of ye devisor & ye heirs males of his body begotten: grandfather & father dye & ye son dyes without issue males having Anne a daughter: judged Anne hath a feesimple for immediately by ye death of ye grandfather ye remainder doth vest in ye father as his right heir & vesteth in him as a feesimple which cannot by matter subsequent be converted into ~~as~~ an Estate taile 3: Cro: 97. 4

A man cannot raise a feesimple to his owne right heirs by the name of heirs as a purchase neither by conveyance of Land nor by use nor by devise Hob: 30. 5

A man may have a feesimple in 3: kinds hereditaments reall personall it is divided into simple conditionall & qualified 1: Instit: 1: a. 6

Land was devised to one for life remd to A: paying 40s. to Js: ye Tenr for life dyed judged yt A: had ye Land in fee, ye word paying makes his estate conditionall

7 A feoffment made ad opus & usum Gabrielis Dormer & heredum masculorum suorum legitime procreat: et pro defectu talis exitus et judg. Gabriell hath a fee simple because it is not limited of wh at bodyes ye heirs shall come 3: Co: 478.

8 No Intrusion can be upon an estate in feesimple, for Intrusion is after ye death of Tenn. for life or freehold determined — Yelver: 171.

9 Where a feesimple shall be executed & where not tit: joyntenancy Popham 52.

10 A feesimple passeth not at Comon Law, but where ye fee may be drawn out of him that hath ye remd or reversion in fee thereupon & therefore a discontinuance cannot be of an estate taile where ye reversion or remainder is in ye King Popham 63.

11 Every Land in feesimple may be charged with a rent charge one way or ye other by consent of ye parties 1: Co: 147: b.

Habendum.

1 Copyholder in fee surrenders it into ye Lords hands who regrants it in this manner: Memdum quod Jo: Wright cepit de Domino tenx terrae cui Dominus concessit inde seisinam habendum eidem Johanni & Elij: uxori ejus & heredibus rem. et judged that all ye words of ye grant and limitacon are in ye habendum & yt ye wife takes by this Copy 2: Co: 434.

Vide grants 1: Co: Litt: 21: a: Tenn. for life 4.

A difference when a thing comes in ye habendum of a deed that 2
denotes ye premisses of ye deed for then it shall be effectuall: but
if it be repugnant to ye premisses of ye deed & to the matter of ye
thing which is given by ye deed it is void for that parcell that: do.
Habendum from a day to come this is not good in case of a
freehold which can not operate to begin in futuro & one cannot
reserve a lesser estate to himself then he had before 2: Bul: 273
If ye habendum do crosse ye premisses it shall be void Owen 24. 4
Reference 26.
A: seised of ye Mannor of Dale lets ye same with all the 5
members & appurtenances to ye same to have & to hold all the
members of ye sd Mannor to ye lessee for terme of years: If
Walsh & Weston this was only a lease of ye Mannor & yt the
limitation of ye words members being after ye habendum is void
but Dyer et Browne e contra That when ye Hab: is used by
way of limitation it shall not be void: If one lett the Mannor
of Dale hab: one acre parcell thereof ye lease is void for all
but if there had been no hab: but ye lease for years had been
limited in ye premisses thereof it was good, & if it had been
habendum every part thereof it had been a good lease of of ye
Mannor for all ye parts comprehend it Owen 31.
A lease is made to one for life habendum to him & his first 6
begotten sonn this makes no remainder to ye son: so of a lease
to one for years habendum to him & another it makes no remd.
Owen 38: vide exp: word: 16: Tale 14.
Use to ye husband & wife habendum to ye husband for 30: years 7
ye wife takes nothing Ow: 48.
W: seised in fee demiseth lands to H: habendum to ye sd H: & to the 8
sd M: 9: & H: & ye habendum void to all them that are not
parties to ye deed Hutt: 88.

9 Vt 4 wayes to expound an ill pennd habendum Bridgm: 101: if ye habendum in a Deed be contrary to ye estate given by the premisses the habendum shall be void Bridgem: 101.

10 The Lease was made to Dowse his wife & his son, habendum to Dowse for terme of his life, ye remainder to ye wife for terme of her life remd to ye son for life: this habendum has severd ye joint estate in ye premisses & hath distinguished it into remainders: but if ye habendum had been successive ye estate had remaind joint 1: Leon: pl: 13.

11 A man grants scitum Rectoriæ cum decimis eidem pertinentibus, habendum scitum prædictum cum suis pertinentijs for 20: years: though ye tithes are not mentioned in ye habendum yet they passe with ye scite for 20: years & not only for ye life of ye Grantee for they are parcell of it & it is not like ye grant of severall offices & one of them only exprest in ye habendum for in that case ye grants are severall & intier & distinct 1: Leon: pl: 380.

12 A proviso following Habendum if it be repugnant it is void, vid Leases 61.

13 A Lease was made to 2: Habendum to 2: of them & to 2: others for 4: lives & ye longer liver of them: judged ye two named in ye habend: did not take any thing 2: Leon: pl: 1: & ye there is no occupancie if ye two first dyes ibid.

14 A Lease was made to A: B: & C: for their lives, habendum to A: for life ye remd to B: for life, ye remd to C: for life: it is a good Limitation & they shall take according to ye habendum for in ye premisses a joynt estate is given only by implication which is controlled by the expresse Limitation in the Habendum 3: Cro: 25.

A: by Indenture between him & Jo: let certain Lands to Jo: for life 15
habendum to him & A: B: & C: his three sons successive: judged the
sons shall not take in possession because they are not named in ye
præmisses nor shall they take by way of remainder for ye intent
was to give ye Land to them in possion: & there can be no occupant
for it being limited to ye father for his life this is a greater
estate than for ye lives of others and ye 3: sons are named to have
an estate & not to make a Limitation of an estate 3: Cro: 56.
W: was seised in fee & by his will devised it to M: his wife 16
for life & dyeth who made a Lease of it, but ye Jury found farther
ye W: before the makeing of his will made a Deed of feoffm: to
G: W: his sonne habendum after ye death of ye sd W: to ye sd G: W:
in taile & made livery secundum formam Chartæ, judged that there
being only an implyed estate for life & ye by ye habendum an expresse
estate is limitted this controles ye implyed Limitacion & this being
repugnant to ye Law being after ye death of ye feoffor it is void:
& ye Livery is but execution of a void deed, But if there be an
expresse Limitacion in ye beginning if ye habendum be repugnant
it is void & ye first good: but if one grant a terme by deed habend:
after his death ye præmisses are sufficient to carry it & the
habendum shall not destroy it 3: Cro 254: Hob: 171: ac.
Js: made a Lease for 3: lives & after let ye Land to W: for his 17
life, which sd terme to begin after ye death &c of ye 3 lives, and
livery was made maintenant: Judged forasmuch as ye estate was
fully limited before ye words (which sd terme) it is good & these
words are idle: utile sd inutile non vitiatur 3: Cro: 269: Uses 50:
reservation & habendum 8.
A name only in ye habendum is good in copyes of estates Copyhold 78 18

19 10

limitacons of estates ye certainty of divers habendums is to be regarded Moore 223.

A: seised in fee makes a feoffmt. habendu to him & ye heirs of his body to ye use of him his heirs & Assignes: he is ten? in taile for ye words that follow ye habendum shall be intended to such heiries formerly limited Moo: 848. 24

A rent was granted out of land to A: & his heiries habendu to him & his heirs for ye life of Js: an estate for life only descendable passeth & not a fees imple Moore 876. 25

Habendu cannot abridge ye thing granted nor ye person of the Grantee but it may limit ye estate of ye thing granted Moore 885. 26.

A man made a Lease for 40: years to one by Indenture if ye Lessee should live so long & afterwards by another Deed demised ye same Land to ye same Lessee habendu to his Executors & Assigns for 40: years after ye expiracon of the first Lease, Quere if ye Lessee or Executors shall have Interest in ye 2d Lease or whether it be void pr mehoiem opni: it is void for ye premisses of ye Deed is to appoint ye person who shall have ye Lease & ye habendu to declare the estate which shall be in ye Lease 3: Leon: 32. 27

The habendu in a Coppyh: Admittance differs from the habendum in Grants & feoffmts tit: Coppyh old Poph: 125. E: demises to B: and A: his son & to ye heirs of A: habendum for 99: years & so from 99: years to 99: years till 300: years be expired without impeachmt: This is but a Lease for years to both of them for if no ceremony be requisite to perfect the estate in ye premisses nor in the habendum but ye delivery- 28

19 The office of ye habendum is to limitt ye estate & to explain ye premisses & to give & to enlarge & to be pursuing to ye premisses but not to be repugnant, for if so ye estate precedent given shall stand & ye habendum shall be void: Herns Law of Convey: pag: 1.

20 The office of habendum well debated Moore 26.

21 One leases to A: & his wife & to B: habendum to A: for 80 years if he shoulde so long live & if he dye within ye terme ye remd of ye terme to ye wife & ye 8: person: a good Limitacon by ye habendum: but ye habendum cannot divide estates that were joint before Moore 43.

22 One leaseth ye Mannor of D: with all ye members & habendum all ye members of ye sd Mannor for years: videtur ye Lessee is only Ten: at will there is a diversity between a thing that lyes in a grant & of a thing that must passe by livery for if a man makes a Lease of a Mannor & an office to have & to hold ye Mannor for terme of years ye office passeth for life though omitted in ye habendum & when a habendum is used for a Limitacon it cannot be void, but it makes ye Lease void Moore 55.

23 Scant de Scitu Manerij rectorum suum et divinis eidem pertinen et spect: habendum dictum scitum cum pertinentijs for years it seems ye tithes shall passe for it is sufficient to have ye intent of ye premisses in ye habendum & not ye expresse words & a diversity when ye deed contains many things to be granted & after the habendum comes to limit ye estate it is superfluous for ye habendum pt to recite ye things but where ye deed contains severall

of ye Deed, or if one ceremony be requisite to perfect both ye estates (as Atturnum) ye habendum contrary to ye premisses is void [illegible] 2 admitting ye estate be exprest in the premisses: But if an estate be implyed in ye premisses and another estate exprest in ye habendum ye habendum shall stand: And if a Ceremony be requisite to perfect ye estate in ye premisses & none requisite to perfect that in ye habendum which is contrary to ye premisses ye habendum shall stand: In ye principall case livery after will not help, because at Commencem. it was a Lease for years 2: Co: 23: 24.

Heriot

1 The Lord shall loose his heriot where ye tenn. hath not any beast for it is a casuall thing except ye custome or tenure be to have ye best beast or such a summe Hutt: 4.

2 The Lord may seise a Heriot service, for it is a service which lyes not in render but in prender & ye Lord is to have ye best beast & it is at his election which he will take for ye best: & it is inconvenient to put him to distrain where he may seise: 1: Cro: 32.

3 A Heriot service is seisible a difference betwixt a tenure yeilding annually an Oxe: the election is in ye Lessee & of rendring annually his best beast here ye election is in ye Lessor: 3: Cro: 580.

4 Where one justifies for Heriot Custome, Hors de sur fee is no plea for that he claimes ye Heriot as his proper Chattell & therefore may seise him where he finds him but for Heriott he must distrain & not seise Penl: 18.

Custome to take for an Heriot ye goods of any [illegible] 5
a tenant upon ye death of ye Tenant thereof not good, and so
to seise ye best beast levant & Couchant is v[illegible] Beal:
39.

Heresie.

2: h: 4: c: 15: It ought to be a fundamentall heresie in matter of faith 1
2: Bul: 300.
There are diverse manners of Schisme in doctrine & discipline, the 2
Deane of Christ Church condemned for a Schismatick because he
wou'd not use a Surplice 3: Leon: 199.
Schismaticks upon a habeas Corpus remitted to ye high Commission 3
Court by whom they were imprison'd till they submitt 3: Bul: 54.

Hue and Crye.

The party robbed ought to give convenient notice as soon as he can 1
if he any ask what he ayles & he saith he is robbed it is good notice:
if ye hundred of A: & B: are joyning & ye robbery done in ye confines
of A: his notice in B: is good: if ye hundredor sells his Lands the
Purchaser or Lessee is chargeable: if ye party knows ye robber he
shall prosecute him: but he shall have his Accon ag^t ye hundred
if he be not taken: ye party robbed is not bound to lend his horse to
pursue ye theife Noy 155.
If one be assaulted to be robbed in one hundred & he escape and 2
flye into another hundred & ye theives instantly pursue & robb
him there, ye hundred in which he was robbed shall be solely
charged: he that came into ye hundred after ye time of ye robbery
committed he is not chargeable Hutt: 125.

3 If ye robbery be done in ye night time ye Inhabitants are not bound to make ye pursuite: Post occasum solis sed ꝑ lucem diurnam he should begin his fresh suit within ye hundred 1: Leon: 72. vide Action 6.

4 A: delivers goods to a Carrier who sends ye Cart with a boy and stayes a while behind, ye Cart is robbed, ye boy raiseth Hue & Cry goes to a Justice, ye Justice refuseth to examine him & the Carrier would not goe to be examined but A: died & was examined & then brought his Action judged ye he failed of his Action for ye party robbed must be examined 1: Leon: pl: 456.

5 ꝑ Curia: if he who is robbed after he hath made Hue & Cry doth not further follow ye theives yet his Action remaines: ye pltts oath in this Action was refused 2: Leon: pl: 109.

6 The Inhabitants are bound to apprehend ye felons or to satisfye ye party robbed & he is not bound to give notice to ye Inhabitants nor to direct them which way ye felons made their escape, & ye mistake of ye parish since that ye hundred is rightly named is not materiall. 2: Leon: pl: 212.

7 Action on ye St: of Winchester ye servant was robbed & ye Mat sworne not good for ye intent of ye statute is ye he that had notice should be sworne 1: Cro: 142.

8 Robbery done in ye morning before sun riseing or after sun setting in unusuall hours of travailers ye hundred is chargeable 3: Cro: 270: Notice 19: Action 28. vide Shep: Epitome 78: pag.

9 Hue & Cry is not necessary by ye party: for if a man be bound 2: days together & so need make no hue & Cry yet he is releivable by the Stat: & it lyes though it be after sun sett Goldsbr: 60: 61: 70: con:

A servant or a receiver of another mans money may sue ye hundred 10
as well as ye Master Goldsbr: 24: pl: 3: 1: Brownl: 155: ac.
The Accon must be brought within a year after ye rollery 1: Brownl: 11
156.
How to declare upon ye statute of Winch: 2: Cro: 187: 2: Cro: 12
350: 1: Cro: 153.
Qu: if a house be robbed in ye day & ye felons escape hue & 13
Cry being made if ye hundred shall answer: videtur quod non
3: Cro: 753: because not done to ye person ibid:
An ye hundred is not chargeable with ye escape of felons 14
nor to pay ye robbery if it be in a house nor of robbery in the
High way in the night Moore 620.
The statute of Winton upon Hue & Cry extends not to 15
Burglary 3: Leon: 261.
~~[illegible]~~

Hors de son fee

In replevin (justities ye 7: acres of land called Pitts is — 1
locus in quo & at ye time of ye ta being were holden at ye sd
C: ye plt pleads out of ye fee of C: & ye Jury found ye 7: acres
as locus in quo called Pitts & ye those 2: acres were held of A:
this maintains not ye issue for so it may be held of A: yet they
may be within the fee of C: as Lord Paramount 1: Leon: pl: 294.

Idemptitate nominis

Vide this writt allowed after verdict judgemt & execution — 1
awarded 2: Cro: 627.
Where it will lye & where a supersedeas ~~will~~ shall be upon it Hutt: 45. 2

Import. Customes.

1 Prisage is an antient duty which ye King hath usually had vide 2: Bul: 252: it is due to ye King by praescripcon, not by Comon Law 253.

2 The Kings Patentee of Pyrats goods seising some goods of Pyrats shall not pay Custome for them for they being goods given by Law to ye King no reason he should pay Custome for his owne goods Lane 15

3 Prisage is not given to ye King by any Statute but was only an Impost by ye Kings power: Lane 24: when any Imposition is granted by a Parliam.t it is only a subsidy & not a Custome for ye nature thereof is changed. & ye Impost of Wine is pt over & above ye poundage (25) ye lessening of Custome & Impost much to be guided by intelligence from other Nations 28.

4 In 31: E: 1: a Statute was made to discharge Merchant strangers fro ye paym.t of prisage wine & allowed by ye Court yt no Merchant stranger shall be chargeable for prisage Lane 35.

5 Vide Concerning prisage & Butlerage Moore 832: 3: Bul: 1: vsq 23.

Inducement.

1 Where a matter is alledged as an inducement to a plea it need not be so certainly pleaded as where a title is made 1: Cro: 98: ve Traverse (1) 2: Cro: 351: 362: 634.

2 Inducem.t to a Traverse always to be sufficient 1: Cro: 193. and 245: Court 3: Action 6.

3 Replevin upon Demurrer ye Plt in barr to an Avoury sheweth yt ye Lord granted him ye reversion after W: who was ten.t for life & sheweth ye death of W: whereby he entred & judged he need not shew ye of W: his estate because it is not ye Plts title but matter of Conveyance.

Matter of inducem.t to an action is not materiall if it be not pursuing 4
2: Bul: 84.
Det vpon 2: E: 6: for titles & in his declaracon mencons not ye grant 5
to be by deed: good for it is but an inducem.t to ye action 3: Bul: 228.
Where ye mentioning of an ordinance of Parliam.t &c is by way of 6
inducem.t if ye recitall be not punctuall it is not destructive and
therefore looke to ye ground of ye Action Sty: 344.
The Action brought is to recover damages by ye fraud & it is no more 7
necessary to set forth all ye circumstances occurring in acting ye fraud
then for one to set forth all processes in an action grounded vpon
a fraudulent Judgem.t obtained ag.t him Sty: 369.
An action of ye case for causing a false p.sentm.t before ye Conservators 8
of ye river of Thames mov'd in arrest of judgem.t yr ye authority
of ye Conservators is not sett forth: Resolved ye action is brought
for ye vexation & ye authority is but an inducem.t Sty: 379.
The title of ye Court omitted & ye place not exprest where ye goods 9
were vpon which execucon was to be done being but inducement
vpon an action of ye Case non allocantur 1: Leon: 303.
In all cases where ye Deft may wage his Law there ye Conveyance 10
is traversable 1: Leon: pl: 340.
To distinguish betwixt an Inducem.t & a materiall inducement 11
2: Leon: pl: 100.
Sagittavit tormentum for sagittavit in tormento Latch: 167. 12
Sacramentum duodecim proborum & legalium hominum Com
prac.d not good where ye statute apponits it pr hominis of
ye same vill Latch: 166.
Matter of Inducem.t & ye circumstances of it need not precisely 13
be set downe in a declaracon as in assumpsit to save the
baile in accon harmelesse the Bayle may declare such a
plaint was entred & prosecuted soe far & yelver: 16: 17.

14 G: promised to give A: soe much with his daughter as he had agreed to give with her to B: & A in his declaracon saith that G: agreed to give 1000ᵗᵗ. with her to B: this being Inducement is well pleaded without ~~[illegible]~~ pleading ye agreem.ᵗ incertain Yelver: 17.

Ingrossing.

1 What shall be said ingrossing within ye Statute 5: E: 6: c: 14: 1: Cro: 229: 1: Cro: 167.

2 Information agᵗ a Costermonger for ingrossing of Apples on 5: E: 6: c: 14: & judged to be without ye Statute & Coke said there was not anything prohibited within ye Statute but it had a proviso there in some kind it might be bought but there was not any such proviso for Apples therefore it was not restrained 2: Cro: 214: Sty: 190: ad idem.

3 If fishmongers buy & sell fish at unreasonable rates they are Ingrossers so Malsters 2: Bul: 249.

4 A Starchmaker may buy wheat & it is no ingrossing Bridgm: 5.

5 To buy Corne to convert it into meale & sell it afterwards is not ingrossing within 5: E: 6: c: 14.

Instructions

1 Instructions to a Court to warrant their proceedings against Law is not good 1: Cro: 432.

Interpretation.

Quære if ye King holds Lands discharged of tithes & to die his predecessors if his patentee shall hold it so 1: Cro: 67.

If there be an indifferent construction which may be taken 2: ways we will take it that way which is most reasonable to make the obligation stand in force Sty: 242. 1

Words shall be taken in mitiori sensu. Noy 19. 2

In generall words ye construction shall be in digniori sensu but if words are speciall words et conventio vincunt legem Noy 35. 3

That which qualifyes & extenuates words ought to be full & not ambiguous Hutt: 65. 4

Words shall be taken in digniori sensu if 2: St. Michaelis ye Archangell shall be intended if father & son be of one name Scil: A: M: ye father shall be intended &c: Bridgm: 15. 5

Words that by implicacion may sound ye same thing where they shall not be good 2: Cro: 219. 6

We ought to make such construction of Deeds & things may passe by them according to ye meaning of ye parties 1: Leon: pl: 10. 7

Where an estate is once settled by precedent words subsequent words seeming divers alters it not 1: Leon: pl: 154. 8

The experience & usage of Laws is sufficient to interpret them to us 1: Leon: pl: 207. 9

Where precedent words are in ye copulative & ye sentence ends with a disjunctive it shall make ye copulatives before to be disjunctives 3: Cro: 269. 10

That which abridgeth ye Comon Law shall be taken strictly Yelver: 93. 11

Issue.

1 Where issue is joyned upon a collateral matter & verdict given for the Plt where there hath been a default in forme for pleading helpt by Jeoffailes 1: Cro: 137.

2 When 2 issues are & both found ag.t ye deft & nitior damages given & ye upon arrest of judgem.t it is found one of ye issues is frivolous ye Plt ought not to recover (1: Cro: 142: v.e) vide intendm.t (1) helps not an issue ill joyned.

3 Upon Oyer of a bond ye deft pleads paym.t Et de hoc ponit et ye Plt similiter assigned for Error he ought to have pleaded solvit Et hoc paratus est & cetera ye Plt to reply non solvit et hoc petit so there had been affirmat: and negat: but pr Curia ye deft pleads payment & ye Plt joyns & ye Jury finds not p.t is good aided by Jeoffaile 1: Cro: 230.

4 In debt upon obligation conditioned for paying 51.li ye deft pleaded he p.d ye s.d 21.li (& so mistooke 21: for 51) ye Plt replys he did not pay ye 51: prout ye deft hath pleaded Et hoc petit quod &c Et defend similiter judgem.t for ye Plt: and upon Error resolved there was no issue joyned ye no repleader lay costs & damages being given but reverst ye judgem.t 1: Cro: 430.

5 Audita querela to avoid a statute supposing ye land to be intailed ye deft takes issue ye they descended to him in fee, & it was found ye all was fee simple Lands but 500: acres: ye Plt could not be discharged for these 500: acres: but he must help himself by entry & have an Assise upon disseisin & ye Court hold ye the issue ought to be found for ye Plt in every part is he hath pleaded otherwise it is found ag.t ye Plt in all, & judged ye Plt should take nothing by ye writt 2: Cro: 85.

6 Admitt a plea not good yet if issue be joyned upon it & it be proved false ye verdict is good enough & judgem.t well given 2: Cro: 85.

Where there be 2: issues rising from both places ye Tryal ought to be ye 7
vicinetum of both places.
The pltt saith quod non intravit ye licentiam suam & issue joined 8
thereupon & found for ye pltt & it was moved in arrest that he
ought to have traverst ye licence & not ye entry by ye licence for
that is pregnant in itself & an ill issue agreed ye issue was ill at
Comon Law but being tryed it is made good by statute which aid
misjoining of issues for an issue upon a negative pregnant is an
issue 2: Cro: 87.
In debt upon obligation ye deft pleads tender at jour et lout & the 9
pltt recovered ye principall summe in Court & judgemt to acquit ye deft
of ye summe recovered & ye pltt to have damages all judgeth a
demand of ye money's from ye deft: but if he would have
damages he ought to have left ye money's in Court for after
judgemt quod eat sine die no issue shall be taken 3: Cro: 120.
The deft pleads entry & expulsion by A: before ye fyne 10
levyed &c & issue thereupon & found for ye pltt & moved it was that
ye issue was not well joined for if he were possest at ye time
of ye fine it were well enough (sed non all) for being falsly
all edged by him & found agt him it is not to be disputed whether
he were ousted or not for it is an issue joined & so within ye Stat:
32: h: 8: 3: Cro: 192.
Debt upon bond condicioned for paymt of 10li 25th June 20: 11
Jac: ye deft pleads he pd ye sd summe 20: day of June anno
12: Jacobi &c ye pltt replyes yt he did not pay it ye aforesaid
20: of June & issue thereupon but ye issue is
for it might be true he pd it not 20: June yet it might be
pd 25: June & so ye obligation not forfeited 2: Cro: ~~[illegible]~~ 435.

12 Ad triandum exitum inter partes predictas in placito debiti when ye Action was sure fa: to have execution of a Judgement for damages upon a Trover: Ven: fac: de novo ordeis 2: Cro: 520.

13 Informing ye baron & feme ye defts appeared & ye record was entred Et predictus Jo: et Magdalena veniunt et predicta Magdalena dicit quod ipsa non est This is only plea of ye feme Covert: but judged to be mended because ye Docket was qd Jo: & Magdalena plac: quod non sunt culpabiles & in another terme but note if ye baron & feme plead qd ipsi non sunt Culpabiles, & it is found this finding is ill & cannot be mended 2: Cro: 530.

14 In debt ye deft saith he pd 50li 14: Junij ye plt saith quod non solvit predicto 14: Augusti & issue being thus joined & being found qd non solvit predicto 14: Junij adjudged ye issue was good & ye (August) void 2: Cro: 530.

15 There shall never be two severall venire fac: to trye two severall issues in one County but 2: severall issues in severall Countyes it is otherwise 2: Cro: 550.

16 No issue joined Et hoc petit being where Et hoc paratus should have been 2: Cro: 579.

17 ye deft pleads he pd ye pd 100li ye plt replyes qd non solvit pd 105: Et hoc petit: resolved there is no issue joyned for they doe not meet & verdict helps it not 2: Cro: 586.

18 Et hoc petit where it should be Et hoc paratus est: ye deft may shew any speciall matter without joyning in issue or might demure: but where he accepts ye issue & joynes there in the tryall is good 2: Cro: 589.

19 De injuria sua propria where one justifies for a way or such particular cause is no issue also if it were a good plea yet he ought to say absq tall cause 3: Cro: 599.

Where in bespasse to part not guilty is pleaded & to part justification 20
& ye justification is found for ye deft ye other issue shall not be
enquired of 2: Cro: 599.
Attorn: fa ill (upon traverse of an office in Chancery) because 21
it did not specify what were ye several issues it being only ad
triandum sessales exitus nostros inter partes junctos 2: Cro: 670.
The tenor saith he was disseised & issue there upon & found for the 22
Plt & though disseising to a tenor seems to be an idle issue but
being found yt he did not disseise it is good otherwise if it
had been found he did disseise 2: Cro: 683.
Accon ag. baron & feme for battery by the feme & they plead the
baron & feme came to defend ye force &c & ye baron for his said 23
wife sayes yt she is not guilty but ill joyned Heat: 10.
Debt ag. Administratrix Margery who pleads ye Plt replyes 24
devastavit & saith not quod predicta Margery devastavit the
Deft joynes issue quod pred Mar: non devastavit Quere
if any issue be joyned Heat: 33.
If a Jury be charged with diverse issues & are ready at ye bar to 25
give up ye verdict ye King may wave any of ye issues 1: Bul: 197.
if verdict be once pronounct they cannot then take it in part:
& such issues for which evidence was given for ye King cannot be
waived 1: Bul: 197.
Where ye case arising upon ye assumpsit is in ye affirmative 26
there it ought to be averred in facto yt ye land did descend, but
where it is in ye negative quod non permisit ye land to descend
is a good issue 2: Bul: 18. vide assault 8.
The saith A: was dead tempore Judicij redditi ye other yt he 27
was in full life tempore Judicij scilt 18: Aug. ye scilt is idle
2: Bul: 27: ye sole issue being ye time of ye Judgem.

28 What pleas shall be no more than ye generall issue 2: Bul: 201.

29 Earle or not Earle is tryable by record but if he will putt this upon issue being tryed it is good, & so ancient demeasne tryable by Doomsday by if tryed by issue it is good 2: Bul: 253.

30 Two trespasses are laid ye Deft pleads to issue to one of them but not to ye other & this to which he pleads is found ag^t. him Judgem^t. shall be given for that which is found 2: Bul: 289.

31 If there be a negative & an affirmative though ye issue be well not joyn'd it is helpt by Jeoffailes aliter if it want an affirm: and negat: for then there is no issue at all Sty: 71.

32 If you have two dayes to plead according to ye days of paym^t. in the bond & you rely upon one of them & issue is there upon joyned & that is found ag^t. you you are barr'd Sty: 94.

33 Issue is joyn'd ye predictus Robertus similiter whereas it should be pred: Richardus 1 it is not amendable because it is joyn'd between other partyes Sty: 113.

34 If there be severall things in a Declaracon on which an issue may be joyn'd, if an issue be joyned upon one of them it is well Sty: 151.

35 The Plt sueth severall promises ye Deft pleads non assumpsit upon this an issue is joyn'd ye Deft moved in arrest that there is no issue joyn'd as to ye second promise for he concludes not with a hoc petit q^d inquiratur p^r Patriam & yet a verdict found for both promises Sty: 158.

An Action of assault & battery & wounding agt A: & his wife the 36
Deft pleads non culp: to ye wounding & justifies ye rest in defence
of her husband in keeping possession of some Lands ye Pltt
replyes de injuria sua propria & traverses the not absq tali causa
videtur ye issue is not well joyned: good issues may be joined in ye
affirmative that imply a negative: a verdict may make an issue
good or ye statute of Jeoffailes or it is good in part & ye damages
found shall be intended for that, if there be two issues & one issue
is not well joined, & damages intier all is bad Sty: 198. two issues
may be made one by pleading & so helpt by Jeoffailes Sty: 206.
All issues are not joyned by expresse affirmative & expresse 37
negative, for if it be but by implicacon it is good in formall issues
but not materiall issues are helpt by ye statute for ye matter
is not put in tryall & it would be vnreasonable to give Judgem.
see Sty: 211.
Issue what vide Shep: Epit: 1048: & body of ye Law 71: Co: litt: 38
126: a.
An issue joyned vpon impertinent matter is not helpt by ye statute
an informall one is helpt by verdict at ye Comon Law a tryall
vpon a double is good: where you may plead ye generall issue
& give ye speciall matter in evidence by ye meal act Sty:
354: 355.
where ye substance of ye issue being found ye verdict 39
shall be sufficient notwithstanding omission of Circumstances
Co: Litt: 227: a: 282: a.
where ye plea of ye party amounts to ye generall issue, ye generall 40
issue shall be entred Co: Litt: 303: b:

41 In trespasse quare vi & armis for entring into Lands ye deft pleads his entry by a Lease for years this amounts to not guilty & ye Plt may demurr & shew it for cause Sty: 355.

42 An issue cannot be taken upon a presumpcon Sty: 477.

43 Qui loqui potuit is a good issue & shall be tryed as in case of a writt of non compos mentis a man bound to give me 20lb. when ye river of ware is navigable it is a good plea to say ye river is navigable without saying some have navigated it: one declared in a Quare impedit ye Clerke presented could not speak wesh & ye Patron pleaded he could speak wesh & judged a good issue: If I am oblig'd to give to you 100lb. when I am able to goe to Paules this may be tryed though in facto I never went thither & if I am able I shall pay ye money's: the deft alledged he was peritus in Legibus Angliae no good issue Ow: 128.

44 It was pleaded Sr Wm Sands granted, ye issue qd pred: W: Sands non concessit it was found he was an esqr at ye time of ye grant judged good 1: Cro: 124.

45 In trover for a by ye wife dum sola they appear and plead non Culpabiles: It should be non fuit culpabilis & so of trespasse by ye wife because it is a personall wrong, but in debt it shall be ag. them in ye debent, & ye issue non debent Noy 41.

46 An oblig: to pay 100lb. 31: Sept: & ye issue upon non paym. found for ye Plt moved yt ye issue is upon impossibility for Sept: hath but 30: dayes & Curia it is due presently & non paym. ad diem is well found for ye Plt & it is aided by Jeoffailes Noy: 85.

In quinque computaverunt for five pounds & ye issue was nil debet 47
ye Jury found pd in simul computaverunt and yt H: was found
in arrears of 5th (Error) for ye Jury hath found nothing of the
issue nil debet Noy 118.

Deceit yt ye deft had found sheep & warranted them to be 48
sound when they were rotten, ye deft pleads they were sound
at ye time of ye sale Et de hoc &c not good for he should
traverse ye cause of Accon (viz:) absq hoc yt they were rotten
an issue shall not be taken on 2: affirmatives Noy 124.

He who pleads in ye affirmative ought to prove all to be 49
true every issue which is taken absq hoc ought to be precisely
found: ye plt pleads he devised it, it is found he devised
but two parts this issue is found agt ye plt Winch 49.

That ye deft pd 7th & a horse in full satisfaction of ye rent 50
& yt ye Testator did accept it in full satisfaction ye plt replyes
it was pd for another debt absq hoc yt he received that in
satisfaction of ye rent & this issue upon ye acceptance & not
upon ye paym: is good Winch 76.

The ~~replic~~ replication was That ye rent in this case is not comprised 51
& this is a point in Law, & if issue be taken upon that we draw
ye Tryall from ye Court to ye Jury which is not good Winch 111.

Issue cannot be taken upon report but upon matter of fact: 52
suspition cannot be tryed because it is but ye imagination of
a man which lyes in his owne conceit: for giving of a false
testimony adjudged ye intention of ye swearers cannot be put in
issue: when ye matter of justification is upon matter of record

& upon matter of fact or of matters done in two Countyes that cannot joyn ye issue ought to be upon one only Bridgm: 62.

53 Where speciall words tant amount a gen'all issue it is good enough Lane 50.

54 Where ye partyes are at issue upon a point certain no forrein matter not in question between ye partyes though found by verdict shall be respected in judgem't plus 1: Leon: pl: 86.

56 The deft pleads an immateriall issue which answers not to ye action he shall not have advantage of it to arrest Judgem't but it shall be given upon as nihil dicit 1: Leon: pl: 89.

57 The deft pleaded A: is dead ye Plt replyes he is livenig no plea without traverse for upon 2: affirmatives no issue can arise 1: Leon: pl: 102.

58 The Plt counts ye Lands are held in socage of B: the deft saith yt they were held of him in Capite absq; hoc yt it is holden of the Bishop of Winchester as ye Plt counteth: and in truth ye Lands are held in socage & none in Capite but part of ye Bishop & part of anoth: this shall not trench upon ye issue 1: Leon: pl: 152: — Jeoffailes 20: helps insufficient issue.

59 Where one thing may be issuable though it is not ye principall point of ye declaracon & therefore ought to be shewn 2: Leon: pl: 100.

60 If ye party be at liberty to plead two things & he relye upon ye one & stand not upon ye other though it appear by ye replicacon yt ye other might advantage him yet if ye issue for that upon which he relyed be found ag't him judgem't shall be given for the Plt 2: Leon: pl: 122: Jeoffaile 17: helps not where no issue is joyned.

In debt condicionem to pay 50lb before 15: Octob: 31: El: ye [illegible] 61
[illegible] deft pleaded yt he had pd it before ye day
scilicet 9: June 30: El: which was before ye date of ye obligacon
yt issue was yt ye deft not solvit before ye 15: Octob: 31: El: the
Jury found ye negative & judged ye scilicet 9: June is not materiall
but surplusage 2: Leon: pl: 126.

In debt upon a bond for performance of Covenants whereof one was 62
yt ye deft should assure convey & sett over a Lease &c & ye plt assigned
qd non assuravit, conveiavit, transposuit (anglice set over) and ye
Deft pleaded qd assuravit conveiavit, transposuit (anglice set
over) now transposuit is not in ye Covenant nor pleading & if the
latin word doth not agree with ye matter non refert of ye english
word and per Curiam ye issue was not well joined 2: Leon: pl: 155.

The deft before Auditors alledged he had expended 100lb for ye 63
relict of ye plt & he replyes yt he had not expended ye 100lb
but said not nor any pt, for it is not reason he should give an
account for that part & so judgemt given on an ill issue is erroneous
but it was said yt in a Collaterall issue it is enough to close with
ones adversary in his own words without adding any thing, but in a
generall issue it is otherwise: as in waste for cutting 20: oakes
ye deft must plead yt he did not cut ye sd 20: nor any of them
But in debt upon an obligacon not to doe wast, upon such a
breach assigned ye deft may plead he did not cut ye sd Oaks
modo et forma 3: Cro: 84.

Where ye issue is raised by ye deft of a matter not in ye declaracon 64
no issue is joyned request 30: 3: Cro: 91: (Ac: case 50) mistryall

65 Faux Imprisonm.t ye Plt supposeth it to be done 10: Dec.r 29: El: ye deft pleads ye by a warr.t he did arrest & imprison him 2: & 3: Dec: absq; hoc ye he was guilty before or after: ye Plt saith he was guilty of ye trespasse after ye 3: Dec.r prout in narracone sua specificatur this prout implyes it is before ye Accon brought & makes ye issue well joyned 3: Cro: 95.

66 If issue be taken on a Collatterall matter & found for ye Plt judgm.t shall be given for him 3: Cro: 320.

67 Where an issue is proper to ye Accon but hes not in son bouch that pleads it is not meerly void & not like not culpable pleaded in debt 3: Cro: 367.

68 Quod habuit filium qui potuit to qui ye Lords prayer in english tho it seems to be a power not reduct into act is tryable in an issue: ys ye Presentee could welsh a good issue: But that he was peritus in Legibus is no issue for ye Jury cannot trye it 3: Cro: 728.

69 Issue taken whether sick or not sick Moore 134.

70 Double issue is no mistryall, ~~[illegible]~~ for if one of ye issues be materiall & ye other imateriall & both found for the deft it is good warr.t to give judgem.t Moore 574.

71 Provided if he shall goe abs to alien Qu: if goeing abs be issuable Moore 632.

72 The issue was whether ye Land leased was discharged of tithes ~~[illegible]~~ ye Jury finds there was not any discharge at ye time of ye dissolucon: It was moved in arrest of Judgem.t ys ye Lease was void by the Proviso in ye Stat: of Mortgages (non allocatur) for ye Lease is but inducem.t to ye title of ye Plt & ye issue is well tryed & in this case had there been a mispleading or mistryall it had been helpt by Statute of Jeoffailes Cro: Jaco: 318.

The Condition of ye obligation was to pay money at ye house of Ed: in — 73
Rochester & issue joynes accordingly which because it was not pleaded
to be pt apud R: in domo mansionali Ed: videtur Error Moore 831.
The promise was to shew a sufficient record & in assumpsit the — 74
breach was laid so specially, & though it were objected this should
refer ye sufficiency of a Record to ye Laygents (good) for it is proper
to lay ye breach according to ye promise & ye Deft might have pleaded
yt he shewed tale recordu & concluded it was sufficient & there upon
ye Plt might have demurred by assigning a breach in speciall (as in
ye principall case) ye parties shall never come to issue upon ye matter
of ye promise but put it on ye judgement of Law Yelverton 40.
A Condition to make & all & every such ~~[illegible]~~ reasonable 75
act & thing whatsoever for ye good & lawfull assuring, ye Deft pleads
yt ye Plt non requisivit ad faciendu aliqua rationabilia actum —
aut acta quae fuerunt pro legitima assurantia & ye Plt replyes that
he requested ye Deft qd conveiaret secundum tenorem Conditionis
Judges a good issue & need not expresse in certainty what kind of
assurance for ye Deft at his pill is to make any kind of assurance
Yelverton 45.
When an issue is soe offered in ye bar that which way soever it be 76
found it destroyes ye Plt & yet it may be tendred indifferent, it
is not good Yelver: 141.
That ye Plt was Injured & would swear one matter to day, & 77
forswear it to morrow, ye Deft justifies yt in a suit in chancery
whereinye now Plt was Deft in his answer said he pd noe
money's, & in affidavit he pd 12d. which was Injury prout patet
p recordum Plt replyed qd nullum tale record: day given.

to bring it in, & ye deft brought a copy of ye affid.t & of ye answer he hath failed of ye record for they are no records, ye issue is ill for ~~they~~ he ought to have concluded Et de hoc ponit se super Patriam Benl: 204.

78 Vide where 2 issues may be (as where ye issue is joyned upon the Intrusion, & takeing of ye profitts & ye Jury finds only ye intrusion) ye findeing of one them is ye findeing of both 3: Leon: 145.

79 The issue was if ye deft had expended ye whole 100.li upon the educacon of Arthur & Anne, observe ye issue is in tier without saying how much for ye one, how much for ye other, & therefore some were of opinion if ye deft had expended part of it in the educacon of one of them onely, yet ye Jury must find ag.t them, but ye Court ordered ye Jury to find specially if they conceived ye deft had spent any part of it & how much 3: Leon: 150.

80 An issue joyned on a Collaterall thing may lay aside the true merritt of ye cause & judgem.t shall be according to ye issue found 3: Co: 42: b.

Jurisdiction.

1. After a prohibition obtained a Consultation granted because it appeared ye party had allowed ye jurisdiction of ye Eccles: Courts till sentence & excommunicacon 1: Cro: 69.
A Court proceeding by Statute though it get Commission for other offences proceed not warrantably 1: Cro: 81: obligat: 43: Tryall 19.
3 If a issue be whether a will of goods only be revokt it is tryable in spirit: Court for they haveing Conusance of ye principall matter shall try ye accessories 1: Cro: 81.

A Taylor in bath in an Action of ye Case declared ye Deft cold 3
him cheating knave in his trade by which he lost many of his
Customers in Bathe & in ye County of Wilts, whereupon being
found for ye Plt they assest 100 marke: Error brought & assigned
ye Jurors in Bath (being a private jurisdiction ought not to have
assest damages for his losses in Wilts: Pr Curia this is only an
allegacon in respect of damages for the increase of them which
they enquire of in any place whatsoever 1: Cro: 412.
Information upon 5: Eliz: c: 4 for using ye Trade of browning not 4
being Apprentice judged ye Information lay in ye Exch: though
it be enacted 3: Eliz: c: 5: ye offences ag ye statute shall be
inquired within ye County for ye statute is not in ye negative
(& not in any other County) but (not in any other County) 2: Cro: 179
Resolved a Divorce being by sentence in ye spirituall Court 5
between a man & his wife causa præcontractus & ye parties
being dead between whom it was ye Court of Wards cannot
examin it to prove another heire ag ye sentence 2: Cro: 186.
The Calling one bastard is tryable in ye spirituall Court yet 6
when matter subsequent is laid which is tryable in a temporall
Court as to entitle himself to heire & this makes ye calling
him bastard to be actionable at ye Comon Law 2: Cro: 324.
2: Bulstr: 89.
What ye jurisdiction of ye prærogative & Ecclesiast: & spirituall 7
jurisdict: Heat: 47.
Where a Court is to hold plea but to such a sume & yet by 8
subtelty takes cognusance of a greater sume a Prohibition
lyeth: for it is but a window to draw more into their
jurisdiction & also ye King would lose his fines.

9 To take jurisdiction of from ye Court ye Statute must be pleaded — & not by motion Heat: 102: & here it was pleaded to ye jurisdiction of the Court in arrest of Judgem.t ibid:

10 Court of Requests no jurisdiction of freehold & no consent of the parties to submitt themselves will aide or give jurisdiction which by ye Law belongs not to them 1: Bul: 108.

11 Jurisdictio est potestas jurisdicendi in publico ~~and~~ introducta pro necessitate 1: Bul: 211:

12 The examination of all non-users, misusers of Officers ought to be examined by the Court to which they belong & ye prosecution of their Office in ye Chancery B: R: would not allow it 2: bul: 58.

13 Where ye words may concern ye tryall of a spirituall Court yet ye damages sufferred by ye words may give a jurisdiction to the temporall Court 2: Bul: 90.

14 That one ought not to sue but at ye common Law to bastard an issue Sty: 10.

15 Upon suggestion sworne yt. ye cause of Action (if any were) was not within ye jurisdiction a prohibition prayed, inferior Courts are limited to their jurisdictions Sty: 45: admitting ye jurisdiction either by pleading in inferiour Courts or spirituall Courts or admiralty is no plea ag.t a Prohibition to them 45: 2: cases together.

16 The party ought to take advantage in pleading yt. ye cause of Action was out of ye jurisdiction of this Court & not to move it in arrest of Judgem.t Sty: 58.

17 A Prohibition to ye Court of Doncaster & Attachm.t ag.t the Mayor for not allowing a forreine plea tendered in debt for rent of lands out of ye jurisdiction of ye Court 89: Style

The record is in Chancery a Memdum of it is sent in B: R: the 18
Chancery is not to be Judge for ye Traverse was there & ye cause
removed here & we cannot goe back thither again if it
had been vpon a Demurrer in Chancery judgem^t might have been
there & pr Curiam in this case they may give judgem^t ag^t ye King
without ye Inquisicon: if an office be found to intitle ye King
in Chancery & it be transmitted hither & it appears not to be
good judgem^t shall be given ag^t ye King by vs Sty: 95.
Jurisdiction of Court cannot be enlarged by agreem^t of 19
parties Sty: 102.
Videtur ye Court of Comm^ts of Policy for assurance may assure 20
a mans life goeing to sea vpon Merchants affairs & ye try all
there vpon is before Style 167: 173.
In assumpsit in Bridgewater Coven^t to pay so much monies 21
at ye defts return out of Ireland ye Court held ye Bridgwater
had no power to enquire of a thing done beyond their
jurisdiction Sty: 191: 225.
A: declares in Bristow ye B: indebitatus assumpsit for wages 22
to be pd vpon a voyage pformed in locis transmarinis: they
cannot enquire if he have pformed this judgem^t Sty: 260.
The Pl^t declares yt ye deft took certain goods out of the 23
jurisdiction of this Court & brought them within ye jurisdiction
& so disposed of them (it was in trespasse vi & armis) yet
because ye taking is ye ground of ye Accon, ye Court had no
jurisdiction Sty: 313: if ye Accon had been trover and
Conv: it had been good ibid:

24 Vt. good cautions how being within ye jurisdiction of a Count Palatine & sued in B: R: how to plead & how transitory actions & locall Actions may be laid: and you must rely vpon your plea & not put yourselfe vpon an issue by a Traverse to ye merit of ye Cause you are impleaded in Sty: 331: 332.

25 Where ye Court is moveable ~~[illegible]~~ (as ye Vexige) ye venire must be from ye place with an infra jurisdictionem Curiae, for at ye time of ye trespasse it might be within ye jurisdiction & at ye time of ye tryall out Noy 96.

26 G: is an Examiner of Chester & he sueth two one dwelling within ye jurisdiction & another dwelling at London in a Bill in the Chancery of ye Excheqū he that dwells in Ch: Answer aq̄ ye other & a Prohibit: to stay ye suit in C: B: & though privileged pursues ye plt and reus non potest eligere resolved this power belonged to ye Chancery in England

27 In trespas for beasts taken in London & ye deft justified as to takeing as a distresse vpon a Lease land in Kent ye plt replyed ye deft sold his beasts in London no plea to bring ye tryall out of Kent to London Wnick 48.

28 The Court of Marches may hold plea of things not remediable at ye Comon Law yet that is to be vnderstood of matters of Equity & not to take ye jurisdiction from spirit: Courts for the King cannot doe that by his Letters patents: but if ye Executor suffer a Decree in ye Court of ye Marches & not come at first to be releived it is in ye discretion of C: B: if they will grant him a Prohibition Wnick 48.

When an Act of Parliam.t limits a jurisdiction to an inferior he ought to pursue it in all ye substantiall parts precisely: so if ye sheriffe holds his Turne but two dayes after ye statute not good Win: 84. 29

Every plea that goes to ye Jurisdiction of ye Court shall be strong ag.t ye pleader Winch 113. 30

Where ye statute is in ye affirmative it takes not away an antient jurisdiction of a Court but he is in election to sue in both Courts 1: Cro: 104. 31

If one be sued in ye Court where ye Major is Judge & Plaintiffe, unlesse ye party excepted to it in ye Court, & it was there disallowed it shall not be received for Error: And if ye praescripcon be to hold a Court before ye Major & 2: Aldermen & one be not an Alderman judgem.t will be reversed, & is not like a fyne for that is before such justices et alijs fidelibus & if there be no such justice as one of them which is named yet ye fyne being levyed before other Judges is good 3: Cro: 320. 32

If a Court of Comon Law exceed their jurisdiccon he that obeyes ye Comand is punishable: If upon appeale in C: B: ye party be executed ye Executioner is guilty of Murder Regicides Tryall 68. 33

The Bishop of Durham imprisoned one for a lay cause & the Archbishop of Yorke as his soveraigne cited him to appeare before him: upon Complaint made to ye King in Parliament ye matter being heard, ye Archbishop submitted to ye Kings Grace & was fined 4000 Marks 3: Cro: 484. 34

Where ye party is not to examine the jurisdiction 3: Cro: 534. 35

36 Ut Curia if one be sued in ye spirituall Court for a matter whereof they have jurisdiction & therein a plea is pleaded which is tryable at ye Comon Law, yet if they will allow ye plea they shall have jurisdiction thereof otherwise Prohibition lyeth: If one answer to a suit in ye spirituall Court & suffers sentence to passe ag^t him he shall never have Prohibition: and if he brings an Appeale ye deft in ye appeale shall not have a Prohibition 3: Cro: 595.

37 Where ye Lands are franck fee if ye parties admitt ye jurisdiction they are bound for this ought to have been pleaded so that ye other party might have answered it Moore 451.

~~38 [illegible]~~

38 If any english Court holds plea of a thing whereof judgem^t is given at ye Comon Law Prohibition lyes upon ye Statute 27: E: 3: c: 1: and 4: H: 4: c: 3: Moore 836.

39 By authority of Parliam^t power was given to ye Lord Chancellor by advise of 2: of ye Judges to hear & order a Case according to Equity 3: Instit: 123.

40 The Counsell at Yorke holds plea by English bill, of a debt on an Obligation prohibition granted, for it is ag^t Law & ye liberty of ye subject, who may have Error or attaint, the King looseth his fyne due if ye suite be upon originall, ye Chancery holds not plea of debts in such Case Moore 874.

41 Prohibition to ye Admiralty for tryeing ye seizure of a Ship at Lymehouse & though it appeared not by ye Libell but that ye test was done on ye sea, yet ye deft may well surmise it to be done in Corpore Comitatus & upon such surmise shall have a Prohibition for ye surmise is traversable: The Coasts shoars & Harbours are all out of ye power of ye Admirall if not in two

Cases allowed by 15: R: 2: C: 1: Replevin brought for a Ship, & soe
hath trespasse been that shall not be accounted ye sea, where
one can stand upon ye Land & see land on ye other side Moore
892: et 916.
If an inferiour Court hold plea it must appear whether by Charter 42
or prescription for all Jurisdiction to hold plea is in ye Crowne
Yelverton 46.
An Attorney of C: B: was sued there by Bill for an assault 43
& battery done in ye City of Wiltes: the Bishop demanded
Conusance of ye plea & shewed his Grants & Confirmations, et
breve clausum Reginæ [illegible] ye Justices to [illegible] him
to have his Libertyes et allocatur Benlow 31.
A prohibition was denyed to ye County Palatine of Chester 44
quia breve Domini Regis non currit, County Palatine is an
exempt place 3: Bul: 116.
What jurisdiction Justices of Assize et may exercise within 45
ye County of a towne notwithstanding their Exemption Poph: 16.
Though ye writt or right be directed to ye Lord of ye Mannor 46
& ye justicies to ye Sheriffe, ye suitors are judges: ye reason
of ye direction is because ye Courts & ye profits belong to them:
and if either ye Lord or Sherriffe shall be thought a judge by
force of ye Kings writt wh ich is of record, he must be a judge
of record & error should lye upon his judgem^t: though ye King
may erect Courts he cannot alter ye jurisdiction of those
establisht: The Sherriffe is judge in Redifeisin & ye Tourne,
ye Stewart in ye Leet & Court of Pypowders, The Stewart and
Marshall in ye Marshalsea: 6: Co: 11: a: b.

47 If ye crime be cognizable in ye spirituall Court, yet if ye losse be temporall, it gives jurisdiction to ye temporall Court 4: Co: 17: a

Laches.

1 The eldest daughter was to enter after ye death of ye father & levy 500^lt. portion & then two other sisters successively ye brother enters judged there shall be a for ye time ye brother continued possession for it was her folly Noy 33.

2 A prohibition prayed because it appeared in ye bill ye plt is a recusant convict but because ye deft hath answered him admitting him a person able it is too late Noy 88.

3 A Consultation denyed because ye reason of it was not pleaded upon ye prohibition Noy 90.

4 In voluntary escape ye deft confesseth & saith he broke prison & yt he ~~[illegible]~~ retooke him such a day before ye Bill exhibited but in truth ye day was after an Imparlance had but before any day pleaded: ye reprisall was judged tarde: Reparation of waste before ye writt brought is a good plea in wast & so it would have been here Noy 93: vide jurisdiction 28.

5 If an Infant plead non est factum he shall not have advantage of his Infancy Winch 64.

6 Where ye plt if he neglect time in takeing out his 2^d. writt upon plene admin: being outlawed in ye first Action he shall not have benefitt of those Assetts he had at ye time of ye first Accon comenct Winch 82.

7 Where ye party ~~[illegible]~~ grieved might have alledged that in arrest of Judgem^t. after verdict which he did not he shall not be helped by attaint for it was his Laches 1: Leon: pl: 377.

Admitt ye recognisance was not well taken, yet because in the 8
scire fac: upon it ye deft took no advantage he shall be bound
by his sd admittance of it 1: Leon: pl: 384
In debt upon an obligation no place is shewed, that is not good 9
but if ye other pleadeth a release ye Exception is saved Cro:
Jac: 365.

Livery and seisin

Livery by a Letter of Attorney subsequent good: 1: Cro: 64: A Lease 1
found for life a die datus yet being found qd Episcopus demisit it shall
be intended ye Livery was made after ye day 1: Cro: 68.
A Lease with Letter of Attorney to make Livery habendum a die datus 2
& livery made ye same day ye Lease is void: The Lessees entring is no
disseisin nor his paying rent makes him no more but tenant at will
1: Cro: 282.
Resolved if a man makes a deed of feofmt of Land & delivers ye deed 3
& saith no more but take & enjoy ye Land according to deed or such
words which amount to a Livery nothing passeth 2: Cro: 80.
Found by speciall verdict ye Talbot 10: June 4: Eliz: by Indenture 4
demised to P: ye Messnage habendum a die dat Inden: predicte for
his life with Letter of Attorney to make livery & ye Attorney
made livery ye 23: July & this livery made after ye day of ye date was
held void, because it was made by Attorney who had not any
such warr: Popham if ye deed had been delivered after the
day of ye date & then Livery had been made by Attorney it had
been well 2: Cro: 153: vide barg: & sale 10: livery with bargain and
sale makes a discontinuance.

5 A speciall Livery shall be construed according to ye intent to discharge that which is not in possession, but is concealed 2: Cro: 389: Dower 36:

6 A Lease made 8: Aug: for three lives habendum a die confectionis & livery made 9te Sept: resolved good, for ye livery being made after ye day not working futurely was good 2: Cro: 458.

7 A Lease habendum from Mich: for 3 lives & livery made after Mich: secundum formam chartae notwithstanding that is a limitacon of a freehold to begin in futuro & no livery made till after Mich: it is good (for here ye Lessor made livery in Person) vt 2: Cro: 568.

8 Livery cannot operate in futuro for it is res ponderosa can never expect will be in suspense Heat: 28: If a feofmt or Lease for life was a die datus if ye Lessor or Person ye next day make livery it is good vt much good learning of livery Heat: 28.

9 Livery by ye Lessor & livery by Atturney see ye difference well debated Heat: 27.

10 A Lease for life habendum from ye day of ye date & a Letter of Atturney to make livery secundum formam chartae: livery made next day after ye Jury find ye Lease made ye 25th day & yt ye livery was past 25: diem predict: when a warr. is made to make livery & seisin secundum formam &c if ye deed be void in Law ye livery is void 2: Sul: 304.

11 A livery & seisin habendum a die datus deliveria ye next day is good if by ye party but if by an Atturney it is questionable Sty: 119.

Two seised of Lands in fee did make a Charter of feofment 12
to 2 others & in ye Deed was a Letter of Atturney to enter into the
Lands in ye name of ye feoffors & make livery & seisin according to
ye effect of ye deed & livery & seisin was by ye Atturny to one
of ye feoffees in ye absence of ye other, ye letter of Atturny was
made by two & ye words were pro me & in nomine meo: Qu: if this
be a good livery Sty: 284.

A Person that is not esse cannot take any thing by livery, for livery 13
ought to carry a present estate where ye estate is not limited by
way of remainder Owen 40.

A woman makes a feofmt. to severall Persons of a house & land 14
wherein she herselfe inhabiteth & is seised & delivers ye Deed to ye
feoffees without saying anything if she have an intent to make
livery this is good: Pr Anderson: dabit: pr penam because she inhabited
there at ye time but if it were of other lands where she dwelt not
& she comes there to make livery & delivers ye deed upon ye land
& sayes no words it is a good feofmt. Owen 44.

If a man pleads a feofmt. & livery within ye view he must plead 15
livery within ye view expresly Ow: 118.

Deane & Chapter makes a Lease for 3: lives rendring rent with 16
a letter of Atturny to make livery afterwards ye Atturny makes
livery sed after Mich: which was a rent day: good livery —
adjudged for untill ye livery be made ye Lessor shall retain his land
Owen 136.

Lessor grants to Lessee for years by paroll to enfeoffe grant bargaine 17
sell & confirme to ye Lessee in fee with a Letter of Atturny in ye same
Lease to make livery: the Deed was delivered to ye Lessee but no
livery & seisin: The reversion passeth not Noy 27.

18 A gift in taile to Lessee at will or tenant at sufferance is good without livery & seisin for possession counter vailes livery Noy 56.

19 Nothing can passe by livery but that whereof possession may be taken by ye feoffor or donor & given to him by feoffee or donee. Bridgm: 96.

20 The feoffor himselfe giving livery in what cases it shall be a Countermand to a letter of Attorny to give livery vide Lane 97.

21 A feofm.t with a Letter of Attorny to ye Lessee to make livery is good & no surrender: Lessee for years, remainder for life, remainder in fee, he in remainder in fee makes a feofm.t to ye Lessee for years & makes livery & it was judged a good feofm.t because it was no surrender in respect of ye meane estate for life & no ouster or consent will serve for then it would be a disseisin which cannot be upon ye possession of Lessee for years for his possession is also ye possession of him in ye remainder for life Lane 117.

22 Livery is the most worthy Conveyance to passe lands & livery being made in such part of ye Manner whereof ye feoffor was in possion in ye name of ye whole Manner, no more of ye Manner passeth then that which is in possession of ye feoffor 1: Leon: pl: 10.

33 If I make a Charter of feofm.t of 10: acres & a Letter of Attorny to make livery of them to ye feoffee if Attorny make severall livery of ye severall acres it is void 1: Leon: pl: 42.

34 A: seised in fee leaseth land for years & after makes a deed of feofm.t unto B: & a letter of Attorny to ye Lessee to C: & to D: conjunctim & divisim in omnia & singula & Lessee makes livery & seisin by himselfe in one part C: doth ye like D: doth ye like: Lessee by this hath not determined his terme: & ye livery is good: 1: Leon: pl: 276.

If a feofment be made of a house & ye deed be delivered in ye house 35
without other circumstance this amounts not to livery & seisin but if
the doe any thing by which ye intent of ye feoffer appeareth a lite
1: Leon: pl: 287.
Where an estate is made lawfully by many it shall be said ye livery 36
of him only who lawfully may make livery, yet where an estate
is wrongfully made it shall be accounted in Law ye livery of all
who joine in it 1: Leon: pl: 349.
A man absent cannot take livery nor make livery without deed 37
1: instit: 359: a.
H: to assure a house & lands to C: for money's borrowed goe — 38
together to ye house & H: calls ye tenants which were tenants at
will & said S.T. I have sold my house & lands on condition of
redempcon &c to C: & puts him into ye house locks it & delivers
him ye key's & said to ye tents take him for your master judged a
good livery & an estate for life past at ye least 1: Cro: 35: a
If a feofm.t be made of divers lands & of a house in which the 39
feoffor doth dwell & delivers ye feofm.t in ye house & speaks —
nothing of ye land 'tis good for all 1: Cro: 142: Livery & seisin
what it is: what kinds of it: The manner & operation of it: where
it is requisite: how it may & must be made & what shall be said a
good livery or seisin, or not in respect of ye persons that make it & to
whom it is made & ye quality of their estate: In respect of ye time
when it is made: in respect of ye place or thing wherein it is made
in respect of ye presence or possession of others in respect of the
matter whereof it is to be made: in respect of ye manner &

ordr of makeing of it: Livery in Law or within ye view: made by Attorney & ye warrant for doeing of it: how it shall enure & be construed Sheph: Touchstone 213.

40 Livery is void to execute a void deed 3: Cro: 255: habendum 16: 18.

41 Lessee for years makes a feofmt. ye Lessor being upon ye land: judged it shall inure by way of feofmt., for ye Law shall judge him in possession that hath ye right to it, & ye Lessee hath ye sole right to ye possession & livery ought always to be given of ye possession: but if part of ye Land be in ye hands of severall farmers nothing passeth 3: Cro: 322.

42 Is: seised of Land in fee being upon ye Land demised ye Land to A: for life & ye Jury find qd nulla alia deliberatio seisinæ facta fuit no Lease, for livery is solemne & ought to be made by some act done or legall words 3: Cro: 482.

43 Livery taken or made by a Letter of Atturney wherein the date of ye Charter of feofment is misrecited is void 3: Cro: 603.

44 A Letter of Atturney in ye end of ye deed of bargaine & sale is good 3: Cro: 905.

45 Lessee for years as Atturney for ye Lessor makes livery this is an Atturnmt. but it is no surrender to ~~[illegible]~~ extinguish his Terme Moore 11: he doth it by authority & ibid.

46 If ye Lessor enfeoffes a stranger & makes livery ye Lessee for years being on ye Land, who agreeth this is an Atturnment & no surrender, but if ye Lessee be not on ye Land, it is a feofment & when ye Lessee enters again he shall have his terme & the

feoffee ye reversion, but if ye Lessee be ingon ye land denyes
ye Lessor to make livery who notwithstanding doth it, nothing
passes by ye feoffmt. or as a grant of ye reversion Moore 11.
A Lease to B: for 20: years & in ye same Indenture covent 47
yt after ye expiration of ye 20 years B: his wife & their son
should enjoy ye lands habendu for their lives & ye longer liver
of them; and made a Letter of Atturney to make livery &
judged to be good Lease for years with remt. over if ye deed was
delivered by the Atturney & livery made at ye same time, but if
ye deed be first delivered by ye Lessor to ye Lessee & afterwards
livery is made by ye Atturny ye livery is void. Moore 14.
If a man be seised of an Acre in fee in his owne right & another 48
in ye right of his wife or in taile & makes a feoffmt. in both & livery
in ye acre which he hath in his owne right nothing of ye other
passeth, because livery in one in ye name of both in Law is the
livery of ye whole, but ye Law will not doe wrong to any livery
within ye view is good but ye feoffee must take possession presently
or it workes nothing because ye freehold cannot be made in
abeiance Moore 83: 85.
The Lessor made livery in a Close where ye Lessee was not in 49
possession nor had any servt. or Cattle there but he was in
ye house & upon ye residue of lands it is void livery for ye whole
Moore 250.
~~[illegible]~~
Vide many good Cases ab3 livery & seisin Moore 280. 50

51 A feofment was made of a house & land which was within the view of ye house & no livery was made only the deed of feofmt delivered as his deed in ye house, this no livery for the land nor ye popham for ye house without mention yt he should take it Moore 458.

52 A leaseth ye Manner to H: for 20: years & by ye same Indre covenants yt after ye expiration of ye 20: years that H: B: his wife &: his son shall have it for terme of their lives & ye longer liver &c and a letter of Atturney to one to take possion & to deliver possion to ye three this is a Lease for years remt for three lives if ye deed be delivered & livery & seisin at one time by ye Attorney but if ye deed be first delivered by ye Lessor to ye Lessee, & then ye Atturny deliver seisin afterwards ye livery is void Beul: pl: 158.

53 Tenant for life made a feofmt of white acre whereof he was seised for life & a Letter of Atturney to deliver &c secundum formam Chartae, before livery ye Tenant purchased ye fee & then livery was made (all passed) but if ye feofmt had been of all his lands in D: & a letter of Atturney accordingly & before livery ye feoffee had many lands there if he purchased one acre after ye livery shall not extend to that 3: Leon: 73.

Lease for years of a house, a close, & diverse other Lands, the 54
Lessor makes livery in ye close in ye name of ye whole in the
Lease the Lessee being in ye house & no body for him in the
Close, livery void 2: Cro: 31: b. for ye Messuage is principall
& ye land but a necessary ibid.

Letters patents under ye great seale amount to a livery in Law 5: Co: 55
94: b.

Livery to one Attorney in ye name of two not good, aliter to 56
joynt Lessees, for livery to one enures to both for they have an
Interest 5: Co: 34: b.

Vicount M: with ye livery of ye Q: suffers recovery to B: & C: 57
to uses with power of revocation & limitacon, he revokes &
limits new uses, no fyne shall be to ye Q: for alienacon, for
ye uses are executed by ye Statute which can wrong no man
though by revocacon & limitacon of such uses a new ye Kings
tenr. is changed yet all rises out of ye Estate of B: and C: wth
was founded on ye licence 6: Co: 27: b.

Licence.

~~[illegible]~~

If a Copyholder makes a Lease for 20: years with ye licence 1
of ye Lord & after dyes without heirs ye licence makes ye Lease
good agt ye Lord by Confirmation Hutton 102.

Where ye licence granted by ye father shall not bind ye son for a 2
Comon may not be extinguished without Wnick 17.

3 Every authority or licence ought to be pursued strictly ve Bridgm: 114: a licence cannot be granted over ve Bridgm: 115: Intrespas if ye deft do justify ye at another day by licence he ought to traverse ye time before & after for that ye pltt may charge him at what time he will Bridgm: 115.

4 The Comon Law allows a man to go out of ye Realme without licence Lane 43: Except there be a proclamation or a writt of ne exeas regnum to restrain him (44) there is a difference between a licence that giveth interest & that which giveth authority: ye first is not countermandable ye other is (46) Lane pro totum Casum.

5 The King gives licence ye bell mettle shall be transported notwithstanding any statutes made or to be made if after it be prohibited by statute, ye licence is determined because ye patentee himselfe was party to such a statute Lane 114.

6 If ten. of ye King alien without licence ye King may seise ye land & hold ye same for ye fine & shall not be driven to ~~[illegible]~~ sue of ye Conusee or feoffee: and this prerogative to have a fyne for alienation without licence is by the Comon Law: but by some it had its beginning upon the creation of seigniorys so as this prerogative is paramount ye seigniory: but if a disseisor of ye ten. of ye King maketh a feoffment in fee & upon ye entry of ye disseisee ye person of ye feoffee shall be charged with ye fyne & ye land is discharged because it is not an alienation by ye Kings ten. 1: Leon: pl: 11:

The feoffees give back ye land (held in Capite) to Js: upon condition yt he shall not alien without licence, ye Manner descends to ~~dis~~ his heir who enters & aliens with licence by recovery: ye purchasor dyes seised his heir levyes a fyne without licence, ye Kinge may seise: 1: Leon: pl: 11. 7

The Statute 5: El: ~~[illegible]~~ concerning tillage expired 8: El: & licence granted 9: El: to convert & 13: El: it is revived qu: if this licence be good ag^t 5: & 13: El: Moore 119. 8

L: by deed indented bargaines & sells to N: & his heirs with covent: for further assurance N: purchaseth a licence of alienacon ye Lands being in capite a fine was levyed for further assurance & afterwards ye deed indented was inrolled ye Exchequer would have a fyne for alienacon by ye bargain & sale but ye Curia that was interrupted by ye fyne & the bargainee takes by ye fyne Moore 337. 9

A licence though it be of profitt is countermandable except there be a certaine time limited Poph: 151. 10

Mannor

1 A fold-course though appurtenant to a Mannor may be annext to parcell thereof 1: Cro: 312.

2 If one hath a warren by Charter in all his Mannor he may erect a lodge or make Conyberries where he pleaseth but if he claim by prescripcion he must make them in ye usuall places 2: Cro: 154

3 Within one Mannor there may be another Mannor demisable by Copy & yt within that Mannor there may be customary tenants for as well as there may be a tenant at will of a Mannor at ye Common Law so there may be tenant at will according to ye Customs of a Mannor 3: Cro: 327.

4 The issue in trespass was whether parcell of ye Mannor of A: in B: ye visne was de vicineto Manerij de A: in B: for in such a case ye venire facias is most properly awarded of ye Mannor which hath by intendment ye best knowledge thereof & where trespasse is alledged to be in ye Mannor upon not guilty pleaded ye ve: fa: shall be de vicineto Manerij 2: Cro: 405.

5 Prescripcion to have a Court Baron before his Stewart is not good but Com̄ sutatoribus 2: Cro: 582.

6 If ye King grants ye ~~[illegible]~~ Demeanes of a Mannor for life after ye death of ye Lessee it is a Mannor again & a Mannor may be granted parcell in one tenure parcell in another Heat: 14.

What shall passe of Mannor parcell held in demeasne parcell 7
in services whereall ye demeane Lands are devised to ye wife
durenig life & ye services of ye chief rents for 15: years & by the
same testam. he deviseth ye same Mannor to another
after ye death of his wife Heat: 78.

Ej: fir: cannot be of a Mannor because that there cannot 8
be any Eject: of ye services but if they doe expresse further
a quantity of acres it is sufficient Heat: 81.

Though an Ej: fir: lyes of a Mannor or ye Moiety of it if 9
atturnem. of ye tenants may be prove yet it is not safe to
bring an Ejec: fir: of a Mannor Heat: 146.

One Mannor may be well parcell of another & one Mannor 10
may be ~~parcell~~ held of another v.e ye pleadnig of a Mannor & by
what names it may passe by reputacon 1: Bul: 55: ye Lord
Lord of a Mannor cannot grant away his Courts to another
There may be a customary Mannor & held by coppy & such
Custome: Lord may hold Courts &c: 16: 57.

When a man clamis a warren infra omnes terras dominicales 11
he cannot extend this into ye lands of ye free holders otherwise
where he clamis by prescription 2: Bul: 254.

A grant of a Mannor pro nomen Manerium is a good grant v.e 12
Sty: 269: if ye King hath two Mannors & grants them pro nomen
Manerij it is not good 270.

If a Mannor to which an Advowson is appendant be 13
delivered by ye Sheriffe in execucon by ye name of a Mann
cum pertinentijs ye Advowson passeth, but otherwise if it be
delivered by ye name of acres pasture Owen 44.

14 If one doth let ye scite of Mannor with all his lands to the
sd Mannor appurtenant hereby all ye demesne lands do passe
but if it were with all ye lands appertaining to ye sd scite
nothing passeth but ye Mannor place Owen 81: vide where ye
Lord is Chancellor in a base Court Day 10.
15 A Court baron may be held any place within ye Mannor but
not out of it, & a Leet in any place within ye Liberty & though
no Court time out of mind hath been held within ye Mannor
yet it is not thereby lost for it is incident to a Mannor of
comon right Owen 85.
16 A vicaridge by Composition was endowed of ye third part
omnium bladorum decimarum of ye Mannor of D: he shall have
ye tithes of ye freeholders for ye word Mannor to ye precincts of
it A survey of a Mannor shall be as well of ye freeholds ar
demesnes: A Leet granted to ye Mannor of D: ye freeholders
are bound to appear Owen 74: Exception 35.
17 A Mannor is held by 13th rent & fealty, & ye Lord devisethe
ye Mannor. Qu: if ye rent shall passe ye entiernesse of the
seigniory may be severed & a rent charge nitrei may be apportioned
where words have any affinity or likelyhood of a Mannor
then it shall passe by ye name of a Mannor as if a man
devisethe his house & land by ye name of a Mannor it
shall passe: A man devised a Mannor in which he had
nothing & after purchased it ye devise is good Owen 88.
18 A base Court that prescribes to hold pleas cannot levy fines
there for ye King shall loose his silver Ow: 93.

Though a Mannor cannot be created at this day yet it is not 19
so in fire but it may be divided & where a Mannor may passe
by construction of reputacon Ow: 138.
The Lord of a Mannor may enlarge his services by prescripcon Ow: 146. 20
A Mannor in reputation passeth not by ye name of a Mannor in 21
a Comon recovery or fine for they are grounded upon originall
writts which ought to be certain & cannot be helpt by intendment
but otherwise of a grant or feofm.t for intendm.t shall helpit Noy 7.
A baylys of a Court baron upon a judgem.t there given & a levari 22
fa: awarded cannot sell ye goods & so levy ye moneys without a
speciall custome: He may deliver ye goods to ye recoverer The
Lord may sell a distresse taken for a fyne Noy 17.
When a plea is held ~~[illegible]~~ pr breve it is coram ballivo & sectatoribus 23
but when by plaint coram sectatoribus: of comon right a
Court baron may hold pleas to 40.th: by prescripcon to more
& then it is a Court of record Noy 20: you may add any
thing to a Court baron by prescripcon as to sell goods in
execucon Noy 20.
A Leet it selfe hath no authority to make bylawes, but by 24
Custome they may be good Lane 56.
Nothing can be by reputacon parcell of a Mannor which 25
in rei veritate cannot be parcell of a Mannor: a rent charge
cannot be rei veritate parcell of a Mannor: pr Gawdy
contra pr Popha 1: Leon: pl: 18.
A: was seised of ye Mannor of Easted in his demesne as of 26
which Mannor did extend unto Easton North = Kelsay
South = Kelsay D: and C: and had demesnes & services parcell
of the sd Mannor in each of ye sd Townes & so seised

granted to tum Manerium suum de North-kelsay in North-kelsay
to B: & his heirs & granted further all his land tenemt and
hereditamt in North-kelsay & ye grant ye tents in North-kelsay
did attorne: judged by this grant ye Mannor passed 1: Leon pl:
33: because this liberty & franchise of a Mannor is throughout
ye whole Mannor & in every part of ye services & demeasnes ibid:
A Mannor is a hereditamt which doth consist of many reall
things & incorporated before time of memory ibid: Court baron
is incident to a Mannor & also to every part of a Mannor and
transitory ~~[illegible]~~ through ye whole matter: A Mannor may
be devided, determined & suspended: an Advowson is not
only appendant to a Mannor but to every part of it, for if he
alien an acre parcell of ye Mannor with ye sd Advowson ye
Advowson is now appendant to ye sd acre 1 Leon: pl: 33.

27 It is agt comon right where a man hath Comon for all his
Cattle to restraine him to one kind of Cattle it may order
but not take away ye inheritance & ye nature of it is to put
order between ye tents concerning their affairs within the
Mannor which by Law they are not compellable to doe
1: Leon: pl: 270.

28 A seised of a Mannor whereof part of ye tents were Copyh: part
freeholders, and had issue 2: daughters & dyed seised they entred
& made partition of ye demeasnes only: one of ye daughters
tooke husband: ye husband & wife make a Lease of ye moiety
of ye Mannor for years rendring rent ye Lessee entred into the
demeanes allotted to ye wife of ye Lessor ye husband dyed & ye

wife brought twayt: By partition ye demeanes are now in grosse
and if demeasnes be allotted to one & ye services to another ye
Mannor is dissolved yet by ye death of ye sister without issue it
may become a Mannor again: That which is not a Mannor nor
nor any part of it yet if it hath been reputed ye moiety of a
Mannor it shall passe by such name 1: Leon: pl: 283.

A: was seised of a Capital Messnage in frombilliet and of 100 29.
acres there, & there was a ten antye held of ye sd Capitall Messnage
by services & ye said Capital Messnage hath been known time
out of mind by ye name of ye Mannor of frombilliet & yt the
Advowson was appendant to it: and yt A: without any Deed did
enfeoffe B: of ye sd Mannor & made livery & seisin upon the
demeasnes & yt afterwards A: granted ye Advowson by Deed to
C: & afterwards ye freeholders attorned to B: here is a sufficient
Mannor to which an Advowson may be appendant & ye grant
of ye Advowson mesne between ye livery & attornement is
void for ye attornement shall have relation to ye livery 1: Leon: pl:
289.

A man may have a Court within his Mannor & yet not a 30
Court baron & yt by prescripcon ye Court of Tannanies is without
any erection or commencement but by Custome: In a Court baron
ye Steward cannot impose or assesse any fyne: In this Case
a Water-Court was within a Mannor by praescripcon & judged
to be in ye nature of a Leet 1: Leon: pl: 299.

Services as homage & fealty are intire things & cannot passe 31
by devise where partition is to follow for they cannot receive
partition 2: Leon: pl: 57.

32 If a man seised of a Mannor leaseth part of ye demeasnes for years or for life, ye reversion doth remain parcell of ye Mannor, but such a reversion by grant of ye Mannor doth not passe presently without atturnem.t 2: Leon: pl: 281: & where a Mannor is granted by feofm.t to another & afterwards ye tenants atturne, ye services passe by ye livery, & though ye Lessee doth not atturne but a long time after, yet ye reversion is not severed from ye Mannor for ye atturnem.t as to ye intent shall have relation to ye livery but not to charge ye Lessee with wast 2: Leon: pl: 281.

33 If a man hath a Mannor which doth extend into 2 townes & he grants ye demeasnes & services in one towne ye Grantee hath a Mannor in that Towne & he may keep Court & soe hath ye Grantor in another towne 1: Cro: 19.

34 A: is seised of ye Mannor of Castor which extended into the townes of North-kelsey South-kelsey &c and in every of ye said townes he had demeasne lands & freeholders which held of him as of ye sd Mannor & yt ye plt held ye lands in ye towne of North kelsey of ye sd A: as of his Mannor of North kelsey by fealty &c and yt A: bargained & sold totum illud Mannum suum sive Dominium de North kelsey in North kelsey & omnia alia &c et hereditamenta quaecunque in North kelsey & ye Tenants atturned: judged ye vendee had a Mannor in North kelsey & might hold a Court for though a Mannor cannot be made at this day yet it may be devided & a Court baron is not particularly tyed to any place 1: Cro: 38.

A Vicar was endowed to have ye tithes of ye 3d pt of ye Mannor 35
of D: resolved he shall have ye 3: pt of ye demeasnes & of the
freehold also, If ye Queen grant free warren to me within my
Mannor of D: I shall have it within my owne demeasnes only for
otherwise the Queen might impose a charge upon another Person
but felons goods granted is a liberty due to ye Queen which
she may grant & is not any charge to ye subject 3: Cro: —
Heiglin (v) Best:
A Mannor in reputation which is not a Mannor in truth 36
will not passe by ye name of a Mannor in fine or common —
recovery for they shall not be taken by intendm̄ as it shall
be in a Conveyance 3: Cro: 524.
A warren is not parcell of a Mannor but it may be apper= 37
taining 3: Cro: 547.
By a fyne levyed of a Mannor nothing but a Mannor in — 38
truth shall passe & not a Mannor in reputacon & reserving
suite the Court makes not ye Lands to be part of ye Mannor
3: Cro: 708.
Bylaw's in Court barons ought to be made ꝑ majorem partē 39
& see how to plead it Moore 75.
A plea in London maintainable by its bylawes & therefore 40
a Procedendo Moore 403.
The Bylaw's of Lond: may inflict a punishm̄ for a Master 41
takeing an alien to be apprentice, but they cannot make ye
Coven's or bonds of such an apprentice void Moo: 411.

42 A bylaw to disinfranchise an offender is good but not to imprison him Moo: 411.

43 The Lord of a Mannor & Leet is to find Tumbrell & Stocks & if he doth not he forfeits his liberty Moore 74.

44 Mannor in reputacon cannot be demanded by ye name of a Mannor & there good learning what evidence will maintaine ye demand of a Mannor or rectory in Ejectione firmae sur disseisin

45 In Court baron no forfeiture of Goods can be upon non appearance on distresse, but distresse infinite lyes, noe attachm.t lyes aliter by Comon Law Yelver: 194.

46 Three Coparceners of a Mannor to which a Leet is append.t the King purchaseth two parts of ye Mannor with ye appurtenances the Leet remains appendant to ye 3.d part Benlow 11.

47 The Scite & ye Demeasnes makes not a Mannor for if a Lease be made for yeares of ye Scite & ye demeasnes & the Lessor grants ye reversion of ye same Mannor to another & Lessee attornes ye Grantee hath nothing Benl: 16.

48 A Custome of a Mannor to have an Annuity once in ye year of all Inhabitants & residents within ye sd Mannor good Benl: pl: 162.

49 One deviseth a tenem.t & all ye Land now belonging thereto see what convenient time of a joynt occupacon may make it passe If I have a Mannor in reputacon & grant it is good, but if I have a Mannor & Land in reputacon parcell of that Mannor by ye grant of ye Mannor ye Land passeth not Benl: Loft (v) Baker.

Markett

Clerks of ye Markett have nothing to doe but with victuals — 1
Heat: 144.
Toll must be claimed ratione Mercati not ratione Manerij 2
& he cannot have toll if ye thing be sold: ye party hath noe
remedy for his toll if ye goods be taken out of his jurisdiction
a distresse is incident to every toll: Toll is not incident except
it be specially granted: he cannot have toll in kind viz:
part of ye thing itself: Stallage may be claimed by reason
of ye soile Noy 37.
Trespasse for takeing a Quarter of Corne ye deft justifies 3
it was within ye towne of L: & it was damage feasant in
his freehold & pleads they were incorporated & had a
Markett & ye place where &c was apponited for ye market
place & ye plt brought his Corne & on ye Market day & set
it there & ye Deft tooke it: judged ye Major could not —
justify ye takeing of it 1: Cro: 75.
How to plead a sale in a fair upon Grover: first when he 4
justifyes by buying in open faire he needs not answer to the
propty of ye plt for it is allowed neither need he alledge ye
fair to be in any certain person when he pleads ye day ye faire
is holden, he need not except sunday for ye sale is good the
alledging of toll not necessary for in many Villes no toll is pd
& if otherwise it should be shewn of ye othere side nor is it
necessary to shew ye vendor had propty 3: Cro: 485.

5 Every shop in London is an open Market for ye sale of such things only as belongs to ye trade of ye owner 3: Cro: 454.

6 A faire lyes not in tenure therefore no rent can be reserved in case of a subject Moore 163.

7 See good Cases ye sale of a thing in a Shopp not proper to ye Master of ye shops trade to sell alters not ye property: the principal case was a bason & Ewer sold in a Scriveners Shopp Moo: 360.

8 How to plead sale in a Shop: though a Shop be by Custome a markett overt yet this will not alter ye property of a stranger as sale in Markett overt will doe: The King cannot grant to one that his shop shall be a Markett overt to bind the property of strangers Moore 625.

Minime literatus.

1 A Deed purporting a fees miple is read to passe only an estate taile & a letter of Atturney was read to deliver secundary forma Charta which was well read, All is void Heat: 23.

2 A man bound to Perfect such assurances as A: shall at make at or before ye 10th of October, if A: bring them before sun set he must Perfect them & to say ye he was illiterate is no barr Moore 148.

3 Where one shall plead he is illiterate et issuit ~~[illegible]~~ in a son fact Moore 148.

4 Where a certaine time is limited for ye obligor to make an assurance illiteracure is no excuse because he might

provide a man at ye last instant of time &c but wher there is no certainty of time but on request then ye illiterate Person may have a convenient time enforme himselfe Moore 183.

If an illiterate Person sale & deliver a Deed & doth not desire it to be read to him, he shall never plead illiterature: but if it be read to him otherwise than it is writt he may plead it afterwards Moore 184. 5

Motion

The good behaviour cannot be granted upon a Motion in B: R: but you must pd ferr Articles ag3 him upon oath Sty: 299. 1

The Court was moved for a writt to swear one in ye Office of Major because ye old Major did not swear him in time Sty: 299. Restitut: 25. 2

Motion to mitigate fines imposed for a riott Sty: 303. 3

A Motion for ye reference of a Case in ~~[illegible]~~ trespasse in respect ye deft was poor to referr it to ye Secondary to taxe damages: it could not be, but you may confesse ye Accoun Sty: 314. 4

A Motion in B: R: for Scavengers to execute their office: a Mandamus granted Sty: 346. 5

It was moved yt ye plts death might be entred upon ye 2 rolle who dyed after verdict & before judgemt entred: but it was denyed Sty: 379. 6

Moved for a third Person yt ye deft may plead as he shall direct he giving ye deft security to save him harmlesse: Collusion not appearing it was denyed but he may be made party to defend ye title Sty: 382. 7

8 On Motion ye Court dispanses one in an Ejectment upon Affidavit &c & let him put in an able Lessee to pay Costs or he should not proceed Sty: 386.

9 Matter of Record not alterable without Motion in Court though Attorney's consent Sty: 386.

10 Det upon recognisance in ye Petty bagge ye deft upon oyer prayed in B: R: he might repleade having mistaken his plea Curia if issue be joyned you must try it Sty: 412.

11 Motion for allowance of a plea confest by Attorney gtt to a Quo Warranto Sty: 431.

12 Where a Consultation may be granted upon motion the prohibition appearing in it selfe to have been vnduely granted & ye deft before appearance having committed no Contempt 1: Cro: 173.

Monies

1 The tryall of ye value of ye Kings Coyne shall be by ye Kings writt 2: Bul ~~[illegible]~~ 161.

2 The King can make forrain Coyne currant monies by his Proclamation: and if a man once accept of my money's after such allowance he shall not take exception against them, & ye tendring moneys in baggs is sufficient 5: Co: 115.

3 Forraine Coyne conditioned to be pd shall demand it as reduct to english coyne & if he demand it otherwise than is truth by miscasting ye deft may therein plead in abatement 2: Cro: 88.

A: recovers agt B: & ye money's are brought in Court: it is no 4
reason vpon suggestion ye debt was fyned to ye Queen in the
Starr Chamber yt those money's should be retained to ye
vse of ye Queen Noy 2.
The plt declares vpon diverse Contracts such sold for so 5
many Portagues & such for so many Ducats which in toto
amounted to 400li sterling which sume he demanded in
sterling & not in Ducats &c according to ye Contract: judged it
is in his election to devide his det either in ye proper Coyne
of ye Contract or of sterling in Currant money 1: Leon: pl: 52.
When a man hath lost ye possession of his money he hath 6
lost ye property because it cannot be known 3: Ro: 746.
Variance of paying in other Coyng, so ye sume be ye same 7
presudiceth not ye agreement
Though ye Contract be for 50li flemish money yet in det 8
vpon it the Count must be ye attingunt to 39li english
for ye debt must demanded by names knowne to ye Court
neither can ye sherriffe know how to levy ye money's in
flemish & ye plt might declare in ye detinet Yelver: 80.
Florence polish money demanded by ye name of English 9
money Yelver: 136.
Incertainty of ye value of forraigne money's where it shall 10
not hurt tit: Damages 3: Bulstr: 159.

Nobilitie

73 1771

1 A Nobleman is compleat by his Patent of Creation without ye Ceremonies of ye Robes or to be gladio cinctus: Anth: Browne plucht his patent of Creation out of his bosome & that was allowed him Noy 150.

2 When a Peer shall be proceeded ag^t for Treason that ought to be by Indictment then ye King is to appoint a Steward for ye time &c or otherwise to Certiorari ye Indictm^t into ye Parliament or otherwise to preferr a Bill in ye Parliam^t which ought to be passed by both houses & then it is attainder by Parliam^t but if it be a Treason supposed to be ouster le meare by 3: Jac: c: 4: it must be tryed by Indictm^t before Justices of Assize where ye party ~~was taken &c & ye place where~~ he is taken shall be expounded ye place where he is imprison'd Hutt: 131: et 115.

3 The protection of a Lord of Parliam^t is not good in a Capias Vtlagatum which concern'd ye King Winch 24.

4 Honour or dignity ought to be forfeited though intailed for the honour which is given by ye King hath a tacit Condition in ye Law annext to it & it ought not to continue with him that commits Treason nor in his party tho' he had but an estate taile in it Lane 46.

5 Where a Peer of Parliam^t is to be tryed upon an Indictm^t of Treason it shall be ~~of~~ pares if upon an appeale of Murder or felony by ordinary Tryall 1: Leon: pl: 9.

6 For ye creation of Garter King at Arms & ye Ceremonies to it and other nobility 1: Leon: pl: 386.

7 Of & touching writts to ye Nobility in Parliam^t 4: Inst: 5: 6.

(174)

Barones included ye whole nobility of that & Comites 2: inst: 8
p: 4.
The antient manner of createnig nobility is altered for now 9
seldome times ye King gives Lands to hold of him in the ife
but only grants annity 2: inst: g.
The name of a Lord is not any degree nor is it parcell of ye 10
name or parcell of ye addition: if a bond be made by Js: Lord
Powis ye writt shall not be so for ye King by his writt doth not
name any Lord: but otherwise of Dukes & Earles &c for those
are offices of dignity & parcell of their names 2: Leon: pl: 64.
The judgem^t ag^t a Lord in a not sizze was capiatur & good 11
for it is upon a disseisin found upon which a fyne is given
by ye statute & for a Contempt ~~of their privileges~~ Capias
lyeth ag^t a Noble man 1: Cro: 170.
No Capias ag^t a Peer or his widdow but in cases of Contempt 12
& ye tryall of baron or no baron is not tryable by a Jury and
see many of their priviledges well debated Moore 768.
A Countesse though she cannot sit in Parliam^t cannot be 13
arrested for debt or trespass, she is a peer of ye Realme &
shall be tryed by her peers. None of ye Nobility can be
examined on 5: H: 4: c: 8: 6: Co: 52: b: 53: a. discharged
of oaths in Juryes, Nobility by discent shall be tryed by —
record, by marriage, by ye Country: Nobility acquired by —
marriage may be lost by marriage, not dignity by discent —
6: Co: 53: a.
In loyall proceedings a viscount or Earles eldest sons are 14
Lords but in reputacon & in legall proceedings shall not be
named Lords 6: Co: 53: b: A baron of Parliam^t must have
a knight returned on his Jury 6: Co: 54: a.

Nomine pœnæ

1 A rent is granted of certain Lands with a distresse & nomine pœnæ
ye rent is behind after ye time limited by nomine pœnæ & ye plt
brings a writt of annuity for ye rent & ye nomine pœnæ: videtur yt
it doth not lye for ye last, for it is an uncertain thing Style 4.

2 Lease of Land rendring rent & another sume for ye nomine pœnæ
ye Lease recovers in det brought for ye nomine pœnæ & after brings
det for ye rent 1: Leon: pl: 149.

3 Qu: if a nomine pœnæ be as a severall penalty for every day
or as one intire penalty for every day after ye demand and
non paym.t unless ye deft pleads paym.t & tender 2: Cro: 621.

4 A rent charge with nomine pœnæ may be devised with ye rent
3: Cro: 895.

5 Lessee for years rendring rent with a nomine pœnæ for every
day it shall be arrear after ye feast ye Lessee assignes his
terme ye Assignee is chargeable with ye nomine pœnæ
incurred after ye assignem.t not before & if ye rent be arrear
for 2 feasts ye penalty is doubled: det lyes for nomine pœnæ
without demand of ye rent: aliter in a Condition to reenter for
there a demand must be Moore 358.

Nomer and misnomer

Jo: Whitehead of Whitehead was returned & Jo: Whitehead 1
of Whitehill was sworne: ye alteracon of ye bill is not materiall
2: Cro: 353.

In ye ven: fa: & distringas Ponsanby & in ye returne of ye Jurors 2
Pansanby who was sworne so another then was returned
(non all:) it is only difference in ye sirname & small difference
in ye sound.

The plt declares yt Edmund W: alias Edw. W: condicionally yt 3
Rob. W: paid 50th ye deft pleads paym by Rob. W: & issue
thereon & found for ye plt & it was Error yt Edmund is bound
& Edmund is sued which cannot be intended one & ye same
person & judged there is no Estoppel in this case but here ye verdict
finding a stranger paying ye sume it cannot help it 2: Cro: 558: 654.

If an Accon be brought agt A: who at ye time was an Esqr & 4
afterwards he is made a Knight he shall declare agt A: Esqr
alias dictus miles 1: Bul: 216.

Misnomer of a Corporacon in a devise shall not praejudice — 5
2: Bul: 33.

Misnomer of a Corporacon in a Lease for life being in no — 6
materiall variance shall not hurt 2: Bul: 303.

Assidunt dampna Katharinae Car it should be Kath: Raw 7
Rolles ye sirname is void & shall be taken as if it had —
been ipsis Katharinae only Style 119.

In assumpsit yt ye deft upon consideration moving from ye plt 8
is assume to ye plt to pay 10th cuida fountaine & omits ye name
of baptisme, but ye assumption being grounded upon a consideracon
past ye plt may not know ye Christian name though both plt &
deft know ye person Style 153.

9 One Maria became baile by ye name of Mary Rolles would not amend it for but bid him find him new baile for on ye matter this is no baile Sty: 321.

10 One Mill devised his Land condicionally if his daughter — marryed with one of his sirname & she married one Mills: judgd ye comon reputacon of Mill & Mills to be ye same shall not make Mills to be ye Testators true sirname: sirnames are altered by time v.d. Sty: 391.

11 There are four kinds of misnomer (1) of ye Christian name (2) of ye sirname (3) of addition of profession (4) of addition of place: in none of them shall misnomer be pleaded where ye party comes in gratis Sty: 444.

12 Upon ye creation of any Deanary which is granted by patent from ye King ye Deane shall sue & be sued by the name of his Deanary yet if such a Deane doth sue & is sued about any matter concerning his naturall capacity it is not necessary to name him Deane: but Garter King at Arms is a name of dignity & by his installation is made part of his name, & if a man be made a knight in all — Actions he shall be so named Owen 61.

13 Trespasse brought ag.t ye sons of a Duke & Marquesse by ye name of Squires (good) Owen 82.

14 A man cannot have 2: christian names: ag.t Evanu — alias Jevanu Loyd Noy 135.

15 John was plt & recovered & ye Judgem.t was ye Henry should recover this misnomer is matter of substance Winch 9.

Predictus State general doth coven^t & there is no other 16
name in ye Coven^t given to ye deft & that is not sufficient to
bind him (1) he is not named State gen^ll before but nante
strata generall this no parcell of his name or addition but as
his title or is a pronomen & that is but an alias dictus: v^e plus
of alias dictus Bridgm: 67: Vtlary 8.
A Corporation presents to an Advowson vide what misnomer 17
shall vitiate ye presentation Lane 15.
Where a Lease is pleaded to be made by a Corporaton that 18
is misnamed & ye Pl^t intitles himselfe by Lease from ye said
Corporation he shall traverse ye there is no such Corporation
Lane 18.
Where variance in additions of surplusage shall not avoid a 19
Lease Lane 34.
The name of assent in a body politique is as ye name of a 20
baptisme in a body naturall which must not be misnamed
In some cases ye estate shall passe by livery & seisin by
what name soever it be made but a Corporaton cannot
passe an estate from them but by Charter Lane 86.
One pleaded payment to ye poore & names them not & payment 21
to ye Church wardens & names them not scire facias against
Executors & ye writt challenged for not naming them not
allowed for Executors are as a Corporation 1: Leon: pl: 20.
The Lease whereon ye Acc^on was brought was made by the 22
name of Master or Guardian & ye fellows whereas ye true
name is Mad & fellows: sive Custos is but surplusage plus
1: Leon: pl: 25.
The Pl^t counts such a one was outlawed & shews ye Vtlary 23
in certain & ye processe alledged to be returned by ye sheriffe

but ye name of ye sherriffe is not exprest: but good: for though by 12: E: 2: c: 5: yᵉ sherriffe put their names to ye returnes yet it is not requisite to plead it for so ye omitting thereof makes it not void but ye sherriffe triable 1: Leon: pl: 190.

24 Jeane & Jane are but one name 1: Leon: pl: 202.

25 In ye names of Corporations wee ought to resort to ye foundacon of them for it is a name of baptisme & ought as precisely to be observed but that is intended in matter of substance: four things to be respected in ye name of a Corporacon: first ye names of ye living persons who are ye Corporation as ye Master & Chaplains: 2ᵈ ye house in which they are resident (3) the name of ye founder (4) ye place upon which their house is built: & if those 4 matters are sett downe sufficiently although not formally it is good: ye misnaming of a Corporacon in any small matter shall abate ye writt yet not so in a Conveyance except ye misnaming be materiall 1: Leon: pl: 228: bon Case.

26 Obtulit se pro Higgins Attornatum suum & no Christian name: 1: Leon: pl: 246.

27 The omission of (Garter) in an Judicium agᵗ G: King at Arms was incurable & see what shall be a name of dignity & what a name of office & how to plead Creation of nobility 1: Leon: pl: 337.

38 Bishops being Lords Ecclesiasticall secular are named by their christian names & names of their office. Abbots & priors being Lords of Parliamᵗ religious & regular may be named by ye name of their office only 4: Inst: p: 5.

(80)

A misnomer pleaded after appearance upon a Capias 2: Leon: pl: 64. 29

In Coven: ye deft mistakes Thomas for Robt & so pleads a of Thomas it is not amendable 1: Cro: 57. 30

In ye venire fa: one of ye pannell was named Th: Barker of D: & in ye distring: jurat: he was left out & Tho: Carter of B: put in his place & at ye Nisi prius was sworne & with ye others tryed ye issue in this case a misnomer in ye christian name would make ye verdict void but ye judges held ye difference in ye sirnames (not judged) 1: Cro: 57. 31

In ye record it was ye ye deft obtulit se &c Cutting Attorn: suu & left out his christian name judgem: reverst 1: Cro: 59. 32

Misnomer of a Corporation in a Will praejudiceth not ye devise 1: Cro: 106. 33

Where there is no christian name or it is mistaken in Grants pleadings obligations &c it is vitious except ye certainty be known by reason of ye dignity of office in which case it must be averd ye there are no more of that name 3: Cro: 328. 34

The Deane & Canons of Christ Church in Oxon were incorporated by ye name of ye Deane & Chapter of ye Cathedrall Church of Christ Oxon ex fundatione regis H: 8: who enfeoffe ye Lord North by the name of ye Deane & Chapter of ye Cathedrall Church of Christ in Academia Oxon ex fundatione &c & afterwards makes a Lease of ye same by their true name to ye defts judged the misnomer praejudiceth not 3: Cro: 338. 35

What shall be parcell of a mans name & what not 3: Cro: 542. 36

37 A recovery ag 3 Isabel is void ag Isabel 3: Cro: 656. the Sheriffe cannot extend ye Land ibid.

38 Trespasse of battery ye deft pleaded de son assault demesne, the plt replyes ye ye deft Thom Coston beat him de son tort demesne sans nil cause pr ipsu John Coston supmis allegatum: so ye John is for The: & so no issue joyned but held amendable being but a misprision — 3: Cro: 752.

39 Lease made by Deane & Chapter of ye Colledge of Eaton & they were incorporated Deane & Chapter of ye Colledge of S. Maryes of Eaton void Moore 13.

40 Adderley for Adderbys is a materiall misnomer but it is amendable by ye Statute (assump: 142.)

41 Julian & Jennet shall not be intended one pr son except ye by ye Custome of ye Country women baptized Julian are called Jennet Moore 411.

42 None can make an obligation or other writeing by a contrary name of baptisme nor cannot be known by two names of baptisme in which case non est factum is an apt issue one pleaded ~~Eleanor in her life by ye name of Ellen~~ releast & ye plt replyed non est factum Elianoræ though ~~this seems to be~~ matter of Law whether ye Deed sealed by ye name of Ellen be ye Deed of Elianor yet good Moore 897.

43 Judgem. reverst because in ye warrant of Atturney, ye name of ye Atturney wanted Sent: 137.

44 A pr nomen cannot be pleaded, but where ye demise is by writeing 3: Leon: 9.

Nolle prosequi

where ye deft fear ~~[illegible]~~ themselves by pleading & there be severall verdicts ag^t them non pros: entred before judgem^t is not a release 1: Cro: 173: 175. 1

Non prosequitur de veredicto reddendo entred when ye Jury returned to give their verdict not good: it ought to be non prosequitur breve sum Noy 139: vide nonsuit 8. 2

Trespas ag^t two & non prosequi entred ag^t one & Judgem^t is entred ag^t both this is as strong ag^t one as a release to one which is a good discharge to both 3: Cro: 672. 3

Non vser

Non vser of a fair or markett wherein ye subject hath interest for his comon profit is a forfeiture but non vser of parks or warrens which are only to ye profit of ye owner not so 2: Cro: 15 1: nistit: 233: a. 2: Cro: 155. 1

Non tenure

In an Assize ye Tenant pleaded non tenure but shall not be allowed to plead it generally ag^t ye Judgem^t 2: Cro: 466. 1

He who pleads non tenure may ~~have a writt of error~~ but not he who disclaimed ~~2: Cro: 548~~. 2

Where a speciall non tenure is pleaded & used to be a Traverse upon which issue may be taken & where generall & speciall non ontenure may be pleaded Heat: 149. 3

What shall be non tenure generall & what speciall 7 ch: 6: 17: 6. 4

A brought a precipe ag^t B: for Blackacre B: purchaseth Blackacre now B: cannot plead non tenure otherwise if Blackacre had descended to B: hanging ye Accon Noy 126. 5

6 Non tenure is noe plea when ye writt of Scire fa: is generall & how one may be estopped to plead non tenure by a plea formerly pleaded Bridgm: 72.

Novel Assignment

1 Where a new assignem.t may be in ye Replicacon where ye Declon is generall Heat: 28.

2 Where one is not tyed vp by ye plea or to an issue but he may make novel Assignem.t Sty: 401.

3 In Trespasse a new Assignm.t made ye issue for ye plt & ye writt of Inquiry for Damages was generall without mentioning ye new assignm.t ~~(good) for ye new~~ assignm.t is not ye Declarat: of ye certainty of Accompt Noy 26.

4 In trespasse where damages is only to be recovered the new assignm.t may be more large than ye declaration but Qu: if in Ejec: fir: it be so Winch 65.

5 H: brings Accon of trespasse quare domum & clausum fregit ye deft pleaded & put ye plt to a new assignm.t (1) a house called a stable, a barne, a Carthouse & Garner & hele good for domus is nomen collectivum & contains those ~~two~~ 2: Leon: pl: 230.

6 Trespasse in the vane he justifies for damage feasant in Blackacre ye plt makes a new assignm.t in white acre ye deft justifies there for Hewitt service: where ye severall justificacons are repugnant for in ye last he claims property & seems to be a departure: but resolved: for by ye novel assignm.t ye barr is out of doores 3: Cro: 590: Moore 540.

where ye deft hath hit some of ye places, wherein ye plt — 7
intended ye trespas & pleaded thereunto, ye plt may well answ
to that part & ye deft shall have no other ~~part~~ answer as if
ye deft had hit one place & had confessed ye Accon therein
ye plt needed not make any answer thereto & ye deft shall not
wave his answer & answer all de novo 3: Ero: 812.

where ye plt in trespas makes novel assignm: ye deft must 8
plead non culpabile and cannot aver yt ye place where est
vna & eadem Moore 460.

Non obstante

All non obstantes are only ~~good, where with~~ ye King takes 1
notice of ye Law ~~where with~~ he dispenseth: nor can a gen: ull
non obstante in a pardon of murder dispense with with 13: R:
2: c: 1: ye King pardons malum in se with a non obstante it is
not good Sty: 375.

where ye subject hath an immediate interest in an Act of 2
parliam: there ye King by a non obstante cannot dispense
with it, but where ye King is intrusted with ye managing of it
& ye subject only by way of consequence there he may March
214: (vide dyers table 82: 6.)

where ye Law makes for ye Queen there ye Queen for a — 3
particular respect may dispense with ye Law: ye Queen may
dispense with a statute Law though ~~phaps~~ not with ye Comon
Law 2: Leon: pl: 178.

4 Vide some diversities taken upon non obstantes: yß generall non obstantes are void where a Statute restrains ye prerogative a non obstante may hold but those that give or dispose an interest cannot be restrained Moore 245.

5 An obstante generall & a grant generall is not good: but if ye grant had been ꝑ or ye non obstante ꝑ it is good Moo: 418.

6 Vt of a gll non obstante ꝑ Egerton it makes fooles joyfull: upon a speciall non obstante ye King only takes notice of what ye subject informes him ꝑ Popha such Statutes as give or restrain ye prærogative may be dispensed withall but such as give or dispose of interests cannot be dispenst with a non obstante Moore 714.

7 Obstante for murder & ye words were felonium & felonicam interfectionem non obstante 13: R: 2: ye reason of ye non obstante was because before ye Statute murder was pardonable by ye name of felony & ye Statute provides murder shall not be pardoned therefore ye pardon of felony must be with a non obstante Moore 752.

8 Where ye King may grant & ye Law requires yß he be better informed ye non obstante makes such grant good: not where he cannot grant: where ye King grant vi termini is void, non obstante helps not 4: Co: 35: 6.

Oath

Upon a false Affidavit in ye Chancery an Action sur case will not lye 1: Cro: 601. 1

Where a plea shall be sworne 1: Bul: 104. 2

Four oaths to testifye ye allegiance of good subjects ve good matter 1: Bul: 199. 3

The Master shall bring ye action for ye robbery of his servant & ye servant shall swear 1: Cro: 26. 3

A Creditor was examined upon oath if his debt were reall & there upon ye prisoner was turned over to ye Marshalse a to be charged with his action there Sty: 362. 4

An ac: Case lyes not ag^t a witnesse that swears ye value to be less than ye plt declares for an oath shall be taken as a certain truth & ~~there was no punishm^t~~ for Perjury by Comon Law Noy 6. 5

An oath shall be taken simply & not observe ye p[illegible] forme of pleading and if it was taken in another manner than the justice certifyes it ye proof shall be allowed Noy 21. 6

Lords in cases criminall where ye King is party or where they are to be examined as witnesses or impleaded in Chancery must be always sworne 1: Cro: 46. 7

The keeping of a Church book for ye age of Infants begun 30: h: 8. 8

None shall be compelled to accuse himselfe upon his oath where he is to incurr a temporall punishm^t or losse Noy 151. 9

The Bishop may examine ye Clerke pres ented upon his oath if he have orders 1: Leon: pl: 312. 10

One was indicted of Perjury & ye Indictm^t was quod tacto Pro se sacro Evangelio false deposuit this is no direct allegation he was sworn Error 3: Cro: 105. 11

Custome in London to examine in perpetuam rei memoriam 3: Cro: 168. 12

13 A man shall not be examined agt himselfe in matters of defamation 3: Cro: 201.

14 Where ye knowledge of ye matter doth belong to ye Court Christian they may proceed according to ye civill Law yet an oath cannot be ministred to ye partys but where ye offence is first presented by two men 3: Cro: 262.

15 A peer of ye Realme shall put in his Answer in Chancery upon oath & so in criminall cases where they are to be witnesses between party & party 1: Cro: Caroli 46.

16 Oaths are in two manners by compulsion as befor Judges who have authority or voluntary by consent of partyes which is also lawfull 3: Cro: 470.

17 The High Comiss: ought to proceed agt men by witnesses & not to enforce them to take an oath to accuse themselves Cro: Jac: 380.

A Peer shall put in his answer in Chancery upon oath & so in criminall cases & where they are to be witnesses between party & party 1: Cro: 46.

18 Moved upon Affidavit yt ye recoverer in a Judgemt had rece paymt & promised to acknowledge satisfaccon that day should be given the recoverer to shew cause why he should not Performe it ye recoveree was ready to release Errors & ye motion was granted Latch: 113.

19 None to be examined upon Interrogatories to accuse themselves agt a penall Law ye ministers are more subject than Lay Persons 2: Bul: 49: Pr totu Casu.

20 The Court is to judge upon record & not upon Affidts 3: Bul: 92.

Occupant

Vt. Case betwixt 2: pretending to be Occupants who 1
shall be occupant.
No occupancy shall be of a rent or of any estate created by 2
act of Law 1: Bul: 136.
Where a Tenant claiming no greater ~~[illegible]~~ estate thought at 3
will shall be adjudged to be ~~as occupant though it be contrary~~
to his claime by operation of Law: 2: Bul: 11:
If a Lease be made to A: and a Monk it is void to ye monk & 4
ye other hath all & yt. during ye life of ye Monk there can be
no occupancy Owen 39: vt. Habendu 6.
There shall be no occupancy of a Copyhold but it shall be 5
for ye benefit of ye Lord nor of a rent charge granted to B: for
ye life of D: Noy 47: Habendu 15: 13.
When a rent or other thing which lyes in grant is granted by 6
one & his heirs for ye life of another & ye Grantee dies the
heir by special Limitation shall have this but no stranger
can have it for ye sole means that ye Law giveth to get an
estate by occupancy is by entry but no entry can be in an
Advowson rent or any thing that lyes in grant plus Bridgm: 9.
Tent. for ye life of another is disseised & dieth he remains 7
disseisor & ye occupancy doth not qualify ye such disseisin
2: Leon: pl: 167.
If Lands be given to one & his heirs for ye life of another 8
& ye Donee be attainted of felony ye King shall have ye Land
during ye life of Cesty q. ~~[illegible]~~ for ye heir cannot have
it for his blood is corrupt & there is not any occupancy in
ye case: ye Justices would not accept a fine for ye life of another
because there might be an occupant in ye case: but for a fine

of land to one & his heirs for ye life of another they would for there is no mischeife of occupancy 2: Leon: pl: 169.

9 There shall be no occupant of an estate of tenr by Curtesie or of tenr in dower which are estates created by Law 1: Cro: 58: Tenr for life 12:

10 If tenr for anothers life makes a Lease for years to commence after his death this is good & shall prevent an occupant: for the Land is bound with this nitrest of ye Lessee & he shall have it agt all others during ye life of Cestya que vie 1: Co: 102.

11 A Lease for one habendu for his life & ye lives of 2 others qu: if it be a Lease for life only or for 3 lives. & ye occupancy shall be Moore 8.

12 Lesse for years of ye King for 21 years surrenders (but a Cottage was least for ye whole terme) in consideracon whereof ye King grants him ye Mannor for life a die confeccionis for ye life of Jo: and ye Lessee demiseth it for 40 years: judged that Lessee for years is no occupant agt ye King (after ye death of Cestyque vie) for none can be occupant of ye Land of ye Queen Moore 394.

13 A rentcharge is granted to A: for life of B: and A: devises it to W: & ye rent is behind B: dyes W: distraines: there can be no generall occupant of this Moore 625.

14 None shall be occupant but he that is in possession Lessee pur auter vie leases & dyes living Cestyq vie his Executors receive ye rent yet they shall not be occupants vt good learning &c to tu Casu 3: Leon: 35.

15 An occupant is punishable in wast for he holds for terme of life but so is not tenr by Statute or elegit & therefore without Stat: Glouc: c: 5: 6: Co: 37: 6.

Office Escheator

Vide 1: Cro: 353: an Office with severall issues traverst: vide forfeiture 3: 1

Resolved one being by office found heir another exhibitting a Bill to be admitted to traverse that office shall not be admitted thereunto untill he hath another office finding him to be heir vide more resolutions of ye judges in this point in ye Case at large 2: Cro: 106. 2

It is an usuall course in ye Court of Wards not to have an office after ye death of tenant for life when there was an office before finding ye Inheritance but all shall come in by the Fedaries Certificate which is in formation to ye Court 2: Cro: 390. 3

To quash an Inquisition was denyed either traverse or plead to it if it be too incertain plead to ye distringas it was taken upon Westmd 2: for throwing down Inclosures Sty: 215. 4

An office finds ye H: was seised in fee of Lands die quo obijt & ye he held them of ye King in Capite & good without ~~[illegible]~~ finding of ye very dying seised Noy 45. 5

It is found by office ye A: dyed seised of 40: acres of land in D: whereof certain Lands ~~[illegible]~~ were held in Capite a melius inquirendo shall be awarded Noy 46. 6

If an office finds ye A: was seised of a particular estate & ye King granted ye reversion without shewing how or other particular certainty es though such an office be good in ye case of a Comon Person yet it will be greatly mischeivous to ye King if by such offices his inheritance should be devested in respect no traverse can be to such an office Lane 42: where ye right of an estate is to be enquired there it ought to be certain in all circumstances but if ye enquiry be only upon ye possession there 7

if a sufficient possion be found it is good enough 42: an office is good enough to entitle ye King if it have substance tho ye manner be not formall (41) a verdict upon an office ought to be as certain as upon an Indictment because ye party may traverse ye office is a thing to which an answer may be made but a verdict given upon issue joyned hath no other proceeding but to judgement immediately (41) all Circumstances to be found in them is as ample certainty as in a Declaracon Lane 40.

8 Where ye King is only intitled to ye profits of ye Lands which is a transitory chattell an office is not necessary but where an interest comes to ye King aliter Lane 43.

9 An office finds yt he is seised of diverse Messuages in London insufficient for ye generalitie Lane 100.

10 Where two offices are found one contrary to ye other ye best shall be taken for ye King 1: Leon: pl: 16.

11 A: seised of an Advowson in gross holden of ye Queen in chief alienes ye same by fyne without licence: judge if ye alienation had been by Deed only yt there ye Queen without office found should not have had ye presentment for upon such an alienacon by matter in fact no scire facias should issue without office found of ye alienation but upon such alienation by matter of record a scire facias lyeth before office & in this case ye Queen shall have ye profits from ye time of ye scire facias returned but in ye first from ye time of ye office found 1: Leon: pl: 40.

12 Where ye certainty of ye terme appears by record & ye King is to have but a Chattell in it there ye King upon matter in fact shall have it without office where in ye case of a common an estate may be devested without entry there in ye case of ye King there needs not any office vide good matter 2: Leon: pl: 178.

A Lease was made to A: & B: for lives ye remainder to T: in Taile 13
who 3: El: was attainted of felony 23: El: was a generall pardon
T: 24: El: levied a fyne & suffered a comon recovery to ye vse of H:
an office is found & quae: if H: may traverse ye office: vt ye case
well debated 2: Leon: pl: 169.
None shall be admitted to traverse but ye parties grieved: he 14
in reversion vpon an estate for life, though he cannot be
restored to ye possession shall traverse ye office for he is prejudict
for ye Queen hath got ye possion so as he cannot have an action of
wast 2: Leon: 233: it is given in lieu of peticon ibid.
There ought not to be a traverse where ye Queen by office is 15
intituled to ye fee of ye land, except where an office is found
after attainder of felony or treason & this is given by 2: E: 6: C: 8:
3: Cro: 523:
It being a Lease for life ye Queen cannot be entituled thereunto 16
vnlesse by office found in its proper County to avoid it: but a
Condicon reserved vpon a Lease for years may be found by office
in another County 3: Cro: 855.
An office finding ye such one was seised in fee at ye day of 17
his death though it find not his dyeing seised is sufficient:
That an office finding ye such one held of ye Queen ye day of
his death without finding ye seisin or estate is void 3: Cro: 895.
If two offices be repugnant ye best shall be for ye King Moo: 18
152.
An office for ye Queen must be taken as a demand of rent in a 19
subject who if he demands more or lesse than is due it is no
demand & such an office shall not be helpt by intendment in a
point that concernes title Moo: 207: vide 208 instances Contract.
The office is void that finds not a dyeing seised or which finds 20
forraine matter & a melius inquirendo shall not issue vpon a
void office Moore 217.

21 An office cannot intitle ye Crowne for felons till ye offender be attainted: and tho' ye title of ye Queen shall relate to felony yet that is only to avoid meane incumbrances & not to give a possessory interest for any longer time than from ye attainder Moore 630.

22 Nothing by an office in one County can be found in another County that is materiall to intitle ye King Moore 641.

23 In what Court ye traverse of an office for ye King shall be tendred, for if ye estate be in ye King immediately, ye traverse shall be in Chancery but if ye office only intitle ye King to ye Accon ye traverse shall be where ye Action is 15: h: 7: 6: 6.

24 Lessee for years of ye Queen upon condicon if ye rent be not pd ye Lease shall be void, ye Lessee continuing his possession shall not be accompted an Intruder before office there of found 3: Leon: 145.

25 A: seised of an Advowson in grosse holden of ye Queen in chiefe aliened ye same by fyne without licence, ye Queen without office found may present, for it appearing by record a Sci: fa: shall issue without office found & so could not present 3: Leon: 175.

26 In an office ye Lease was found but not ye number of years videtur good for ye Queen is a stranger to ye Lease & it is impossible for a stranger to have notice of every certainty 3: Leon: 204.

If ye Queen make a Lease for years rendring rent with a — 27
provisoe yt if ye rent be not pd at a day limited yt ye Lease
shall cease upon non paym^t ye Lease ceaseth before office
found but aliter were ye condicon for a forfeiture or reentry
for where a comon Person must reenter there ye King must have
an office to determine ye estate and here ye provisoe shall be
taken for a Limitacon to determine ye estate & not a Condicon
to undoe ye estate Popha 53.

Where ye possession or estate of ye Queen is determined then ye 28
subject may enter into ye Land without office or ouster le maine
aliter where it continues Popha 64.

If ye Escheator seiseth though he returne not ye office by 29
vertue whereof he seiseth yet it is good & office by him taken
virtute officij returned into ye Chancery is good 1: Co: 42: b.

Oyer

If a man pleada deed in writeing & ye other party do not 1
pray oyer the same terme he shall not have oyer in another
terme in C: B: aliter in B: R: Lane 39.

The record being in ye Court ye party cannot plead ~~[illegible]~~ 2
nul tiel record as if it had been in another Court: but he
ought to demand oyer of ye record 1: Leon: pl: 84: 5: li: 7: 24:
a: b:

Oyer being demanded of ye obligation & Condition this is — 3
rehearsed in hæc verba but not entred so it appears not ye
plt had title it is error 1: Cro: 152: pleading 156.

In appeale oyer of ye writt of appeale & ye returne upon 4
prayer was read in ye Court, oyer of ye Capias & ye returne was
read, oyer of ye Capias with ye proclamation was desired

and ye Counsell for ye plt answered qd vicecomes non misit breve Pr Curiam in vaine it is to demand oyer of that which is not 3: Bulstr: 243.

5 In debt upon recognizance acknowledged in Chancery the deft cannot demand oyer of ye Condicon for ye recognizance is not in Court but if deft be brought upon recognizance acknowledged in Banco Regis ye deft may demand oyer — Poph: 202.

Paroch

1 A paroch having obtained by name ye reputacon of a paroch shall only be chargeable for their poore 1: Cro: 65: & 287.

2 A Tax cannot be by ye Churchwardens but by ye greater number of Inhabitants Heat: 61.

3 The paroch of Dale may contribute to ye releiffe of ye poore in ye paroch of Sale having lands & profits in ye paroch of Sale for their liveing out of it doth not discharge them. 2: Bul: 353.

4 Generally a paroch shall not be intended larger than a vill though it may comprehend many Sty: 77.

5 A small implication will make a vill & a paroch to be all one Sty: 92.

6 When a vill & paroch are named by one name one of them shall not be intended larger than ye other if ye contrary be not shewn Sty: 99.

7 It shall not be intended there are more parochies in a City than one except ye contrary be shewed Sty: 117.

Lands must be part of a paroch by prescripcion or act of Parlam.t 8
Sty: 137.
If a towne & paroch are of one name & a man is seised of lands in 9
ye towne & paroch (admit ye name to be Dale) & lets all his lands
in Dale quere whether his lands in ye towne only passe or all he
hath in ye paroch: when Lands in a præcipe are mencionid they
shall be intended ye towne of Dale because townes are noted
at Comon Law & not parochies which were ordained by ye Counsell
of Lyons but in grants there shall be no such intendm.t Owen 61.
A: seised of Lands in ye village of S: & also in ye village of W: 10
& both are in ye paroch of S: A: bargains & sells all his lands in
S: & covenants to levye a fine: nothing of ye Lands in W: passeth
for S: shall be intended ye village of & not ye paroch of S: —
Noy 17.
The spirituall Court are not judges of ye bounds of a paroch 11
Noy 147: 1: Leon: pl: 177.
If within such a parish or such a parish be lyable by ye Law of 12
ye Land, or by ye Law of ye Church 3: Leon: 129.
A: occupying Land in a paroch though his house be out of it 13
shall be reputed a parishioner & contribute to ye repair of
ye Church: aliter if he have a farmer upon it, this is not a
charge upon ye land but on ye Person in respect of ye land 5: Co:
57: a: b.

Parson: Patron

1 Parson by instrum.t resignes his benefice before a publick Notary into ye hands of ye Bishop & ye resignation was absolute to ye use of A: & B: or either of them, and it was farther exprest protestatione & sub conditione si &c: this Condicon is ag.t ye nature of a resignation that must be absolute sponte pure et simpliciter: Incumbent may not transferr his benefice to another without presentacon: if 2 parsons exchange that parson whose part is not executed may have his benefice again for ye Law doth annex a Condition to it but a Collateral Condition cannot be annexed by ye parties themselves as also this is an act judiciall to which a Condition cannot be annext, as Ordinary cannot admit upon Condition Owen 12.

2 A Lay Patron may vary from his presentation before Induction but a spirituall Patron cannot because he may well understand ye sufficiency of his presentee at first: filius patri non potest ~~[illegible]~~ succedere in Ecclesia is a Canon that binds not in England Noy 91.

3 An Archdeacon makes a generall Mandat for ye induction of a parson of a Minister not resident within that Archdeaconry makes ye induction it is good Noy 134.

4 The Canon ab.t electing a Church warden by ye Patron is to be intended where ye parson had nomination of a Church warden before ye Canon: Noy 139: plus in Law 7: ab.t Convocations ibid:

5 Institution to a 2.d benefice is a present avoidance of ye first: he ought to pay ye first fruits before Induction by ye statute aliter by ye Comon Law Lane 20.

If a feme sole present & intermarry this is not controlled by her marriage for it is a thing which is not to her prejudice Lane 74. 6

A next avoidance is devisable for it is of no value in ye Law — although ye third part do not descend to ye Patron for ye Patron is but to provide yt ye church shall be full Lane 72. 7

If title accrue to ye Bishop to present by Lapse ye Patron is verus Patronus 1: Leon: 207. 8

A Parson 29: H: 8: leaseth all his Glebe Lands to M: for 99: years rendring rent for all exactions & demands: a Consultation granted yt his successor might sue for Tythes for ye Parson shall have Tythes agt his owne Lessee these words shall discharge ye Lessee of all rents & services but not of suit of Court or such things as are not then in demand 1: Cro: 161. 9

What shall be a pluralitie within ye Stat: 21: H: 8: cap: 13: 3: Cro: 351. 10

If ye Parson be within ye parish & there be a parsonage house if he abide any where else he is punishable for ~~[illegible]~~ non residence 3: Cro: 590. 11

Adjudged yt ye Incumbent of a benefice donative may resigne to his Patron & it being of ye Patrons foundation it is also under his visitation & correction & ye Ordinary cant intermeddle therewith Moore 765. 12

Part: Parcell.

1 Debt upon 37: h: 8: c of usury ye writ was yt he corruptive
lent 40lt. et and yt he such a day lent 20lt. ag. ye statute but omits
corruptive: & he had judgemt. only for ye 40lt. for being for severall
summes it is nature of severall Actions: but where one brings an action
for two things & shews by his owne confession yt for ye one he had
not cause of Action or is to have another action it is otherwise —
2: Cro: 164.

2 How a traverse may be taken where part & parcell of ye place
whereof ye Ject: is is within ye Enique ports & part without 6: Cro: 696.

3 Parcell or not parcell of a Coppyhold belongs to ye Comon Law to
trye Heath: 2.

4 Ve. where judgemt. may be in part affirmd. suit in part manitaind —
Owen 21: bon case absqs hoc yt ye Towne of Hayleshaw is within ye
Enique ports, Hayleshaw is all Hayleshaw & ye Court will not intend
any fraction in ye Towne yt part shall be in & part without but
that ought to come of ye shewing of ye debt in his barr Hut: 74.

5 Assumes: ~~for every acre he would~~ plant with hops he would
give him 40s. towards ye planting ye Action is brought for an
acre & a rood: not good for ye rood Wmich 80.

6 Quod medietas 60: messuagiorum parcel medietatis 70: messuag:
predicti that is not good pleading for one moiety cannot be
parcell of another moiety for every moiety is intier 1: Leon: pl: 102.

7 3: parts of a Mannor E: is seised of & Lo: of ye 4th part E: charge the
his 3 parts with a rent charge E: enfeoffs H: of his 3 parts & P: —
conveys his 4th part to H: in fee & H: so seised reciteing his —
particular purchases & especially ye sd 4th part devisethe to

the Grantee
H: H: of ye rentcharge distrains ye Cattell of H: H: for arrearages
of rent judged ye though ye Mannor be now in ye possession of H:
get it is not so consolidated by ye unity of possession but that ye owner
might single out eandē quartam partem & grant it & ye grantee
that holds it as ye sd P: did 1: Leon: pl: 103.
Where part of a Mannor is conveyed by fine to 2: & formedon is 8
brought of it, it ought to be demanded accordingly with an
exception: But A: gives to B: a Mannor except 10: acres in tail
there if after upon a discontinuance ye issue in taile bring a formedon
there needs no exception for ye sd 10 acres were never after ye
guift parcell of that Mannor 2: Leon: pl: 196.
D: seised in fee of ye Mannor of C: extending into C: & in the 9
towne of Hertford & also of other lands in Hertford & devised
ye Mannor of C: to Henry his son & Heire in taile & his lands
in Hertford to Edward his ~~son~~ younger son ~~pp~~ Curia Edwd shall
have ye part of ye Mannor of C: that lyeth in Hertford 2: Leon:
pl: 239.
Land shall passe as ~~[illegible]~~ ~~[illegible]~~ — 10
occupied with it by ye space of 10: or 12: years for by that time
it hath gained ye name of parcell & shall passe with ye house
by that name in Wills or Leases &c 1: Cro: 16.
A house built part on ye land of A: part on ye land of B: 11
A: may demand ye inferior Messuage 3: Cro: 234: Writt 58.
Wast 37: ad idem: Intendum 64.
One pleads Common when such a feild is not sowen, ye other 12
replyes it was sowen in part (not good) for Campus is —
intended totus Campus Yelver: 185.

Partition

1 In partition there are two Judgements after ye Judgemt for partition and before ye second Judgement quod partitio facta sit firma et stabilis a writt of error was brought & quasht for as yet there is no perfect record 2: Rul: 104: where [illegible] simple they need not to shew coment they held otherwise in a particular estate ibid.

2 Partition made by writt shall bind a feme Covert because she hath a recompense & so it is upon a partition made upon record in Chancery Sly: 320.

3 If partition be made by ye sheriffe though ye writt be not returned yet it is good enough & none of ye parties shall except agt it Dro: 31.

4 In a writt of partition no damages shall be recovered nor any enquiry for them, & yet ye writt saith ad dampnum Noy 68.

5 How to bring ye writt of partition upon 32: h: 8: c: 32: Noy 71.

6 If A: bring partition & demands a 4th part & ye Jury find they held pro indiviso but yt A: ought not to have but a 5th part yet A: shall not have that which is due to him for ye Judgemt shall be variant from ye demand Noy 107.

7 In partition ye parties pleaded to issue at ye day of ye Enquest to be taken ye deft challenged there were but two hundredors judged 27: Eliz: c: 6: yt no challenge shall be admitted if two sufficient hundredors appear doth not extend but to personall actions and this is a reall action in which Sumons & severance lyes but no processe of Outlary & therefore 4 hundredors must be returned: so in wast though it be in ye personality 1: Leon: pl: 68.

Two were Gent in comon of a house & of a Close adjoyning to the 8
house & they being in ye house make partition without deed of ye
house & Close: partition by Gent in comon without deed whensoever
it is made, is good: but in this case they were not upon ye Close
when they made partition [illegible] & then it is
void for ye close & if so then for ye house 1: Leon: pl: 36.
In a writt of partition between tents in comon title need not to 9
be shewn for by intendment he cannot have Conusance of their
titles 1: Cro: 65.
How partition may be made of uses some being in taile some in 10
fee betwixt husbands & wives if it be equall it shall bind
ye makers 2: Leon: pl: 29.
In a writt of partition it was exprest yt ye plt in simul & 11
pro indiviso teneat cum deffte & do not shew of what estate
or whose inheritance & held good but tents in comon ought
to shew it in their Count 2: Leon: pl: 161.
Where in partition ye writt may be generall 3: Cro: 743. 12
Upon ye 32: H: 8: c ye writt generall ye ye declaracon was 13
accordingly & yt ye plt had one moiety in fee & ye deft the
other moiety in fee & ye Jury found ye deft held in taile not
good: partition may be of view of frank pledge for ye profits
may be devided especially being joyned with a Manner & other
things 3: Cro: 760.
partition by Joyntenants & equality of partition ye one 14
assignes ye other reat it cannot be without Deed Moore 29.

15 There were three heires in Gavelkind, ye youngest sold in fee to another his part, & ye alienee & 2d son joyned in partition agt ye eldest son vpon 3:H:8:c. which gives partition between Joyntents, but ye writt abated for ye second son is not a jointent with alienee, but in what case ye eldest & ye second son may have a writt of partition agt ye alienee at ye comon Law but not vpon ye statute Benl: 20.

16 Partition lyeth of an estate for years in Joyntenancy, or in comon ~~Law~~ 32:H:8:c Benlow 30.

17 The Deane & Chapter of Gloster brought partition agt ye Bpp vpon 32:H:8:c:32: Pr Curiam et Windham it lyes not for estates in Joyntenancy or in comon of Lands whereof such Joyntents or tents in comon are seised in their own right 3: Leon: 162.

18 Partition amongst joyntenants by ye statute destroyes not ye warranty, partition vpon a judgemt to recover doth; for he that is to be bound by ye warranty is not party or privy to ye judgemt as he is when partition is by ye statute 6: Co: 12: b.

Peremptory

1 The review of sentences before ye Bishops Court of audience & delegates by a Comission vnder ye great seale is finall Moore 463.

2 Judgt day was given to ye deft to wage his Law, & Affidavit being made yt ye deft was prest in ye Kings ship, yet ye Court moved ye defts Counsell to plead al pay, for it is Peremptory warranti a diei lyes not for it is by bill & not by originall ye second default is finall in a precipe & in a sequatur sub suo periculo Benl: 151.

Petition

To petition to ye King with a multitude of Lands intimatenig yt 1
if he denyed their suit many thousands of his subjects would
be discontented: it is an offence finable by discretion & near
to Treason or Felony, & are finable by ye rules of ye Comon
Law in ye Kings Bench or by ye King & his Counsell 2: Cro:
38: Moore 755.

Erroneous judgemt given in a Copyholds Court where ye King 2
is Lord ye party agt whom it was given may sue in the
Exchequr Chamber by petition Lane 98.

Though in Petitions of right there ought to be 4 writs of 3
search yet in a petition of right of Dower which affirms ye
possession in ye Queen there needs no writt of search Moore
639.

A man cannot have a petition of right of lands in 4
severall Countyes for it is as a reall action but only of lands
in ye same County Benlow 21.

Chiefe Baron Tanfeild brought an action of ye Case agt 5
B: for preferring a scandalous peticon to ye Prince,
accusenig thereby of great oppressions without namenig
of any, ye deft pleaded justification by inclosure (not good)
Benlow 139.

Action of ye Case agt one declarenig ye deft had exhibited 6
to ye Queen a scandalous bill agt ye plt chargenig him
to have recovered agt ye deft 400lb by forgeing Jury &
~~[illegible]~~ Cozening & also yt he had published ye matter of yesd
bill, no action lyes for ye Queen is ye fountain of justice, but if
ye subject after ye bill exhibited will publish ye matter to the
disgrace of ye party it lyes 3: Leon: 138.

7 In what cases where a judgemt is given for ye Queen, Error may be brought without petition & where not 3: Leon: 160.

8 If a Court of Equity in case of Equity decreeing by their Decree ye party grieved may sue to ye King by petition who may give redresse by referring it to ye Judges 3: Bulstr: 118.

9 One fined in Star Chamber for petitioning ye King agt the Lord Chancellor for injustice (tit: Star Chamber) Popha 135.

Pledges

1 One was comanded in a Replevin to accept of pledges & deliver ye Cattle that were distrained for 4th rent he took 3d in money for pledges: ye plea was ill for money ought not to be taken for pledges especially lesse than ye plt demands: a Justice may accept money's in deposito for security of ye peace 1: Cro: 322.

2 Error upon Judgemt in replevin in ye Hundred Court & removed to ye Comon Bench by record: because no pledges appeared to be returned upon ye plaint: it is error if upon origniall writt pledges be not found, but quere if sherriffe may make replevin without pledges ~~pt~~ finding West 2: c: 2: it is the sherriffes ~~pt~~ ill if he take not pledges 1: Cro: 43: 431.

3 The plt not putting in pledges (which may be any time pending ye plea in Court is error 2: Cro: 4114.

4 Error because no entrance of pledges upon ye Imparlance rolle Heath: 59.

In a bill pledges must be found at ye beginning in an originall 5
he may find pledges in Court for it is but matter of forme & in
discretione Curiae 1: Bul: 74.
The sherriffe de jure ought to take pledges, and where the 6
bailiffe may 1: Bul: 75.
Judgemt reverst because no pledges of prosecuting were 7
found Noy 121.
In replevin ye sherriffe returns not pledges & after issue 8
joyned & found ye Court can put them in, yet ye party may
have his accon ag ye sherriffe upon ye statute Noy 156.
One brought his bill by Attorney in C: B: & because he had 9
not pledges, Judgement reverst, ye reason is of Judgement
being given ag ye plt he is to be amerst, yt ye party at any
time hanging ye plea may find pledges, but there is a difference
between a bill & a writt, this being si querens fecerit te
securum 3: Bul: 61.

Pope

Sr Th: de Seaton brought an action de scandalis Magnatum 1
ag one & shews yt being one of ye Kings justices he spoke
such words of him: ye deft brought a bull from ye pope to
disable ye plt thereby proveing him to be excommunicate
this was held treason in E: 1: time 2: Bul: 155.
vide ibid: proceedings ag recusants who were brought to ye
barr to take ye oath of allegiance.
By ye comon Law neither ye pope nor any spirituall Judge had 2
any thing to doe with ye body & goods of any one Ow: 145.

3 If ye pope an: 1: El: before pluralities could grant a dispensation for pluralities Moore 119.

4 See ye Bull of ye pope & ye Kings paten & ye Inquisition by which Cardinall Woolsey suppress ye small Monasteries Moore 204.

5 Popes bull of 4 sorts (1) of provision (2) of citation (3) of exception & (4) of excommunication, Canons ag: ye Law rejected Jenk: 163. Popham 156.

Prescription

1 Not good to prescribe to have a warren in ye sd Manner & demeasns of ye sd Manner: but it may be intended this liberty was before ye Creation of ye freeholders 1: Cro: 227.

2 One declares he is possest of a house wherein were 3 windows time whereof memory &c this prescription is good without all edging any person in whom it may be fixed for it is tyed to ye house & not to any personall prescription 1: Cro: 237.

3 A prescription cannot be pleaded ag: a prescription but ye prescription in ye declaration ought to be traverst 1: Cro: 312.

4 Antiquus aquæ ductus qui currere consuevisset debuisse is prescription good enough 1: Cro: 359.

5 Moved in arrest because he doth not declare yt his Mill was an antient Mill & yt ye watercourse was an antient watercourse nor doth he prescribe to have a watercourse in ye defts land: but Cur: it well in anitanis ye action upon ye case yt he was lawfully in possession & ye stopping of ye water is tortious & he not shew a que estate 1: Cro: 416.

Prescripcion of Estovers to build new houses held good 2: Cro: 6
& 25: of turbage Hutt: 45.
Prescripcion of pasturage good & of Gueldings to standing gross 7
1: Cro: 27.
Inhabitants unless they be incorporated cannot prescribe 8
to have profit in anothers soile but only in matters of easment
or in matters of discharge or in modo decimandi 2: Cro: 152.
vide way 3: conc: cum 8 hic: Copyh: 20: way 18: who may prescribe.
Trespasse for takeing away Thornes cut downe by comand of ye 9
Lord: ye deft prescribes for them & judged upon Demurrer that
this prescripcion excludes ye Lord: but if he had claimed of
Estovers only then if ye Lord had first cut them ye Commoner might
not take them v.e. yt a man may prescribe to have sole pasturage
in such a place from such a time to such a time agt ye owner of ye
soile: and he not prescribe it was antiquum Messuagium to which
2: Cro: 257. (446)
Where prescripcion by ye words (Inhabitants of) is not good 2: Cro: 10
When one prescribes to have an office & ye profits thereof he 11
ought to shew it to be an antient office & so for a Custome in a
vill but when it is supposed he is seised in fee of a Capitall
Messuage & time &c had to that appertaining &c it is included it is
an antient ~~house~~ house 2: Cro: 606.
A prescripcion quod omnes possessores is not good for that may be 12
for years or at will & none may charge for matter of profit but
he ought to prescribe in a tenant of a freehold or in him who
hath ye Inheritance 2: Cro: 669: ffine 47:
A vicar surmised in his Libel yt whereas for 10: 20: 40 and 60: years 13
& rie used & being for a pension & meerly spirituall & triable there

it is not necessary to alledge prescript: but for 60: years & shall be intended time whereof 2: Cro: 670.

14 Where a prescripcon is made locall it ought to be pursued Heat 119

15 To make good a prescripcon he must shew ye Parke was antiquū Parcū 1: Bul: 18: & see good directions to plead in a prescription to hold Lands as they were formerly &c ibid.

16 One prescripcon may be ag.t another & how to plead a prescripcon to build upon an old foundation by a Custome in London 1: Bul: 183.

17 A prescripcon for every householder to have Comon in alieno solo is not good for who shall be said to be a householder within this prescripcon is incertaine 1: Bul: 183.

18 One may & prescribe ag.t an affirmative but not a negative Statute 2: Bul: 36.

19 One cannot prescribe to have goods of felons &c ~~but because prescripcon is only for matter of fact~~ but one may prescribe in a County Palatine 2: Bul: 227.

20 Curia tenta tali die coram &c: & a tempore cujus contrariā memoria hominū non existit objected this is no good prescripcon for Court cannot be held such a day & before such particular Persons if it be not expresst secundū consuetudinē Style 31.

21 A prescripcon Pque estate is good in an act: sur case for noe land is claimed Sty: 301:

22 A Curate cannot prescribe ag.t Master that may remove him at his pleasure Noy 15.

23 A man shall not prescribe for that which ye Comon Law gives Noy 20.

Trespasse ye deft prescribes Comon in ye place & it was found the 24
deft use to have Comon paying a penny yearly to ye plt: judged the
issue is for ye plt for ye prescripcon is intier & ye paym. of a penny
is parcell of that, & if that paym. be not shewn by ye Comoner ye
Lord shall have a remedy for it v. Noy 60.
In trespasse he justifies because of a Comon appendant by a 25
prescripcon in 500 acres & it is found ye Ancestor had released ye
Comon in 5 of those acres (1) he hath failed in his prescripcon (2)
ye Comon by that is not extinct because it is discharge to be
Comon by Act of Parliament for failer of prescripcon Noy 67.
prescripcon where it is pro bono publico shall not be taken 26
strictly & if H: a Chappell have used a tempore quo est to
contribute to repair R: another Chappell though R: be
built in a new place longer & broader ye prescripcon is not gone
& is not like ye case of a tenure where ye ten. is put to greater
charge & hath no profit: in our case it doth for ye parishioner
Noy 127.
A man cannot prescribe to have ye Land itself: A man may 27
lawfully grant ye pasturage & feeding of his Land when it
is not sowed & if good by grant it is good by prescripcon: A man
may prescribe to have Comon in anothers man Land Winch 6.
He that will prescribe to have any Comon profit or pleasure 28
in ye freehold or inheritance of another ought so to prescribe
yt he leave ye residue of ye profits to ye Owner Bridgm: 26.
Prescripcon of foldage allowed: & a difference was taken where 29
one doth prescribe to take away ye whole interest of ye owner
of ye land & where a particular profit is restrained 1 Leon: pl: 14.

30 If ye sd Land be sowed by ye assent of ye Comoners then no Comon untill ye Corne be reaped, but then to have Comon till it be sowed again by assent of ye Comoners: judged a good prescripcon for ye owner & ye Comoner have each of them a qualified interest 1: Leon: pl: 100.

31 Prescripcon to have hurdles to penn sheep in a Market: vide pleading 1: Leon: pl: 147.

32 Prescripcon at ye Comon Law ~~is but one & it hath two~~ points usage & reasonables some are ag^t strangers & then there ought to be consideracon & recompense: some ag^t privies as between Lord & ten^t & there ye tenure is sufficient: here ye Lord of a Manno^r prescribed to have a bake house & ye^t no Person might bake there but by his appointment this may be good by way of prescripcon but it were void by way of grant 1: Leon: pl: 199.

33 One prescribed to have a water Court: & see many Cases of the force of a prescripcon to make acts done by it lawfull 1: Leon: pl: 299.

34 One may prescribe in things that are justifiable by reason & yet are not justifiable if the be injurious to others: & it is void where it hath not a lawfull beginning 1: Leon: pl: 315.

35 Ab antiquo may be significant words to prescribe in 1: Leon: pl: 360

36 If a man alledge a Custome within a towne he ought to prescribe yt ye towne is an antient towne or ye declaracon is not good 2: Leon: pl: 120.

A prescripcon to be a justice of peace cannot be for before &c. 37
they were only Conservators of ye peace 1: Cro: 94.
It is not enough to prescribe it should be lawfull but to alledge 38
an use in facto to seise for there can be no prescripcon of use
except it be sometimes put in use 1: Cro: 110: and ye cause of
Essome as for toll forfeiture or Custome ought to be shewn ibid.
When ye feme is jointly seised with ye baron which had ye fee 39
ye prescripcon may be alledged in both 1: Cro: 113.
In Dower pleads ye Custome in Kent is for a moiety &c & non 40
secundum cursum communis Legis (well pleaded) in the negative
though yet ye Custome is ye Comon Law in Kent 1: Cro: 121.
One prescribes yt Gen. for life & he in ye remainder in fee had 41
Comon quare if since a prescripcon cannot be by ye particular
Gen. & he confounds them both if it be good for he ought to
make a distinct title to ye Comon 1: Cro: 144.
Inhabitants cannot prescribe but by way of usage for 42
matter of interest but for way of easem. Yet Hawdy in both
cases they ought to alledge usage, & ye plt needs not to make
a title because ye action is only for disturbance of ye way
1: Cro: 180.
Parishioners in trespasse may well justifye by a Custome of 43
perambulation, but they cannot prescribe & therefore they
must pleade it as a Custome or usage within ye parish Co:-
place 652: a.
One prescribed yt H: was amerced for a blood shed in his Leet 44
& yt he & all those &c had used to distrain ye beast of any

which came within ye Manner & were in ye possession of any man which was amerced in ye Leet for ye amercemt. & yt ye goods were in ye possession of ye judged yt ye prescripcon is void 3: Cro: 237.

45 There is a difference between prescripcon for freehold Land & for Customary Land for custome which concerneth freehold ought to be ~~[illegible]~~ throughout ye County & cannot be in particular place 3: Cro: 353.

46 It is a void prescripcon for every Inhabitant to prescribe, and where a prescripcon cannot have continuance at this day, it is not good: usage may be alledged by reason of Inhabitancy to have an Easement but not to have inheritance 3: Cro: 363.

47 That they usually had paid see where it is necessary in pleading 2: Cro: 364.

48 There is a difference when a Copyholder presents agt. a stranger there he ought to alledge ye prescripcon in ye Land but where he presents agt. ye Lord himself he ought to alleadge it by way of usage 3: Cro: 390.

49 Where one prescribes for Common & ye Jury finds ye prescripcon but a Collateral matter as that he used to pay an Egg yearly the prescripcon is good, but if they find a rendilum executory yearly that ought to be alledged 3: Cro: 405.

50 Where if ye Custome be not found in that manner it is pleaded it is found agt. him, vide examples 3: Cro: 415.

51 Parishioners may justifie goeing over a mans Land in their Perambulacon according to their usage & to abate all Nusances in their way, but they cannot prescribe but ought to alleadge Custome or usage within a parish 3: Cro: 441.

That every exception is a word too generall especially when it is to 52
charge ye Land / to prescribe by aliter when it is to discharge as to
pay Tythes but it ought to be he & they whose estate &c but
issue being taken & after verdict it is helpt by Jeofailes 3: Cro:
446.
Quare Annuity for rent granted by fine he prescribes without 53
distresse & not in ye rent Anderson et Glanvile not good
3: Cro: 673.
One prescribes to cut downe ye bank of a river to repair 54
his Mill in an act: case brought agt him good) yet he ought to
plead it 3: Cro: 446.
One cannot prescribe to keepe a Court Baron within a Mannor for 55
it is of common right, but by prescription he may enlarge ye authority
of it 3: Cro: 792.
One cannot prescribe agt a Statute Moore 180. 56
A prescription ought to stand upon reason, but a Custome
cannot have commencemt but by Act of Parliamt, & not by
grants, Borough English 2: Bul: 206.
The Hospitall at Exon which had houses at St Giles & there 57
was a prescription yt they had a way for them to ye Thames, —
their farmer being interrupted, prescribes by a que estate (excepted)
yt a Corporation cannot grant without Deede & therefore could
not prescribe ut supra, but adjudged ye action was good Latch 88.
Where a thing stands with common right, as in ye case of Comon 58
appendant it sufficeth to say yt he hath Comon for such
beasts without alledging prescription, aliter in Comon —
appurtenant, which is contrary to common right Latch: 88.
A difference betwixt a prescription that is personall & a — 59
Custome that is locall Latch 140.

60 If in ye Suggestion for a Prohibicon for paying 2d for wooll & Lamb, & in proofe of his suggestion he fails as to ye wooll, yet good to ground a Prohibicon, for it is not like a prescripcon by way of plea to an originall action for there a joint prescripcon failing in part is void to ye whole because it is by way of title Yelverton 55.

61 One declared of a prescripcon habere viam tam pedestrem quam equestrem pro omnibus & omnodis Carriagijs & by it he could not have a Cart way for every prescripcon is stricti juris & therefore habere viam generally is best 3: Leon: 18.

62 A Bishop cannot grant an office in reversion without title of prescripcon but by ye King one prescribed ys he might grant an office cuicunque Personae idoneae voluerit ye Grant was made to two & judged void & see a difference in prescribing in ye Customs & in ye Person 3: Leon: 31: 32.

63 A prescripcon quod quelibet femina viro coopta poterit &c it ought to be potest, & ys by ye Customs they have used to devise & a ~~prescripcon must be in thing done~~ and & not in posse 3: Leon: 83.

64 The plt in barr of an Avowry shewed ys every Inhabitant in every Messuage to ye sd towne had used to have Comon in ye place where &c. Excepcon ys it was not certain but applyed to a multitude, it was answered a multitude cannot prescribe in a matter of ~~prescripcon~~ interest, but in matter of Easement or discharge they may & must be pleaded by way of usage 3: Leon: 202.

If prescripcon be traverst, how ye visne shall arise tit: 65
visne 3: Bul: 79.
A Custome goes to Land, prescripcon to Persons, Comon 66
claimed ratione vicinagij in Comons appendant there needs
no prescripcon if by prescripcon must shew what estate
those he prescribes in, had in ye Land, but not necessary if
he claimes by Custome & soe when it is alledged by way of
discharge A Custome cannot extend to a particular
place Popham 201.
A diversity betwixt a prescripcon that is Personall & always 67
is made in ye name of a certain Person & his Ancestors or those
whose estate he ~~[illegible]~~ hath & a Custome which is totall
& alleadged in no Person, but within a Manner &c: a Custome
may be alleadged in reference to a thing insensible (viz)
yt such Lands &c are demisable 4: Co: a.
When a Corporacon hath Libertyes by prescripcon & within 68
time of memory ye Corporacon is altered ye prescripcon
ought to be speciall, & soe after ~~Comon appendant~~
is apportioned 4: Co: 30: a.
~~[illegible]~~
Where goods are forfeited without any record prescripcon 69
may be for them, but not of goods forfeited by record 5: Co:

Principal

1 If two be fighting & there are more lookeing on who not endeavour to part them if one be killed they may be indicted & fined to the Kling Noy 50.

2 The offence of breakeing & ardeing out of prison shall be of ye same nature as ye principall v. ye case Noy 131.

3 One cannot be accessary in Larceny no more than in trespas 3: Ero: 750.

4 Agreemt for money to withdraw his evidence ag.t a felon makes ye party accessary to ye felony, but if ye party robbed takes his goods from ye felon this makes him not accessary but it is a concealement & finable Moore 8.

5 No accessary can be to any Manslaughter before the fact but only after ye fact Moore 461.

6 A: Pswades B: to poyson C: B: prepares ye poyson C: drinks it A: being absent, In this case here is principal & accessary & both absent at ye time of ye felony committed 4: Co: 44: b.

Priority

Intention of ye party in conveying an estate must pursue ye disposition of ye Law: C: L: 24: b: C L: 25: a: Devise shall pursue Law

1 It was awarded ye deft to release ye accon of battery & ye pt to pay to him 10th in satisfaction of ye battery: judged ye release of ye Accon shall precede of ye 10th if ye Award had been for one to pay money & ye other to make a release alter 2: Bul: 117.

A sells 100: loads of his woods to B: to be taken at ye assignm.t 2
of ye vendor & after A: sells 100: loads to C: to be taken at his —
pleasure B: assignes his interest to D: ye vendor assigns C: takes
them away D: recovers them in Trover Noy 32:
One bound to levy a fyne such a day ye obligee must doe ye first 3
act: viz.t bring a writt of Coven.t one bound to acknowledge a judgm.t
ye plt must first purchase an origin all writt Hutt 48: The Coven.t
was to make a Lease upon ye surrender of a former Lease & ye
Covenantor grants ye reversion for years he hath disabled himselfe
ye Coven.t is broken & ye Covenantee is not to doe ye first act —
viz: to surrender.
who shall doe ye first act depends much where ye Condition — 4
praecedes ye estate & where ye estate praecedes ye Condition —
Winch 26.
A: is bound to B: to make a Lease for lives to B: B: must first 5
request A: & then A: must be upon ye land to make the
Lease Judgm: 40.
where ye first act is to be done by a stranger & where by the 6
Covenantor himselfe for though by his Lachesse it be not
done it shall not impeach ye Coven.t for ye rem.d 3: Cro: —
682: Condition 108.
Trespasse ye plt was possest by an Elegit by which ye Land 7
was extended 20: June Tri: Germ: S: Jac: ye Deft claimed
by Extent of a Statute as of ye same terme, but before ye 20:
June: judged ye plt had ye better right for he claims under
a Judgem.t & ye terme is but one day Latch 53.
for precedency betwixt 2 Aldermen it was judged yt ye youngest 8
Aldermen should have praecedency of his antientow if the
younger were chosen Mayor first Benlow 125.

9 The Law shall make a priority by operation in one & ye same Deed Revocacon 1: Co: 173.

10 When ye Act of Parliam.t speakes of dissolucon renouncing forfeiture & then adds or by any other meanes these words can't be intended, viz.t by an Act of Parliam.t which is ye highest way of Conveyance for ye makers of ye Act would have put it in ye first place: 2: Co: 46: b: And so ye Statute 13: El: c: 10: by these words viz.t & others having spirituall promotions these last words include not Bishops, for it comenceth with Colledges &c: 2: Co: 46: b.

Prison

1 To breake a prison ~~where traytors are in durance~~ & causing them to escape is treason though ye parties did not know there was any traytors there upon 1: H: 6: c: 5: & so in felony 1: Cro: 421.

2 A man cannot be at once & ye same time a prisoner to two 1: Bul: 76.

3 A prisoner shall not be in fetter but ~~upon~~ for criminall matters 1: Bul: 145.

4 The Marshall of ye ffleet ye number of prisoners increasing built a new room adjoyning to ye prison & within ye p.ct of ye same & there lodged A: judged no escape 2: Bul: 5: — vide Escape 13.

5 Because a prisoner is unruely it is no ground to remove him to another prison Sty: 339.

A Declaracon filed ag^t one in Custod: Maresch: & a copy of it 6
was left with ye Clerke of ye prison: ye prisoner had no notice
of it & upon Affid^t thereof a judgem^t obtained by nichil dicit
was discharged & ye pl^t ordered to accept of a plea Sty: 386.
A prisoner that had lain long upon a judgm^t in debt where 7
only comon bailie was filed & no execution was ever taken
out & ye pl^t dead he was discharged upon Mocon Sty: 386.
To comit ye Marshall to his owne prison without securing 8
ye prisoners will be an escape for all ye prisoners Sty: 465.
The Marshall and execucon ag^t him ye party prayed he 9
might be put out of his place for he came not to attend
ye Court, & if he did attend he feared to arrest him least
it ~~might be an escape in law of ye prisoners~~: Let him shew
cause why he pay's not ye monies Sty: 476.
If Rebells break a prison yet ye Gaoler shall be responsable 10
for them because he hath his remedy over ag^t ye rebells
Owen 58.
A Gaole is not in a place certain but moveth with ye person of 11
ye Gaoler 1: Cro: 168.
Every County hath two sorts of Gaoles for prisoners, one 12
for those that are taken by ye sherriffe for debt, & this the
sherriffe may appoint in any place he pleaseth, the other
Gaole is for breach of ye peace & matters of ye Crowne, wch
is ye County Goale Latch 16.

Presidents

1 He that will have advantage by presidents must search for them at his owne perill: A few number of presidents rules not ye Law especially where ye generality run ye other way: Presidents of Returnes of Sherriffes or Entries of Clerkes which happen many times without any challenge or consideracon of ye Court being ag^t Comon Law or reason are not allowable: but where presidents are judiciall & have Continuance it is otherwise 4: Co: 94: a: 2: Leon: pl: 112:

2 If presidents be so yet if they past sub silentio not to be regarded 3: Cro: 196.

3 Consening knave not action: & 3 presidents were shewed to ye contrary but Wray said those presidents passed sub silentio: Moo: 261.

4 Presidents shall not rule ye Law, but ye Law shall rule them Dyer 105: pl: 14.

5 Writts of wast wanting substance allowed by reason of practice & presidents Moore 871.

6 Though a Statute was pleaded to be made 4: Nov: 2: E: 6: whereas ye Parliam^t begun 1: E: 6: & continued by prorogation till 4: Nov: E: 6: yet because presidents in a great number run so ye Court would not allow ye Exception Yelver: 127.

7 Many presidents passing sub silentio that nomina Juratorum de novo were omitted in ye pannell moved not ye Court Yelver: 214.

8 Presidents in ye book of Entries not to be regarded where no Judgem^t is given upon ye pleadings 3: Leon: 139.

Privity.

Quære if an action brought upon privitie of estate & not upon contract if it may be brought where ye demise is made or where ye land lyeth 1: Cro: 101: 133: 136: where ye land lyeth. 1

Where privity of Contract is gone by assignem.t of ye reversion & attornem.t & ye rent follows ye land ye plt being only entituled thereunto by having ye land ought to bring his action of debt for rent in ye County where ye land lyeth 1: Cro: 133. 2

Lessee of a terme covenants for him his Exec: not to erect a house to ye plt: p.judice. In facto alleadgeth ye Lessees Assigne had built: Lessee dieth & maketh his Lessor Exec.r This Coven.t lyeth ag.t ye Executor of ye Lessee though the privity of Contract be determined 1: Cro: 136. 3

V.o good learning ab.t ye privity of estate between Donor & Ten.t in taile 1: Cro: 309. 4

An Action of debt for rent ag.t an Administrator of a Termor & ye privity of contract as to ye action was determined by ye death of ye Lessee 2: Bul: 152. 5

Issue in taile is privy to his Ancestor whose heir to ye taile he is 1: Leon: pl: 102. 7

If one makes Cognizance as Bayliffe to A: & he is not so but distrained ag.t ye will of A: yet A: cannot disavow it because he is not party 1: Cro: 14. 8

Privity of estate must continue where a Condition of is to operate & see in what cases privity once destroyed shall not be revived et contra 8: Co: 75: 6. 9

What rents may be maintained & not maintained in respect of privity Godb: 377. 10

Lessor & Lessee upon rent reserved, ye Lessor assigns ye reversion & before any rent due ye Lessee assignes his terme to a- 11

stranger: judged ye Lessee shall not be charged with ye rent
for there is no privity but by estate which is gone: but between
ye Lessor & Lessee he shall not so discharge himselfe for
ye privity is by contract & reservation rather then by occupation
of ye land 3: Cro: 328.

12 A: leases 3 Acres to ~~B: reserving~~ rent who leaseth one acre
of it to C: A: grants ye ~~[illegible]~~ reversion to H: judged ye H: may
bring debt for ye nitier rent ag^t B: 3: Cro: 633.

13 Assignee of a reversion brings debt upon a Lease for years
ag^t ye Assignee of a tenure for ye privity of ye Contract is
conveyed with ye estate 3: Cro: 636.

14 What Persons are in privity of estate & what not as Tenant
by Curtesie & Dower &c: for ye Laws gives them Estates on
consideration of marriage 1: Coo: 122: a.

15 There are three sorts of privity (1) privity in matter of
estate (2) in point of Contract (3) in respect of estate and
Contract together 3: Co: 23: a.

16 There are 4 privities (1) privy in blood as heir (2) privy in
representation as Executor (3) privy in estate as Donee in
tail ye revers: or rem^t in fee (4) privy in tenure as ye Lord by
escheat 4: Co: 129: a.

Processe

The processe in ye Kings Bench are returnable de die in diem but 1
at ye comon dayes in ye Comon Pleas 2: Cro: 17.
Though processe be before ye bond yet being returnable in Mich: 2
Terme (ye bond dated 29: any) & he shews ye Latitat was sued out
after ye bond it is sufficient to maintain ye Action & processe
always bears Teste ye last day of ye terme before 2: Cro: 561.
Every processe that doth issue ~~[illegible]~~ to bring in ye party ad 3
respondit ~~[illegible]~~ by his appearance 1: Bul: 141.
& his being ~~[illegible]~~ 4
Usage for processe contrary to Law is not good 1: Bul: 205.
A Capias ad satisfaciend may issue into Wales ag^t ye Baile 2: 5
Bul: 54.
A Sumons where there ought to be ~~[illegible]~~ not Sumons 6
Judgem^t reverst Noy 4.
Debt ag^t 2: upon an oblig: of ye wife dum sola fuit they plead 7
non est factum ye issue is found ag^t them, ye Capias shall be
only ag^t ye wife Noy 13.
Estreats of diverse fines imposed on severall Endictm^ts was sent 8
into ye Court & ye Estreat mencioned not for what offences, processe
ought not to be sent out upon them Lane 55.
Though a processe be ill awarded yet it may be saved by ye 9
appearance 2: Leon: pl: 4: 1: Cro: 83: acc: for ye writt of accompt
was brought in Norfolke & ye Capias ad Computandum was awarded
to London whereas it ought to be to ye sheriffe of ye County where
ye action was brought but his appearance upon it made it good
1: Cro: 83.
A distringas was returnable at ye next Court after ye serving 10
ye processe & every returne ought to be at a day certain & therefore
Error: and it may be ye processe shall not be served within a year
& ye deft is to have day at every Court or ye processe is discontinued
1: Cro: 105.

11 A writt of restitucon for ye mean profits & a fieri fac ad valentia &c of ye mittent of ye Queen & all in one writt returnable Crastino Trinitatis on which day ye sherriffe holds an Inquisicon & returns it both good in Error for ye day is not excluded 1: Cro: 180.

12 Es form: at ye Nisi prius 6 Jurors were challenged & treated & the Jury remained in defectu Juratorum & at ye next Assizes a new distring: was awarded ag. all ye first Jurors, & at ye Nisi prius ye issue was tryed by ye Jurors of ye ancient pannell (excepting those that had been treched) & by others returned upon a tales &c this being a judiciall processe & though issued ag. them that were treited which ought not to be & being ye fault of ye Court is helpt by Jeoffailes 3: Cro: 430: pl: 34.

13 Every Capras ought to be returnable ye ensueing Terme for ye mischiefe that befall ye prisoner by long Imprisonm. 3: Cro: 467.

14 The ven: fa: was awarded on ye rolle in this manner Ideo preceptum est vicecom: quod ven: faciat 12: quod sint hic — and a space left for ye day of ye returne, though ye day of ye returne was exprest in ye ven: Judged amendable 3: Cro: 554.

15 The distringas was dated before ye returne of ye venire & tryall had upon ye distringas, but by ye rolle, ye venire was returnable otherwise which is ye warrant to make ye venire amended according to ye rolle: but had ye tryall been upon ye venire qu: if it be amendable 3: Cro: 572.

16 The award of ye venire upon ye rolle was dated a day out of ye Terme returnable ye next terme (& good) but if ye venire be returnable out of ye terme this is Error after verdict: but if ye rolle be good & ye venire vitious remedied by Jeoffailes after verdict for misconceiving of processe Moo: 465.

where processe is directed to ye Coroners, it shall not be directed to ye 17
tho' a new sheriffe be chosen Dyer: 297: 18: E: 4: 3: pl: 14: 9: E: 4: 46.
Where a Capias lyes not in ye mean processe before judgemt Cap: ad 18
sat: lyes not after judgemt Moore 767.
Originall processe may bear date out of Terme because they issue 19
out of Chancery which is alwayes open; but judiciall processe
issue out of those Courts which are only open in terme time, and
therefore must bear date in terme Latch: 11.
When all ye matter is commenced & finished in one terme, want of 20
an originall cannot be supplyed with an originall of another terme.
but if ye deft come in on mean processe there an originall certified
between ye parties of any terme hanging ye suit is good: Yelv: 108.
A Habeas Corpora issues only where ye principall matter is in 21
issue & not upon an Enquiry of damages, for if they appear not
in this last ~~place~~ Case, an alias & plures only issues Yelver: 180.
Challenge to ye Sherriffe, & venire to ye Coroners who returned 22
all ye writs & at ye Assizes at ye Tryall a Tales was awarded & the
name of one of ye tales was Gregory G: & upon ye postea
returned by ye Clerke of Assize ye tales was returned to have
been made by ye Sherriffe, but in entring ye judgemt it was made
by ye Coroners, & ye name of ye Juror upon ye tales which was
Gregory was returned by ye Clerke Gregory which was his true
name but in ye rolle of ye Judgemt he was named Gregory G: (1)
where tales are added to ye pannell if nomina Juratorum de
novo imposit: secundū formā Statuti be omitted it is error, the
names of ye Coroners ought to be added to ye tales in ye foot of the
pannell & not tantū in dorso which is but ye returne of ye first
pannell (2) where ye tales is returned by ye Sherriffe & ye first
processe by ye Coroners that is Error & though in ye Entry of the

Judgem.t it is otherwise, yet it appearing otherwise by ye Certificate of ye Clerke which warrants ye rolle it shall not be otherwise intended, & ye variance in ye name of Gregory and George (Error) Yelver: 214.

23 An Information brought in ye Comon pleas & a Subpœna issued ag.t ye parties & ~~doe a venire fac~~ fac: ag.t ye Counsee in audita querela 3: Leon: 48.

24 In B: R: ye venire fa: upon every originall writt as audit: quer: ought to contain in it ye issue but when ye suit is upon bill then ye words are ad recognosc: in act: transgr: supp Cas: 3: Leon: 260.

Protection.

1 The Kings debte pleading a protection 25: E: 3: c: adjudged he shall answer & when it came to execucon they would advise 2: Cro: 477.

2 Debt in oblig: ye deft cast a protection (demurd) for ye deft is let to baile & so is intended alway's in prison for so ye record makes mencon & then ye protection quia moratur in partibus Zelandæ is ag.t the record: 2.d ye words are because he is imployed in obsequio nostro & it should be in negotio regni 1: Leon: pl: 258.

3 Scire fac: a protection cast but it was dated between ye teste of ye scire fa: & ye returne of it 2.d no cause of ye protection was shewed Latch: 197.

4 Protection quia profecturus must be of some part out of the Kingdome moraturus within it 3: Leon: 20.

Leiu et County

The Jury of one County finds ye death of one in another County 1
Quere if good being in an Endictment but they may find his
death without expressing ye place. vt. Case 2: Cro: 17.
vide Jurors 3: Jurisdict: 4: Covenant 57. County in ye Margent shall 0
be intended ye place &c.
Resolved though a Bond bearers date in any place beyond ye seas 2
yet ye plt for Tryall may alledge it to be made in England 2: Cro:
75: Qu: in pedit: 31: Agreem. of all Persons to a Lease necessary.
There was 2 Villes A: & B: in ye parish of B: a fyne was levyed 3
of such Lands in B: judged ye Lands in A: did not passe by this
fyne for they being distinct Villes & so found by verdict although
B: comprehends both yet in ye fine ye Lands in A: shall not
passe unlesse A: had been a hamlett of B: or ye fine had
been levied of ye lands in ye paroch: of B: 2: Cro: 120:
Covenant in London for not repairing hedges in Hartford and 4
upon nihil dicit a writ of Enquiry of Damages was awarded to
ye sheriffe of London & not of Hartford because ye Covenant
is founded upon a writing made in London 2: Cro: 142.
Covenant brought in London supposing ye place of ye demise 5
apud parochiam sanctae Mariae de Bow in London of a Messuage
in D: in ye County of Surrey & therein a Coven. to repair &c and
alledgeth ye apud London in parochia &c he permitted ye house to
decay: Resolved this breach is of a matter locall & not transitory
& is not in this case well assigned & ye plt discontinued his suite
& began de novo 2: Cro: 446.
Where Land is exprest in a declaration & not in what County ye County 6
in ye Margent shall help it 2: Cro: 616.

7 Error because ye plt set not forth in what County ye Exchequer was for it is transitory & not fixt to one place & therefore must be alledged for ye directing ye venue Sty: 59.

8 The plt in his replication assigns ye breach at Westm & sheweth not in what County it is which was error because it was not a County in it selfe: Curia it is fit to discontinue ye Action Sty: 143.

9 No County express in which ye vill is in which ye force was committed (not good) Sty: 26.

10 Vt Jurisdiction of a County Palatine as to Connusance of pleas debated Sty: 333.

11 Debt upon an obligation in London & ye obligation at St Albans 21: E. 4: 26.

13 In all cases where ye action is founded upon 2: Causes & both are materiall & traversable & ye one without ye other will not maintain ye action ye plt may bring his action in which of ye Countyes he pleaseth: and see there in what County's Actions may be laid 7: Co: 2.

13 Debt upon a Lease of Land in another County nil debet shall be tryed where ye action is brought but levyed by distresse in the County where ye Land lyes 16: h: 7: 1: a.

14 Writ of Covent in London & ye breach was alledged in Herefordshire judgem upon nihil dicit ye writt & Enquiry of damages shall be awarded to London for ye action is laid in London though ye thing in which ye breach is alledged is meerly locall because damages only are to be recovered: Trespas in London ye deft pleads a release at Hereford that shall be tryed at London & Enquiry of Damages is but a Jury of office where no attaint lyes Noy 142.

One pleads A: dis let ~~[illegible]~~ a Cottage & 3: acres (parcell of 15
Lands in ye recovery) & ye tenents in ye recovery lye in two townes and
sheweth not in what towne ye Cottage was it is uncertain Bridg: 75.
Where ye office is to informe but not to intitle ye Jury of one County 16
may find a matter locall in another County Lane 85.
In Indictm.t of riot it is said ye B: of ye parish of N: in ye County 17
of W: assembled themselves at A: in ye parish of N: aforesaid and
saith not in what County A: is: good enough 1: Cro: 108.
Upon a recognisance acknowledged at Serjants Inn & afterwards 18
inrolled in C: B: Debt lyeth at Election in London or Middlesex
but a scire fac: lyeth in any County & see good cases where an
accon upon a judgem.t in another Court shall be laid Moo: 884.
The originall was in Devon & ye Declaracon was laid in another 19
County this is error Latch: 225.
One informed upon ye statute of usury ye repit ultra 10th &c 20
& that was out of ye issues & profits he tooke in Middlesex
of Land in Glamorganshire in Wales, ye takeing of ye issues
& profits ought to be laid where ye land was, but rents in
~~[illegible]~~ Wales may be taken in M: vide plus ad idem 3: Leon: 238.
As ye King by his Letters Patents may make a County & exempt 21
this from any other County, so he may save & exempt such jurisdict.
& priviledges which ye other County from which it was exempted
had in it before Popham 17.

Non compos mentis

1 It is fitting to be tryed at Comon Law Heat: 120.

2 Copyholder for life becomes Lunatick & A: his Cozin sowes his Land ye Lord grants ye custody of ye Lunatick to B: A: takes ye com to ye custody of ye Lunatick & B: brought trover in his owne name: It ought to have been in ye name of ye Lunatick Noy 27.

3 An Accon brought by ye Committee of a Lunatick which is a Copyholder in his owne name is contrary to ye nature of his authority for ye interest & estate & all power of suits is in ye Lunatique: A Lunatique shall have a Qu: Impedit in his owne name & ye Lord without speciall Custome hath not power to dispose of ye Copyh: of a Lunatique Hutt: 16.

4 The King shall have ye profitt of ye Lands of an Ideot to his owne use, but not of ye Lands of a Lunatique Moo: 4.

5 Prohibicon to Wales where one sued to defeat his owne Lease on pretence he was an Ideot Benl: 139.

6 Trespasse done upon ye Land of a Lunatique ye Action shall be brought in his name Popham 141.

7 S: non compos mentis is bound in 1000l. to B: he sues for relief in ye Court of requests B: brings a Prohibicon Resolv: every act done by such Compos mentis if it be not of record is avoidable, not by himselfe but by his previes in blood as by his heir or in representacon as by his Execut & no others 4: Co: 124. 2

8 There are 4: sorts of non compos mentis (1) Ideot or ~~[illegible]~~ foole (2) one that was sanae memoriae & by sicknesse loose the it (3) Lunaticus qui gaudet lucidis intervallis (4) He that by his own act becomes so as a Drunkard 4: Co: 124: 6. non compos

enfeoffs by his own hands it is avoidable but by Attorney it is void ag^t all but himselfe in ye last his heir shall bein ward, not in ye first: All acts done by a Lunatique during his Lunacy are judged by ye same reason as ye acts of an Ideot but acts inter lucida intervalla binds 4: Co: 125: a: The Laches of non compos mentis barrs his entry not his right 4: Co: 125: b. The King may avoid all acts of non compos mentis by office & seisure & he cannot alien after: The King is to have ye custody of an Ideot & onely ye provision of non Compos mentis 4: Co: 127: a: b.

Quare Impedit.

The King hath good title to present by ye lapse in ye time of his 1
predecessor & is not restrained by 25: E: 3: c: 2: A presentacon by lapse 2
shall be a presentacon in another's right: The Church de facto & jure is void by taking a second benefice quoad all persons: no generall pardons ever intended to dispense with pluralities or to make a of a Church absolutely void 1: Cro: 260.
A double usurpation shall bind ye King ye he may not have a 2
quare impedit for he may gaine it by presentacon & so be put out by two presentations v^e ye case 2: Cro: 54: 2: Cro: 123: contr:
In a quare impedit ye Jury ought to enquire of 4: things (1) of the 3
value of ye Church (2) whether ye Church were full or not (3) by whose presentm^t (4) by what time: bon case vide 2: Cro: 92.
Vide Judgment 14: Eccles: Person 9: It lyes of an Archdeaconry, prebend Chappell.

4 Vide ye inter case & good learning therein concerning lapse & presentacon
et 2: Cro: 216: 247: and 385: & 464: 2: Cro: 654: 677: 695:
Heatley 17: If one be presented instituted & admitted before
ye writt & inducted after & before his pleader he may plead well
Heat: 18: 104: 116: 124: ab s pluralities ibidem The returnes
yt ye church is full before ye receipt of ye writts is insufficient
Heat: 130: 131.

5 Vsurpation vpon an Infant who marrieth husb: brings a
qu: impedit 159: Hett:

6 Ct presentacon by false name of in Corporation is no vsurpation
but by Collation ye Bishop is vsurper 1: Bul: 91.

7 Validity of Induction brings in ye right of patronage & is not
determinable in Court [illegible] 1: Bul: 179.

8 The Queen hath such presentm by lapse as ye Bishop had & no
other & in regard she took not her turne when ye first lapse
happened she could not present to a subsequent avoidance Owen 2.

9 If I recover in Qu: impedit & dye who shall have ye presentment
my Executor or heir Owen 3:

10 If one presents by vsurpation vpon ye lapse of ye Queen & dies
ye right patron shall present again but when such incumbent
resignes & makes ye Church void by his owne act ye Queen shall
not be deprived of her title by lapse Owen 5.

11 where ye King shall be put to his writt of right of Advowson
& what vsurpation shall put him out of possession Owen 43.

12 The avoidance being by ye act of ye party as by resignation shall
not oust ye King of his presentacon but if an incumbent be
presented after ye title of ye King by lapse & dye, then the
title of ye King is gone Owen 89.

Qu: impedit lyeth for an Archdeaconry though it is but a function 13
& it will lye for an Executor for a disturbance done in vita Testatoris
Ow: 99.
If ye Parson be made Bishop ye Patron shall present & not 14
ye King: & it was pleaded he was admitted & instituted but
not inducted: good notwithstanding ye omission Ow: 145.
Double vsurpation doth not put ye King out of possession Noy 18. 15
Where ye Patron shall be bound by presentation of ye vsurpr & 16
where not Noy 65.
If a lapse devolves to ye Ordinary & within those 6 months the 17
Ordinary is translated to another Bishoprick in default ye
Patron presents not shall ye King or Metropolitan or the
Warden of ye spiritualities Noy 69.
Resignation to a Proctor doth not make a Church void — 18
untill it be accepted by ye Bishop & acknowledged before
him: a presentacon in ye interim is void Noy 147.
Qu: imped: brought ag ye Archbis: of Canterbury sede 19
vacante de Chichister & ye disturber & ye Clerke: judgement
vpon non sum informatus. The writt shall be directed to ye
new Bishop tho' he was not party to ye first writt Noy 148.
Qu: imped: if Ar. have two benefices with cure by dispensacon 20
& then takes a third benefice with cure videtur not one
but both ye first benefices are void Noy 149.
In Qu: imped: it is a good plea in bar ye no Patron is named 21
in ye writt although ye King be plt claiming to present by lapse
for simony: where it may be without Patron as if a comon person
had been plt or ex presentacone Regis &c Noy 151.

22 Assize of Darrein presentment abated by a Qu: impedit: Noy 4.
23 Insufficient returne in a writt in Qu: impedit to ye Archb: Hut: 24.
24 Vide 5 points of good learning concerning Qu: imped: resolved Hutt: 66.
25 If a benefice man take a Bishoprick he hath lost his benefice by his consecration whether by subordination or ratione eminentiae: The Archbishop hath power limited to make a Commenda but ye King hath a double power one by antient title before any claime made by ye Pope & ye other by ye statute: a Commenda for years as well as for life: vide concerning ye Kings presentation upon ye voiding of the Commendam Winch 99.
26 Where ye writt shall be brought ag^t ye Incumbent only without naming Patron or Ordinary upon a Collation by lapse: where ye deft is a disturber without any presentm^t where ye deft was deprived & kept in himselfe: so where ye Pope makes provision: so a scire fac: upon a recovery in a Quare impedit shall be brought ag^t ye incumbent only: for by ye judgement in ye Qu: impedit ye right is bound 1: Leon: pl: 58.
27 By judgem^t in a Qu: imped: ye Parsonage is revested in ye recover without any further execution if after such judgem^t ye Patron dyes his Executors shall have a writt to ye Bishop: Leon: pl: 8
28 The King post tempus had judgem^t to recover damages for ye value of ye Church for halfe a year 1: Leon: pl: 207

Collation gains not ye patronage of ye Kng: Collation is a gi[illegible]
of ye Church to ye Patron: presentacon is a giving of ye parson to ye
Church & this makes a plenarty: & plenarty is no plea ag[illegible] ye Queen
The writt need not set forth here ye Queen claims ye Advowson but
ye writt may be generall & ye Count speciall ~~1: Leon: pl:~~
The Bishop cannot ~~refuse a Clerk for want~~ of letters 30
testimonial: ye Bishop may examine him upon oath if he
orders or not 1: Leon: pl: 312.
Three Coparceners patrons of an Advowson: ye parson 3 patrons 31
& ye Ordinary joyne in a Lease (where ye one of them is feme
covert & so her act void) if ye successor of ye Incumbent being
presented by lapses shall avoid it in all (& Cooke he shall) for
all three have interest in ye parsonage & all 3 ought to agree
& it is not like an assent where ye assent of one is as strong as
ye assent of all 1: Leon: pl: 316.
A Qu: imped: ~~is well enough brought~~ without naming ye patron 32
If A wrongfully doth present & his Clerke is received & afterwards
A: having gained ye patronage grants it over to B: Qu: ag[illegible]
whom ye Qu: imped: shall lye 2: Leon: pl: 83.
K: parson of ye rectory of S: of ye value of 10[illegible] took ye Church 33
of R: without dispensacon & was &c & so continued for 12 years
& by reason of this plurality B: presented Berry who was &c &
so continued some years & dyed & afterwards ye Queen presents
C: ratione lapsus in ye time of K: who was &c and ye pl[illegible] brings
Qu: imped: ag[illegible] ye Archbish: of Canterb: & C: and judged it did lye
for in this case tempus occurrit Regina: B: pending ye Qu: imped:
was outlawed at ye suit of one Bander but judgem[illegible] was given
for him in ye Qu: imped: & ye Deft C: resigned & tooke a new

presentacon from ye Queen & was &c & after B: reversethye
outawry & brings scire fac: to have execucon of ye judgement
and ad judgem ye plt shall have execucon for upon a
recovery in a qu: impedi: any incumbent that cometh in pendente
lite ~~shall be removed~~ 3: Cro: 44.

34 The Queen shall not loose her presentacon by ye act of ye
Incumbent but otherwise if he had dyed 3: Cro: 119.

35 Qu: imped: brought by Executors ~~for not~~ suffering them to
present to an Archdeaconry & ye writt & count supposed a
disturbance to ye Testator in his life in ~~[illegible]~~
execucionis testamenti. An Archdeaconry is such a spirituall
promotion for which an action lyeth not for it is a spirituall
function & office & hath no certain place to be indicted in: as ye
writt is brought it shall abate & yet a speciall writt lyeth in
this case [illegible] Exec: 3: Cro: 141.

36 Double [illegible] abbey usurpacon puts not ye Queen out of
possession [illegible] an Advowson which she hath in ye right of
ye Dutchy of Lancaster: Collation puts not a comon person
out of possession 3: Cro: 240.

37 Patron, bishop incumbent in Qu: imped: ag: ye Queen: judgm:
reverst because ye patron dye pendente brevi for though
ye death of ye patron abates not ye writt, yet when
judgem: is given ag: him it maketh all erroneous for the
judgem: cannot be reverst ~~[illegible]~~ by process: & this writt
of Error was brought by ye plt as heir & Exec: though the
Incumbent was severd 3: Cro: 324.

Tenant for life or years &c. regularly if he bring a Qu: impedit — 38
ought to alledge seisin in him that hath ye fee yet presentation
alledged by themselves or ye Grante of ye next accordance
is good 3: Cro: 518.

Two or three usurpations shall not put ye Queen out of — 39
possession for when ye ~~Queen [illegible] thing [illegible]~~
no subject can take it from her by tort 3: Cro: 519.

There be in Law diverse accordances of benefices — 40
creation of ye Incumbent into a Bishop is one Qu: if the
pation shall not present [illegible] avoidance 3: Cro: 527: 7:

~~The [illegible]~~ Eccles: [illegible] Count de advocatione duarum — 41
partium good 3: Cro: [illegible]

Qu: impedit supposing his Ancestor was seised in fee — 42
of ye Advowson & [illegible] & granted ye next avoidance
to M: yt ye Church [illegible] void & M: presented H:
yt ye Church became void by ye death of [illegible] it belongs
to him to present. [illegible] pleads yt H: [illegible] created
a Bishop of [illegible] no plea without traversing
ye avoidance by [illegible] 3: Cro: 790.

When A: hath right upon deprivation to present as in — 43
his turne [illegible] Bishop without notice
is not good [illegible] ousted ye Incumbent
by bringing his Qu: impedit: yet it is but a thing in action
& when he hath granted ye Advowson over ye Grantee
cannot have this thing in action nor ye Grantor cannot
have ye action: and ye Bishops Incumbent dying is a
serving of his turne: How ye presentment by ~~[illegible]~~ turne
began need not be shown 3: Cro: 811.

44 The nominator & presenter both shall have a Qu: impedit
ye one ag.t ye other upon a disturbance made to their
speciall interest Moore 49.

45 In Qu: imped: all ye defts make default at ye distresse,
they shall [illegible] render damages & a writt shall issue to
ye Bish[illegible] but ye plt is compellable to make title & ye
points [illegible] ning ye estates value &c of ye Church shall
be [illegible] Moore 81.

46 The [illegible] tacon of ye Queen hath gaine possession for
ye [illegible] her ward upon which possession ye heir shall
have a [illegible] imped: Moore 106.

47 Two bri[illegible] Qu: imped: if they vary in their title ye writ
shall a[illegible] for ye judgem.t must accord with ye writt
if the[illegible] not summons & severance Moo: [illegible] 184

48 Qu: i[illegible] uble usurpacon shall not put ye Queen out of
her p[illegible] ssion & then she cannot grant ye Advowson
by pa[illegible] but may make a grant of ye right she had
recite[illegible] she is put out by usurpacon Moore 338.

49 One [illegible] plts in a Qu: imped: dyes pending ye writt & before
judgem.t it abates not ye writt for ye mischiefe of lapse
nor ye release of one of ye plts is any plea in abatem.t
of ye writt but he shall be severed: & it is sufficient
title to alledge presentm.t in ye Grantee of ye next
avoidance of his Ancestor without alledging any
presentacon in ye Ancestor whose heir he is Moore 456.

In Assize of Darrein presentment it is a good plea yᵗ ye plᵗ 50
hath a Quare impedit depending for yᵉ same avoidance —
Moore 883.

Quare impedit was at ye Comon Law, but this only upon a 51
presentacon without induction for upon ye disturbance at
ye Comon Law a Qu: impedit lay but if [illegible] had followed
then at ye Comon Law only a writt of right [illegible] Crowson
lay Yelver: 91.

Qu: impedit agᵗ ye Ordinary & 2 others ye [illegible] at the 53
distresse appears & ye 2: others make defaulᵗ [illegible] Crowson
makes title, ye ordinary pleads Kiens mescome [illegible] ye plᵗ
recovers agᵗ all three hath a writt to ye Ordinary [illegible] passeth
ye damages, prayes & hath execucon of his [illegible], the
ordinary may oust ye Incumbent one of ye [illegible] it was not
found yᵗ ye Church was full; In another [illegible] the
Ordinary pleaded ye plᵗs Clerke was illiterall [illegible] the
gave notice to ye patron & yᵗ ye plᵗ must present [illegible] six
months after ye avoidance & not after ye 6 months after ye
notice given Beul: 19.

The King grants a Mannor to which an Advocacon is — 53
appendant which is usurpt on, ye Incumbent by ont pacon
dyeth ye Grantee may present, but he shall not [illegible] Qu:
impedit of ye first disturbance for that passeth not [illegible]
being a thing mach on without speciall mencon & if the
Patentee bringeth a Qu: impedit of ye 2ᵈ avoidance he
shall make his title by presentment of ye King passeth by
usurpacon, yet if ye Bishop present for lapse he ought to
make mencon of it for that is his title to ye presentment
3: Leon: 18.

54 In Qu: impedit what Person soever is presented & admitted
after ye accon brought, vnlesse he that hath ye title of the
patron be paramount to ye title of ye plt vpon such
recovery he shall be removed & ye Bishop for a nill returne
was fun[illegible] a sicut alias issued vpon pain of 100 li
3: Leon 3[illegible]

55 In Qua[illegible]dit & counted he was seised of ye moiety
of ye [illegible] that is to say to present qualibet
prima [illegible]t good because he shewed not his speciall
interest [illegible] dies begin by p[illegible] script: Composit & for it is
ag[illegible] Com[illegible]ight 3: Leon: 164.

56 If ye [illegible] surpson me, if I vsurpe vpon him again
& pres[illegible]y Clerke is in by 6 months I am now remitted
If one [illegible]nts vnto my benefice & I bring a Qu: impedit
ag[illegible] ye [illegible]y & ye disturber & omitt ye Incumbent I shall
recov[illegible] patronage but not remove ye Incumbent
If a m[illegible]oth purchase an Advowson & one vsurpson
him & [illegible] Clerke is in by 6 months a Quare impedit is brought
& passeth by nihil dicit, ye Bishop nihil clamat, ye purchasor
shall have his right 3: Bulstr: 38: A purchasor that
never presented & suffers vsurpacon & that to continue
6 months hath a right remedilesse but aliter if he once
present, for then at ye next avoidance he cannot have
a Qu: impedit but a writt of droit d'Advowson for he hath
ye right of ye Advowson 3: Bulstr: 40.

Two things recovered in Qu: impedit ye parsonage, 2: the presentation & after judgem^t ye he is debito modo amotus he may pres[illegible] without any writt to ye Bishop 3: Bul: 38.

If one vsurps vpon ye King by this he gets a presentation, but no patronage, he is not to be removed [illegible] but by Qu: impedit 3: Bulstr: 90. 58

No Qu: impedit ought to be brought but [illegible] presentation ought to be alledged 3: Bulstr: 90. 59

Qu: imped: brought ag^t ye Archbish: & 3 [illegible] ye two first pleaded as Metropolitan as ordinary [illegible], the others make title Judgem^t for ye plt, Judg[illegible] good without a Cessat executio & breve Metropo[illegible] & not Episcopo held good 3: Bulstr: 174. 60

Que Estate

One cannot shew a que estate without shewing [illegible] by Deed but where ye Accon is brought by Lessee for [illegible] who hath not ye Deed & is but a Conveyance to ye acc[illegible] which is grounded vpon ye disturbance done vnto him in [illegible]ssion: but if he had claimed rent or Comon in grosse w[illegible] cannot passe without Deed there he could not shew que estate without shewing ye Deed how he came by ye estate 2: Cro: 677. 1

How to plead a que estate where baron & feme plead of lands he is seised in right of his wife Heat: 143. 2

Where a que estate of a particular estate ought not to be pleaded without shewing how he came by ye estate Owen 16. 3

4 Where a man may prescribe by a que estate in a hundred if
appendant to a Mannor Dw: 140.
5 ffor a rent or an estate that lyes in Grant none can plead a
que estate but ought to entitle himselfe by ye Grant Bridg: 94.
6 Que estate [illegible]ded by an Hospitall in prescription of a
way [illegible] 38.
7 There [illegible] [illegible]ad a que estate of an estate taile 1: Co: 46: a

Quod ei deforceat.

1 In a wri[illegible] [illegible]t there ought to be a double deforce, ye plt
right & t[illegible] [illegible]laim his owne right The defts joyning in their
deforce [illegible] not to have severd in their pleas: If ye plt
admitt[illegible] [illegible] tenants to plead severall pleas & takes severall
issues [illegible] their pleas he admitts them to be severall
ten^ts & [illegible] ba[illegible] his owne writt (for this deforceat was
brought [illegible] baron & feme) 1: Co: 226.
2 In a [illegible] ei deforceat of a third part of an acre of land
wherein [illegible] wife was ten^t in dower ye deft confessed she was
so but [illegible] how she comitted wast wherefore he brought
his action of wast to which she appeared & pleaded nothing & so
he had judgem^t to recover: ye plt said y^t no wast was comitted
ye deft demurs: This writt is grounded upon a recovery by
default in a reall action but a wast is a personall action &
therefore in wast ag^t husband & wife ye wife shall not be
received & this default after appearance is not within the

Statute which gives remedy to a third person upon default of ye particular ten.t but ye default by ye party himselfe is not helpt which is a contempt & every nihil dicit is a confession of itselfe Ow: 101.

Quod ei deforceat lyeth not where a recovery hath been agt ye wife upon a nihil dicit alter upon default [illegible] Cro: 263. 3

In a quod ei deforceat ye wife was joined [illegible] meere right & ye demand.t nonsued and in a new [illegible] deforceat ye first nonsuit was pleaded in barr & demur[illegible] that plea & judgem.t was given for ye ten.t [illegible] not error Moore 403. 4

Quo warrant[illegible]

Quo warranto lyes of a Court baron: for it is a [illegible] right to hold Courts: but if he there intitles himselfe [illegible] Mann then he needs not to shew yt he is to have a [illegible] & the judgem.t is not yt ye Kling shall seise but ye deft [illegible] of that liberty 2: Cro: 260. 1

Quo warranto lyeth for keeping a Court baron 1: [illegible] 2

Quo warranto to have bona & Catalla felonum [illegible] 3

agt a County palatine who holds tam liberi pr gladium quam Rex pr Coronam which hath jura regalia 2: Bul: 226.

Quo warranto because ten: divers: liber: &c without naming any in certainties as waifes straies &c pr Curiam nought Moy 121. 4

If ye Major of London takes a fine for ye measurage of Coales & makes an office of it, it shall be redressed in B: R: by a Quo warranto 1: Leon: pl: 144. 5

6 In a quo warranto it is not sufficient to say ye such a subject hath lawfull interest to hold Leets without makeing title to himselfe 2: Leon: pl: 31.

7 Libertyes reassumed by ye King are not reserved by his grant [illegible] words tho' seconded with a non obstante aliquo statuto [illegible] fo: 513.

8 The an[illegible] plea to a quo warranto shall bind till it be reversed [illegible] standing ye clause of a salvo jure & it is as strong [illegible] were upon a writt of quo warranto Latch: 46.

9 Judgem[illegible] an Information in a Quo warranto shall bind till [illegible] reversed notwithstanding ye Clause of a salvo j[illegible] as ~~strong as if it were~~ upon a writt of of Quo [illegible] ranto Latch: 46.

10 Quo w[illegible] for claiming of wrecks ag[illegible] C: who pleade[illegible] was appendant to a Mann[illegible] that A: had who w[illegible] debite modo ~~attinctus~~ this is certain enough pleade[illegible] ye Queen who sues not for ye Mannor but impeacheth ye deft for usenig such a liberty but if ye heir had demanded ye Mannor ye attainder must have been pleaded certainly 3: Leon: 72.

11 Vide Exceptions to ye pleadings in a quo warranto, it contains two things a Claime & an usurpation both must be answered A Quo warranto ff Frowicks readings lyeth not of Liberties which do not lye in Claime as felons goods 3: Leon: 104.

Quid juris clamat

Quid juris clamat vpon a fyne agt R: Lessee for life R: 1
said he was seised in fee absqz hoc yt he was seised for
life only & it was found yt R: was tenant in tacle after
possibility & this is not well for it is an estate for life
privileged & ought to have been pleaded in b[illegible] Noy 75.
In Qu: juris clamat if he refuse to attorn [illegible] he shall 2
be committed for his Contempt yt he sha[illegible] have a
writt of wast or arranie an assize [illegible] Plutt: 89.
Judgem: in a quid juris clamat yt a fyne shall be [illegible] for 3
part only 3: Ero: 693.
For quid juris clamat ye tenant saith holdeth [illegible] 4
tacle of A: ye plt traveiseth it & fou[illegible] plt
qu: what judgem: ~~shall be [illegible]~~ [illegible]
In quid juris clamat ye appearance of ye [illegible] by 5
Attorney videtur not good yet if admitted [illegible] Court
& plt: it may be after plea pleaded he may [illegible] be
Attorney; another exception because he [illegible] not
in ye writt what estate ye tenant had 3: Leon: 1[illegible]

Recital

1 In mandamus it was found ye A: was seized sed de quo vel de quibus tenentur ignorant a melius inquirendum issueth recitenig ye seisin found ye dyenig seised sed de quo vel de quibus et per que servitia tenentur ignorant: this misrecitall hurts not & this double ~~ignoramus~~ good ~~to intitle~~ ye King for when they find ye de quo vel de quibus etc & it is not found by what [illegible] it is implyed ye per que servitia ignorant 2: Ero [illegible]

2 To re[illegible] Deed to be enrolled when no such Deed is enrol[illegible] [illegible]tions 2: Ero: 53.

3 Omitt[illegible] [illegible]ord in recitall of part of statute that is but sy[illegible] is not error 2: Ero: 632.

4 Gesta[illegible] [illegible]istit per indenturam may good in a Declaracon to indu[illegible] Action & to assigne a breach but not by way of barr[illegible] replicacon 2: Ero: 537.

5 In reci[illegible] of Letters patents to observe what is a mater[illegible] recitall & what not 1: Bul: 8: bon matter.

6 In ye Kings grants where recitall of ye estate of ye King is necessary & where not as where it operates by discharge generall words suffice but to charge there ought a speciall recitall 1: Bul: 196.

7 Recitall of a statute in ye copulative where it was in ye disjunctive 2: Bul: 47: Conclusion with contra formam statuti may help a defect in ye recitall (40) a difference between an action grounded

meerly upon a Statute & an Indictment & a justification by a Statute in ye two former ye Statute must be strictly recited (48) in ye other case ye Statute is but an inducement to ye justification (49) Statute 37: obligat: 85.

Debt for not performance of an Award, ye deft pleads no such award made ye pltaver ye award made & recites but part of it & relyes upon this: judged there was no such award made because he recited not ye whole award 2: [illegible] l: 50: (Statute 38) what kind of misrecitall is helped. 8

Where a misrecitall is not in words affirmative [illegible] relyni words relative as referring to a Deed recited by [illegible] which is certain enough ye Law will reject such misre[illegible] Sty: 97: 9

A misrecitall that affirmes a Statute shall [illegible] no recitall is necessary but what lyes for ye [illegible] ion: if one branch pinch you see if another branch be no[illegible] Sty: 422 10

In ye recitall of a rent granted to me by fyne I m[illegible] the Comisor for Conusee & recite it was levyed of ye Ma[illegible] & other lands where it was only of ye Manner & I grant this [illegible] (thus recited) to a stranger ye grant is good: If one recite [illegible] he hath 10th of ye grant of J S: whereas it was of ye grant of [illegible] the grant is good Cw: 41. 11

If a man recites ye he hath a rent of 10th of [illegible] of A: whereas he has it of ye grant of B: ye grant is good Cw: 53. 12

Recitall in a writt agreable to ye Indictment though strictly it improper in ye writt yet it shall not be judged parcell of ye forme of ye writt, ye writt should have been copisset & it was copit 19: h: 6: 34: a. 13

If a man hath a licence of forestalling upon 5: E: 6: c [illegible] he need but only recite that statute in his pleadings without pleading 13: Eliz: for ye licence is only grounded upon that & this qualifies ye Action Noy 27. 14

15 In an action of debt upon a judgem^t he needs not recite all
ye record but he may begin at ye judgem^t Winch 28.

16 A declaracon may be had conta[illegible] ing only a bare recitall
& not a direct affirmation Winch 98.

17 If ye [illegible] recite a matter untruely which cometh not of the
Information of ye party this shall not hurt ye Grant except
it be p[illegible] ye consideracon Lane 13.

18 If ye [illegible] makes a Lease & after makes a Lease of ye same
Land [illegible] same Land to ye [illegible] Lessee ye first Lease is in
being at [illegible] of ye acceptance of ye new Lease & therefore
if there [illegible] a good recitall of ye Lease in being ye second
Lease i[illegible] Lane [illegible].

19 The [illegible] recites ye he [illegible] made a Lease to A: & B: and
whereas [illegible] had surrendred ye patent of ye [illegible] Lease he in
consid[illegible] of ye [illegible] makes a new Lease to A: & B:
here [illegible] in fact ye [illegible] supposed in ye recitall to be
made to [illegible] & B: was [illegible] ye [illegible] deceived in ye recitall
yet in [illegible] he made [illegible] of ye patent to be the
consideracon of his Grant [illegible] falsity of ye recitall is not
materiall for ye Judges ought not to take notice of that
to be a motive of his grant which he expresses not especially
he expressing another Lane 44.

20 The Queen saith quam quidem sursum reddicionem acceptamus
Praesentes & that patent was not surrendred but only order
to be surrendred, this recitall shall not bind ye Queen
Lane 2.

Leases which are of record ought to be recited in ye patent 21
of ye King but not those which are not of record, ye one
may be found; but not [illegible] of Leases in fact 2: Leon: pl: 178.
If ye Queen be deceived [illegible] not recital [illegible] it voids ye patent
but if she be not deceived by ye recitall it [illegible] not ibid.
In an Indictm. ye statute was recited to be made at Westm. 22
& sheweth not in what County & therefore revest 3: Co: 106.
One recites ye statute & said [illegible] ejus officiary [illegible] should 23
be aly officiary not good [illegible] Co: 108.
In a grant if there be suffic[illegible] [illegible] granted 24
& of ye intention of ye parties [illegible] & nothing [illegible] taken
but ye defendants & plts in ye [illegible] [illegible] ye
grant shall be good 3: Co: 127 [illegible]
In Indictm. of Q: Il: 6: ye statute is in a re[illegible] [illegible] 25
action of trespasse & those words or any other m[illegible] are
omitted this is error but misrecital in a pom[illegible] [illegible]
it is not so 3: Co: 186: (Indictm. [illegible] 9: 102)
Lessee of Queen for 21 years [illegible] Lease for [illegible] 26
without recitall of ye first [illegible] judged void [illegible] though
by ye taking of ye 2d Lease [illegible] first was drown[illegible] not at ye
instant of time of taking [illegible] Lease it was [illegible] but
of a Lease by matter in fact there need be no recitall 3: Co: 23.
A: by his Deed poll recites ye whereas he was possest &c 27
& assignes ye same & enters into obligacon to performe: this
recital (whereas he was) is an article & agreem. within ye
condition of ye obligat: for recitall of itself though it be nothing
but being joyned & considered with ye rest of ye Deed it is materiall
for ag. his recitall he can't say he hath not any thing in the
terme 1: Leon: pl: 164.

28 I need to recite no more of ye record, then is ye cause of my accon 3: Cro: 877.

29 Where a Lease is not of record it needs not to be recited in ye grant of ye Ilng & see good learning of recitalls — Moo: 205.

30 The Queen grants ye reversion to Lessee for life without reciting ye estate in possession ye grant is void Moore 416.

31 A: Lea[illegible] for 30: years to B: to begin after such a Lease ye date [illegible] of he misrecites, ye Lease is good, for it takes [illegible] by ye demise & habendum Benl: 35.

32 The Sta[illegible] of 1: E: 6: c of misrecitalls extends to Leases in [illegible] & not to Leases not in esse Benl: 38.

33 The filen[illegible] an Exigent was staid because it misrecited ye judgem[illegible] as of one terme whereas it was given in another Benl: 13.

34 The St[illegible] of non recitall or misrecitall helps not where there is [illegible] any certainty 3: Leon: 13.

35 Omiss[illegible] of one of ye occupiers names in ye recitall where it [illegible] tit: Certainty 3: Leon: 235.

36 Misrecitall of ye date of a former date, Consideration misrecited 3: Leon: 238.

37 If a false recitall of a thing which is no part of ye consideration makes not ye grant void 1: Co: 43: a.

Record

Paym^t pleaded ag^t matter of Record cannot be discharged but by matter of record or specialty & it is doubted 20: h: 6: 24: if levyed by the ruffe on fieri fac: be a good plea 1: Cro: 239. 1

The rule holds not alwayes y^t where one comes in by matter of record he ought not to be ousted without matter of record for he who hath land upon Elegit upon a judgem^t after de[illegible] satisfyed may enter without a scire facias 1: Cro: 4[illegible]: Attary 80: double matter of record quid? 2

Error directly ag^t a record is not [illegible] 3

Nisi prius was certifyed in ye name of a justice of [illegible] it cannot be assigned for error y^t ye judge was [illegible] before [illegible] 2: Cro: [illegible] 2: Cro: 244: 2: Cro: 359: 2: Bul: [illegible]

Action upon ye case for y^t he procured him to be [illegible] as a common barretor before [illegible] & [illegible] justices of ye pe[illegible] [illegible] ad diversas felonias &c & y^t he was acquitted, ye de[illegible] [illegible] oyer wherein they are mencioned as justices of y^e [illegible] only and demurrs upon it but adjudged it is no failer of record because the justices of peace have power to hear & determine [illegible] without any speciall Comission of oyer & terminer 2: Cro: 32[illegible] 4

Trespasse ye deft pleads by vertue of a [illegible] thereupon was pleaded nul tiel record & ye deft had day to [illegible] in the record & a vecfa: to trye ye issue returnable ye sat[illegible] [illegible] ye deft failing it was judged ag^t him 2: Cro: 303. 5

When it is a good record at first certified it shall never afterwards be falsified upon a Certificate of diminution, for that is to amend a record & to aid it & to have ye affirmation of it, but it shall never be to certify a contrary thing to make it ill 2: Cro: 369. 6

When a record is moved out of ye Kings Bench by Error into ye Exchequer it is not any record in Court untill ye Error be determined 7

& if there be any misprision of ye Clerke in ye transcript, ye course is to send for ye Clerke of ye Court & to mend it in ye Exchequer Chamber: but if ye principall record which remains in Court be false then to amend it & there upon to alledge diminution & upon Certificate thereof ye transcript shall be also amended if it appear but misprision of ye Clerke 2: Cro: 429. vide Atturny 5: Error 11:

8 One after appearance & pleading shall not assigne for error yt there was not any bailer upon ye file & yt he was not in cust. [illegible] Marescalli: for it is contrary to ye record 2: Cro: [illegible] 568.

9 If nul tiel record be pleaded in barre it is an issue & judgement shall be [illegible] on failer Heat: 18.

10 Vide what [illegible] reprons were taken to a record upon nul tiel record pleaded to make it a failer of record Heat: 48: Oyer 2.

11 Error brought because ye appearance was [illegible] Attorn suum & there was not any such in rerum natura this averment shall [illegible] be rec[illegible] by ye record of ye Court Heat: 177.

12 The [illegible] may take notice of an adjournement but not to seek [illegible] rolle or to search what was done upon a former rolle [illegible] being no parcell of ye record now in Court 1: Bul. 143.

13 If a record be pleaded it must be sub pede sigilli, but if it be given in evidence though it be not so ye Jury may find it if they have other good inducement Sty: 22.

14 Judgement must be given upon ye record itself, & a difference where a transcript of a record is removed out of a Court which cannot proceed upon ye record & where it is a transcript of a record upon which ye Court may proceed Sty: 94: The record is in ye Court virtually by sending ye memorandum of it ibid.

After a recovery executed to vige no tenant was to ye principe 15
they might have counterpleaded ye voucher but now they
must not aver this ag^t ye record Sty: 320.
It is only necessary to shew forth soe much of ye record as goes 16
in barre & not to alledge ye Continuances where there is an
appearance Sty: 373 prout patet per record when to be pleaded ibid.
Matter of record shall alwayes have relation to ye date & 17
not to ye livery but matters of fact which are not of
record shall alwayes have relation to ye livery [illegible]: h: 6: 21: b.
If nul tiel record may be averred ag^t an Exem[illegible]lification 18
Dyer 236: pl: 26.
A return quod habetur tale recordum in hec v[illegible] but sends 19
not ye record not good Noy 133.
A Conveyance delivered to be enrolled & [illegible] enrolled 20
shall be accounted a record Hutt: 1.
Quod not fuit aliqua querela according [illegible] Custome 21
& this matter of record shall be tryed by ye country & non
prosecutus est ullum breve tryable per pais [illegible]tt: 20.
An Inquisition fund one A: was seised & be[illegible] soe seised 22
was attainted of treason in B: R: this is [illegible] double
matter of record (this being moved in ye Ex[illegible]) —
because ye record of ye attainder is not in ye [illegible] but
if ye record were removed then that & ye Inquisition —
would make a double matter of record Lane 58: 59.
Is he title of ye King ought to be by ye record immediately, 23
of ye party who makes ye estate if ye King have an
antient right he may per adventure be in actuall possession
without record but if he come in as a purchaser he shall
have it without record Lane 63.

24 A Deed enrolled is not a record but a thing recorded: matter of record hath always relacon to ye date & not to ye delivery contrary of a Deed which is not of record for ye same shall have relacon always to ye livery 1: Leon: pl: 257.

25 The diversity between exemplificacon Constat inspeximus innotescimus, vidimus 5: Co: 53: b.

26 An assignm of a Deed to ye Kng delivered to one of the Barons of [illegible] Exchequ out of Court although it be not enrolled, 1: Leon: pl: 256.

27 Ye Morgan [illegible] Deed enrolled is no record but a thing recorded 1: Cro: 86 [illegible]

28 Debt upon [illegible] obligacon ye deft pleads vtlary in ye plt and concludes [illegible] ba tem, ye plt pleads nul tiel record the deft hath [illegible] ay & failes & because in debt on obligacon vtlary goes [illegible] barre ye plt had judgem aliter of debt upon Contract [illegible] there ye Queen hath it not 3: Cro: 203.

29 The book of ye Clerke of ye house of Comons is a record 4: instit [illegible]: 4: h: 8: c: 16.

30 Tryall [illegible] matter of record shall be tryed by records & not left to a [illegible] ary to judge matter of Law upon them Moor 29

31 The Clerke finding his owne misprision, having entred placito transgressionis for placito debiti, amended it without direction of ye Court & was misprisoned Cro: Car: 202

32 A record tryed pr pays in case of necessity Latch: 86.

33 A record amended by ye Clerkes as supposed by fraud moved yt they might be razed out again Latch: 154.

Judgem.ts given tempore Jacob: in an inferiour Court of the 34
Kling & ye writt of Error to remove ye Court was (viz.ts) of a
Judgem.ts in Curia nostra (being in ye time of Charles ye
first) where ye writt is once good or abated by ye death
or plea of ye party ye record being removed ye inferior
Court cannot proceed but ye superior Court shall upon the
record before them, but aliter when it is to remove
an other record as here Latch: 198.
When ye record is removed by error out of C: B: into 35
B: R: nothing remains but ye rolle but ye record rests
in B: R: after Error sued in ye Exchequ.ts Cham.ber
Benlow 92.
If ye first writt of Error be quasht for matter of 36
substance, though ye record be in B: R: yet in judgm.ts
of Law it is not removed out of C: B: & ye writt of
Error q.d coram nobis residet, lyes not but where the
first writt was abated or discontinued & this must
be mentioned in ye new writt Benl: 100.
In appeale ye deft pleaded there was no continuance 37
from Grimsby Germe, till ye time of ye Capias upon
examination it appeared ye Continuance was entred
but a day before & Curiam such proceedings are not
good for ye writts should be sued de tempore in tempus
yet ye Continuance appearing in ye record it must
stand Benl: 141.
Where ye Judgement is reverst it cannot be certified a 38
record 3: Leon: 52.

39 When a rolle is become a record lit: Judgm. Popha 181.

40 Judiciall records are preferred before ministeriall, and ministeriall before Conveyances of record or returnes of sherriffes &c. 4: Co: 56: a.

41 The Jury shall not trye ye validity of a record but Circumstances that stand with it they may: so non concessit may be pleaded ag. patents 4: Co: 71: b.

42 If a man have prescription & takes letters patents of them matter of record drowns matter of prescription prescript vide plus 6: Co: 45: a.

Recovery

1 If one have interest only in ye 3: part of a Mannor and suffers a recovery of ye moiety of ye Mannor good for ye 3: part 1: Co: 77.

2 And we [illegible] as it hath been said ye one shall not falsifye where [illegible] selfe is a party that rule hath 3: Exceptions (1) if [illegible] shew by way of replication ye this recovery is void in [illegible] I may falsifye it in an Assize (2) if a man recover ag. me certain tenements in B: & they lye in A: I may bring an Assize of my frank tenem. in A: the recovery in B: shall not barre me (3) where ye recovery upon default was upon a writt abated 2: Cro: 467.

3 Where a recovery shall not barre 2: Cro: 591.

A Comon recovery was suffered & a writt of Entry was not 1
filed & for that Error was brought: The Court denyed to
examine if any writt was filed or not, but if it might
appear upon record ye there was a writt filed they
would consider if a new one should be filed or not & they
say ye recovery should be exemplified Ileat: 145.
The father purchaseth lands in ye sons name who was 2
an infant of 16: years & he would have suffered a Comon
recovery as ten. to ye pricipe but ye Court would not suffer
it Ileat: 163.
Recovery suffered by Guardians of ye land of an Infant 3
Ileat: 171.
Ten. for life ye rem. to baron & feme & [illegible] heires: 4
baron & feme suffer a recovery: ye heires of ye feme
are bound by this recovery: for though ye feme being
covert it was conceived she could not be ten. to the
pricipe & ye she was not examined & so nothing recovered
but if a stranger had been ten. to ye pricipe [illegible] baron &
feme had been vouched ye feme had been bound
Sty: 320: In 43: E: 3: 48: was ye first mention [illegible] examination
of a feme upon a recovery: though a feme be [illegible] examined
she shall be bound by the recovery because of the
recompense in value (not so in a fine) & this shall goe to
ye heires of ye feme 320: vt. discontinuance d' terres 10:
recovery shall not take away Entry.
To reverse a Comon recovery ye there was no warrant 5
of Attorney of ye record: H: ye father had H: his son & 3
daughters by one venter & ye plt of another venter and

dyes seized of ye land in tailes to him & ye heirs males
of his body: H: enters & makes a feoffmt, ye feoffee is
impleaded & vouchetb H: who loseth by default in the
recovery & dyes without issue: ye daughters that are heirs
generall shall not have ye writt of error, but ye plt
which is heir in taile Ow: 68.

6 Notwithstanding ye feoffee recover agt ye vouchee & ye
vouchee recover over ye land yet this recovery shall
goe to ye [illegible] taile Ow: 68.

7 A Comon recovery being but a comon Conveyance
need not [illegible] such strict forme as other writts founded
upon title Noy 1:

8 If A: be ~~[illegible]~~ life ye remt to B: in taile & a
pcipe is bought agt B: if he happen to have a surrender
of ye Lessor for life at any time ~~before ye recovery~~
~~[illegible]~~ [illegible] is well now that was in ye case of a Comon
recovery [illegible]y 126.

9 A: to [illegible] taile B: remt in fee grants all his estate
to ye Queen but ye grant thereof in possibility is void: A:
suffers a Comon recovery & dyes without issue this
recovery shall bind ye remt in fee Noy 132.

10 In a recovery if ye towne be omitted ye land doth not
passe Hutt 105.

11 A writt of entry may be filed many termes after Hutt:
112.

Lessee for years to begin at a day to come may falsify a recovery Jenk: 42. 12

Tenant in taile levyed an erroneous fyne & afterwards as vouchee suffered an erroneous recovery & dyed ye issue ought first to reverse ye recovery by error & then he may reverse ye fine Brig: 76. 13

The writt of entry upon which ye recovery was [illegible] was praecipe quod reddat unum Messuagium & 20 [illegible] pras prat in Dickleborough, Lynford, Hamlets, wit[illegible] namenig any towne & thereupon ye judgem[illegible] was reve[illegible] 1: Leon: pl: 187. 14

An assize may be brought ag[illegible] others as w[illegible] as ye tenants as disseisors: but other reall actions ought to [illegible] brought ag[illegible] ye ~~[illegible]~~ terretenants only: and therefore in th[illegible] needs not shew ye they were ten[illegible] at ye ~~time of ye~~ [illegible] 1: Leon: pl: 277. 15

Tenant in taile ~~upon a recovery~~ in value upon vouchee shall recover but such an estate which he had at the time of ye warranty made 1: Leon: pl: 34 [illegible] 16

Qu: if a stranger to a comon recovery shall [illegible] mitted to say there was no execucion upon it 2: L[illegible] pl: 63 17

If tenant in taile be disseised & so disseised [illegible] a comon recovery his issue shall not be barred 2: Leon: pl: 82. 18

A: suffers a comon recovery to be had by B: to ye intent ye he should make an estate to B: & ye recoverers shall be seised to their owne use till they make ye estate for that was ye use implyed & all uses are directed & ruled by ye intent implyed or expressed of him to whom the Land is 2: Leon: pl: 275. 19

20 One made a feoffm.t in fee to ye use of himselfe for life & after
to ye use of his eldest son in taile & then to ye use of his right heiries
not having at ye time of ye feoffm.t any son; afterwards he
suffers a Comon recovery had issue a son who dyed in ye life of
his father, having issue a son: judged this issue shall not avoid
ye recovery by 32: h: 8: c for there was not any remainder in
him at ye time of ye recovery had, but by ye Comon Law he
might avoid it, for ye recompense cannot extend to such a
remainder which was not in esse 2: Leon: 285:

21 If executor [illegible] sued ag.t ye Comon vouchee so yt he renders in
value, [illegible] upon such a verm.t ye losse lyeing upon his release
of Errors shall bar others 1: Cro: 3.

22 A recovery [illegible] ~~[illegible]~~ in ye reversion, where ye freehold
was in a stra[illegible] shall bind ye reversioner & his heiries 1: Cro: 21.

23 If one gives or devises land to a man & his heiries as long as Is:
hath issue of his body he by recovery shall not bind ye Donor
without [illegible] being him a party by way of vouchee for a recovery
ag.t te[illegible] fees imple never shall a Collateral interest
title or [illegible]bility as a Condition or Covenant or ye like
2: Cro: [illegible]3.

24 If a Comon recovery be had ag.t baron & feme, ye feme being
an Infant appearing in Person & not by Guardian it is Error:
for it is but a Comon assurance, & not a recovery by title
& an Infant cannot make assurance 3: Cro: 323.

25 When ten.t in taile levies an erroneous fyne, he hath yet
a right in ye land, which by his entry into ye warranty upon

a recovery & thereby receiving an intended recompense in the
value is barred 2d a recovery & after an erroneous fyne shall
barre ye issue in taile from having a writt of Error to reverse
ye fyne 3: Cro: 389: 390.
Ten.t for life suffers a Comon recovery ~~[illegible]~~ in which he 26
vouches ye remainder in taile who dyes ye reversioner in fee
enters but is barred 6: Cro: 562: 570: ac: Estates 49.
Ten.t for life rem.d to his eldest son in taile rem.d to his 2d 27
son in taile ia p.tipe is brought ag.t ye ten.t for life & the
eldest son & they suffer a Comon recovery wi[illegible] vouching ye
Comon vouchee ye eldest son dyes without issue [illegible]: if this
shall bind ye second son [illegible] 3: Justices Non: 3: [illegible] 670: for
ye land recovered in value shall be in ye same degree as ye
land lost is & here ye Law supposeth them [illegible] jointents
& ye Judgem.t shall be according & ye recovery [illegible] value
according to ye accon & then it is in ye same degree as the
estate taile & soe no barre to ye issue in taile or [illegible] ye rem.d
3: Cro: 670.
That recovery cannot be a barre that is suffered [illegible] that 28
is not seised of ye same estate taile at ye time [illegible] recovery
suffered: for if by fyne & they be in of a new es[illegible]
recompense upon ye recovery shall goe to that new [illegible] & not
to ye antient rem.d 3: Cro: 822.
Ten.t in taile by devise & if he dye without issue that Exec.ts 29
of ye Devisor shall sell ye land, he suffers a comon recovery &
dyes without issue ye Exec.ts shall not sell ye land Moore 73.
Baron & feme jointent before ye Coverture, ye baron only suffers 30
a recovery & dyes ye rem.d is bound for ye moiety; but if they

were joyntenants after ye Coverture ye recovery shall barre for one
part neither ye issue or remd. Moore 95.

31 Recovery by tenant in taile in remd shall not bind ye issue but
ye heir by estoppell in a fee simple estate Moore 255.

32 Recovery shall not bind ye issue in taile where ye remd is in the
Crowne [illegible] provision of a subject Moo: 195.

33 Baron & feme joyntenants & to ye heire of ye baron in taile with
remd over [illegible] on alone suffers a recovery ye wife dyes ye baron
dyes with [illegible] issue ye remd are not bound for ye baron & feme
having [illegible] Moiety [illegible] each of them had the
intire estate [illegible] remd depends upon ye particulars undecided
estate in the [illegible] & ye baron having taken ye sole tenancy
upon him [illegible] recovery in value shall goe to that & not to ye remainder
& that remd [illegible] a stranger to ye tenant is not estopt Moo: 210.

34 Tenant in tail [illegible] grants by bargain & sale the
reversion [illegible] ye King & before [illegible] ye tenant in taile suffers
a comm[illegible] recovery Qu: if ye reversion be barred Moore
95 [illegible]

35 [illegible] for life remd to ye son in taile a recovery had
but [illegible] no proofe [illegible] consent of ye son to the
declaration [illegible] ye uses nor was he a party to ye Indenture, the
Court directed ye Jury to find ye uses according to ye respective
estates they had at ye time of ye recovery. If two Joyntenants
suffer a recovery & one of them declares ye uses to all, this
shall only bind his moiety if ye consent of the other be
not proved Latch 82.

Where a former recovery shall be pleaded in barre Cro: Jac: 78 56
pl: 93: Cro: Car: 24: Hutt: 81: Noy 4: Debt upon an obligaton
recovery ag^t one, is no barr to ye other untill satisfaction —
recovery in trespasse for takeing goods is no barre in trove
for ye same goods, but if an accon be ag^t divers for whill
damages in certaine are to be ~~recovered~~ & haveing judgem^t
ag^t one, for damages certain transit in rem judicatam and it
takes away ye accon ag^t ye others Cro: Jac: [illegible]
Ten^t in taile covenants in consideraton of [illegible] marriage 57
betwixt his son & ye daughter of [illegible] to stand [illegible] ye use of
himselfe for life & after to ye use of his son & [illegible] wife &
ye heires of their bodyes & suffers a single recovery & dyes —
without issue, this binds not ye remainder, for [illegible] is no
consideraton to raise a use, [illegible] had it been [illegible] establish
land in his name, & blood yelverton 51.
A Comon recovery shall barr where ye rem^d is to [illegible] King if it 58
be so ye rem^d can never come into possession but only
remains a dry remainder in him, but if it had been a grant
of ye reversion, because dureing ye first entaile [illegible] should
be an attendance of ye issue of ye Donee yelverton [illegible] by o[illegible]
Ten^t in taile remainder over suffers a recovery it [illegible] 59
remainder for ye supposed recompense in value, no [illegible] reversion
for ye recompense goes not to him [illegible] Judges in [illegible] B: 4: & 5:
C: & M: Semoe 11.
Baron & feme tents in taile ye baron discontinues to ye use of 60
R: his son & A: his wife & to ye heires of ye body of R: ye baron
dyes, ye feme survives, R: suffers a comon recovery & then the
feme dyes, R: dyes without issue, this youngest recovery in
Formedon, for ye feme was alive & so ye recovery binds not ye first
entaile & by death a new title descended to [illegible] R:

after whose death a new title descended to R: Benl: 31.

61 A: tenant in taile enters upon his feoffee & enfeoffes B: & C: and B: and C: rem feoffes A: & others in fee to ye use of ye st A: for life rem ainder to E: his eldest son in fee E: dyed having issue & J: sues a Comon recovery ag^t A: A: dyes & then ye [illegible] & enfeoffed h: ye son & heire of E: judged ye [illegible] during ye life of A: Benl: 31.

62 A feofm^t in fee to ye use of himselfe for life & afterw^ds to ye use of his eldest son [illegible] in taile, & afterwards to the use of his right heires not having at ye time of ye feofm^t any son, afterwards suffered ~~Comon recovery~~ & had a son who dyed in ye life of his father having issue a son & then he himself [illegible] dyed. Judged ye son & heir of ye son should not avoid his recovery by 32: h: 8: c: 31: for there was no rem^d in [illegible] ye time of ye recovery had. but by ye Comon Law he [illegible] for ye recompence could not extend to such rem^d as was not in esse 3: Leon: 143.

Recusancy

Upon 23: Eliz: c: 1: if ye party be convicted upon Information 1
ye Informer shall have ye penalty but if before confirmation
he be convicted upon indictment there ye King shall have the
penalty to himselfe by 28: Eliz: c: 6: & this is a good barr
Noy 117.

If a recusant be convicted according to ye forme of ye statute 1
28: Eliz: by Indictment an Informer can ~~[illegible]~~ have any advantage
after upon an Information for ye [illegible] altering
ye course of Law which was upon 23: Eliz: but if a recusant
be not convicted of recusancy an Informer may take
advantage according to 23: Eliz: ~~[illegible]~~ notwithstanding 28: Eliz:
Lane 60.

If a man ~~be convicted of~~ recusancy in 28: Eliz: for 10 2
months then passed & de facto continued a recusant untill
his death 1 Jac: without other conviction: if not ye King can
claim 20 a month for more months than is contained in the
Indictment whereupon he is convicted: If so: If [illegible] any can
seise ye lands for payment thereof after his death [illegible] seisure
being in his life: If ye debt itself be not gone [illegible] death of
ye recusant Lane 92.

If lands purchased by the recusant in ye name [illegible] 3
trust be lyable to payment of ye Kings debt being convicted deceased: 2d.
If ye lands of a recusant may be seised after his death Lane 105.

If a recusant shall have more than a 3d. pt of his Lands in 4
Copyhold if this ~~[illegible]~~ Copyhold as to ye surplusage shall be
lyable to ye penalty 1: Leon: pl: 127: 29: Eliz: c: 6.

The Queen shall have 2: pt forfeited for recusancy as a pledge & 5
nomine penae & the profits thereof shall not be accounted to goe to
ye payment of any part of ye debt Qu: if 2: pt of intailed lands be

soe seised & Gen. in taile recusant dyes & ye det not pd if the issue shall have ye lands till &c. S: Cro 846.

6 Gen. in taile becomes recusant & is only convict by processe & dyes, ye issue shall avoid ye seisure but aliter upon judgement given Moore 123.

7 Whether a [illegible] covert being convicted by Indictm. at ye Kings suit be lyable to ye suit of an Informer upon 23: Eliz: concerning recusancy [illegible] ye case well argued and 23: El: 28: El: & 35: El: well expos[illegible] 2: Cro: 480.

8 Ye King [illegible] solemne protestation ag. toleracon viz: yt he would spend [illegible] last drop of his blood before he would doe it, and prayed yt before any of his issue should maintain any other religion, [illegible] that he truely profest & maintained yt God would take them [illegible] of ye world. 2: Cro: 68: Moore 754.

9 A decree [illegible] ding a feofm. of a recusant to superstitious uses diverting [illegible] ent of ye lands to a protestant Moore 784.

10 Vide ye [illegible] of a recusants submission according to 35: Eliz: [illegible]

11 [illegible] liable unto ye penalty of 23: El: c: 1: for the recusancy [illegible] his wife 3: Bulstr: 87.

12 A Lease [illegible] years made by a recusant of his owne lands, bona fide [illegible] Conviccon will bind ye King Popha 180.

Release

A: devisetth Dale to B: & ye heires of his body remainder to Crane 1
to his heires & devisetth Dale to E: his wife for 15: years & dyes E: —
marryeth C: & they continue ye possession after ye expiration of 15:
years & B: releaseth to C: all his right: judged ye C: is only tenant
at sufferance & this release can vest no estate in him [illegible] want of
privity and as to him having ye reversion it is void [illegible] he
had not any possession 2: Cro: 196.
Covenant agt Lessee bound to repair & leave it [illegible] who 2
pleads ye plt within 3: dayes after ye Indenture [illegible] to
him all Actions duties & demands resolved this [illegible] Covenant
future & not in demand at time of ye [illegible] release made this —
release is no barre: but if he had released all Covenants in —
such an Indenture it had barred vt ye Case 2: [illegible] 170.
One assumes to a feme widdow ye if she would [illegible] A: B: he 3
would pay her after ye death of A: B: 40s. [illegible] & [illegible]
sueth for this ye deft pleads a release of A: [illegible]
of all Actions & demands judged upon Demurr[illegible] plea[illegible]
was not in demand during ye life of A: B: nor [illegible] possible [illegible]
could ever be demanded by him 2: Cro: 222. [illegible]
Two Church-wardens sue in ye spirituall Court [illegible] 4
for their Church & recover & have Costs assessed ye [illegible]
ye other sueth for Costs: but judged ye they have [illegible] but
to ye use of ye Church & therefore ye Corporation [illegible] in ye
Church wardens & ye one soly can not release without ye other
2: Cro: 234: Feofm. 8.
Arbitrators Award 26: March A: to pay to B: 20th: before 10: 5
May next: B: 10: April following releases all Actions and
demands to A: Qu: if this release extinguisheth ye 20th. soe —

videtur q[uod] non p[er] Williams there is a difference where an obligacion is entred into to pay moneys at a day to come it is a duty p[er]sonally & may be discharged: but it is not so in case of an Annuity rent or in an action of debt for non performance of an Award made for paym[ent] of moneys at a day to come 2: Cro: 3[illegible] Sittlet: 512: 513.

6 Judgem[ent] is [illegible] for costs & d[illegible] to B: & A: brings Error & ye former judgem[ent] is affirmed [illegible] ye first judgm[ent] & ye judgm[ent] in ye writt of Error B: releaseth all execucions and demands: his release is good quoad ye first but not to ye last 2: Cro: 337

7 B: is condemned in a judgem[ent] & brings Error C: R: are baile ye he shall prosecute & ye first judgem[ent] is affirmed scire fac: ag[ainst] ye [illegible] who plead a release made to ye principal [illegible] baile of all debts judgem[ent] & execucions betwixt [illegible] ye first judgem[ent] & ye writt of Error brought & baile [illegible] & before affirmance of ye judgem[ent] & judged to be a [illegible] for ye ye summe which they are to satisfye is certaine by [illegible] first judgem[ent] 2: Cro: 403.

8 A: possess [illegible] lease for years assignes ye lease to ye deft rendring [illegible] during ye terme 50[illegible] ye deft pleads in barre of his debt [illegible] rent arrear [illegible] A: after such assignem[ent] releast unto him all actions suits debts duties demands Resolved this lease is not attendant on ye reversion but is only due by contract & this release discharged this contract 2: Cro: 480

Assumpsit in consideracon ye plt would hence him 7th & release him 9
all actions & accept of 8th of A: & a letter of A: Hurry to sue
it if he did not recover of A: 40th in such a time [illegible] to
pay him 40th [illegible] he had performed & made a release to him:
The deft pleads non assumpsit & found agt him [illegible] moves in
arrest & yt ye plt by his release hath extinguished his action
but resolved this release is part of ye consideracon [illegible] of his
action & tho it be gener [illegible] what is [illegible] 2: Cro:
627. Vide Joyntenants & Dr ppyt: 19: [illegible]
A release pleaded to a [illegible] obligacon all & all manner of errors 10
& all manner of actions suits & writts of error &c if action be
barred Heat: 9: it shall extend to errors only.
A: is bound to C: to pay him 100th but that was in trust to the 11
use of D: during her life & after to E: Ercann [illegible] release that
bond in Law or Equity during ye life of D: [illegible]
Monie to be paid by bond is a present duty [illegible] ye payment 12
respited & may be released before ye time, but [illegible] soe in case
of action for debt for not performance of a [illegible] made for
payment of monies which is not present duty before ye [illegible] doe
[illegible] 1: Bul: 178.
A plea of release after darraine Continuance [illegible] Bul: 205. 13
Huxley being in execucon upon a judgement in C: [illegible] brings a writt 14
of Error removing himself by Habeas Con [illegible] in this writt
Error manuscripcon was taken after [illegible] before judgment
affirmed a release was made to him & ye [illegible] of all actions.
executions & demands: ye judgement affirmed ye monie not paid
by ye principall a scr: [illegible] pleads
this & it was held good in C: B: they enter into a certain summe

in B: R: uncertaine & therefore in ye one case ye release is good
& in ye other not 2: Bul: 252.

15 Release to one Trespasser discharge all & it is as good a
satisfaction in Law as a satisfaction in deed for if an Execr
release ye debt released is Assetts in his hands Hob: 66.

16 A & B: are bound joyntly & severally to C: B: dyes ye moneys
not pd & makes M: his wife Executrix afterwards C: dyes &
makes K: his Execr & by his will he releaseth unto M: all
ye debts which B: her husband did owe to him at ye time of
his death ye Executor brings debt ag A: & recovered &
Equity wonb not relieve him Sty: 287.

17 One had judgment to recover 100: & did release 10: of it and
after sued execution & ye other brought audita querela upon
ye release [illegible] all execution Owen 21.

18 If two [illegible] of Error in ye reallity & ye ten plead
ye release [illegible] this is a good [illegible] barr ag both
because [illegible] in ye record is released; but if one who hath title
to a writt [illegible] doth make a release of all his right in one acte
this is a [illegible] but for soe much for it is but to ye restitution of ye
land & no release of errors in ye record Owen 22.

19 Debt upon [illegible] bearing date 9th July ye deft pleaded a release
of all actions [illegible] diem dati ejusdem scripti the
obligation is not discharged for it excludes ye 9th day on which it
was made Owen 50.

20 A: enfeoffs B: who conveys it to C: A: covenanted to make
further assurances: & for not doeing C: sueth A: who pleads a

release from B: dated after ye Commencem^t of ye suite
Judged ye Coven^t goes with ye land: If ye release had been
by ye Covenantee before a breach though in ye time of the
Assigne, but being after ye action brought [illegible] ye Coven^t
in his person it is not good 1: Co: 3[illegible]

A difference betwixt Lord & Ten^t ab^t a releife: [illegible] was awarded 21
ye Lord should release ye ten^t and he doth in these [illegible] all releifes
duties & amerciaments: ye Lord brings debt upon a [illegible] ye ten^t pleads
this release in barr which never intended ye release [illegible] this duty
but judged it was a good barr Owen 71.

An Executor cannot release his Executorship to his companion 22
one joynten^t cannot release to ye other for defaut of possession
but ye release of ye demandant to ye vouchee is [illegible] by reason
of ye privity of Law that is betwixt them Owen [illegible] chose in act:
Lessee for years covenants to repair & dyes: Coven[illegible] brought ag^t 23
his Executors a release of all actions & demands [illegible] not ye
Coven^t for in a Coven^t damages ~~shall be only~~ [illegible] for which a
suit is not lawfull ~~before [illegible]~~ of Coven^t & ye [illegible] demands
it is referred to ye action by cause of a subsequent [illegible] does not
discharge anything before cause of action for ye wrong [illegible] 123:
Chose in action 4.

A release is a satisfaction in Law Noy 5. 24

A release of an Infant Exec^t having proved ye will shall not bar 25
him 5: Co: 27: a.

An Executor may release an Accon before [illegible] for thought 26
he cannot have an action yet ye [illegible] of ye accon [illegible] 2: Co:
200: a.

If one be obliged to pay a sum at a day to come a release of actions 27
before that day is a barr yet before ye day come he could have
no accon of debt 2: Co: 28: a.

28 Two Church wardens sue for reparacon of ye Church & 15 [illegible]
Costs order them they sue for it in ye spiritual Court S: pleads
a release of one of them Pl 3: Justices that release is a barr
& if it be [illegible] allowed in ye sp: Court a prohib: shall lye Noy 129.
29 In warr: [illegible] ye pt shews yt he & A: was seized in fee &
so seised [illegible] A: releaseth with warranty for him & his heires
without sa[illegible]ing contra omnes gentes: ye Count is good sans
shewing by [illegible]hat means they were seised for if they are tents
in Comon ye [illegible]elease is not good or yt they were joyntenants
Noy 146.
30 Release o[illegible] Actions & suits will not release a Covenant
before it b[illegible] broken Hutt: 12:
31 A Release [illegible]ischargeth not barle before judgem[illegible] because it
is contingen[illegible] Hutt: 17.
32 Release o[illegible] Lands devised before they are vested: the
release of [illegible] heire in ye life of his father tho' he have no
title at all [illegible] with warranty shall barr him Hutton 61.
33 What po[illegible]ilities may be released Winch 57: Tryall 42.
34 A relea[illegible] full demands releaseth rent tho' there was none
due [illegible] of ye release for by such release all ye meanes that tells
remedies & [illegible]uses that any [illegible] Lands tenements goods are
extinct & b[illegible] consequence ye right & interest in all of them: vide
many good [illegible]ases Bridg: 124.
35 The disseisi[illegible] doth release to ye Lessee for years of his disseisor
nil operatur: but if ye disseisor & disseisee joyn in such a release
it shall enure first as ye release of ye disseisor & then as the
release of ye disseisee 1: Leon: pl: 342.

One makes an obligation dated & deliverd ye 1: May & upon 36
ye 1: June following ye obligee makes a release to ye obligor
dated ye 1: March & deliverd ye first of [illegible] which he
releaseth all actions ab origine [illegible] the
release, ye obligation is not released 1: Cro: [illegible]
The Lord grants ye freehold of a Copyhold to a [illegible] 37
Copyholder being in possession [illegible] to ye [illegible] all
his right in ye land [illegible] Anderson this extinguishes [illegible]
Copyhold for if tenant for life release to him in [illegible] reversion
it is void, for it cannot enure as a release be fo[illegible] he is in possession
nor can it inure as a surrender for want of fit words, & so of
Lessee for years but quære if ye [illegible] & agreement of the
Lessee which is proved to ye [illegible] will not [illegible]
surrender 3: Cro: 21.
Whether a release of Errors by 2: where [illegible] 38
shall barr ye others in a writt of [illegible]
Cases 3: Cro: 6[illegible].
The Lord releaseth & grantheth his seigniory [illegible] husband 39
who is seised of ye [illegible] of his wife to [illegible] his heirs
ye husband [illegible] & his heirs distrain for ye [illegible] upon ye
lands [illegible] this shall enure as a grant [illegible]
A recognizance with [illegible] 40
summe & shewed a release of [illegible] of ye [illegible]
in ye defensant & of all actions [illegible] not
extend to all 3: Cro: 1[illegible]
In trespasse ye [illegible] 41
to him at will, & afterwards released to him all accompts
suits & demands ab initio mundi: untill ye date by which he
was seised for life judged ye [illegible] estate was not enlarged
3: Cro: 268.

42 Diverse Copartners joyne in a Quare impedit ye deft pleads
a release from one of their husbands this barrs only ye releasor
& his wife ye whole rests in ye other Copartners being a
thing interest in ye reality 3: Cro: 518.

43 The Conu[illegible] of a statute releases his right interest & demand
to a part [illegible] of part of ye Conusees lands after ye statute
acknowle[illegible] & before execution sued judged to be noe
discharge of ye stat: 3: Cro: 551: cont: Judged 3: Cro: 40.

44 Scir: fa: a[illegible] Bayle who pleaded a Release of all debts
duties acco[illegible] & demands made after ye recognizance
& before ju[illegible] ye recognizance not released vi well
argued 3: [illegible]: 580: & certain duty with a condition
subsequent may be releast as an obligation but an incertain
[illegible] with a condition precedent may not ibid:

45 [illegible] release of Common in part extinguishes ye whole 3: Cro: 593

46 The [illegible] a voidance is a thing in interest & is grantable
to a [illegible] whereforo it might be releasable ye one to ye
other [illegible] Church were void at ye time of ye release
made [illegible] for there it is a thing in action 3: Cro: 600.

47 Replevin a[illegible] 6: ye plt recovers ye 6 bring error ye defts in Error
pleads ye [illegible] release of one It shall not hurt ye others: for divers
are to [illegible] thing personall ye release vi default of one
barrs ye re[illegible] not when they are to discharge themselves of
ye personalty & when they are forced to joyne: but if 2 rbe plts in
debt & they be barred by an erroneous judgment & costs are taxed ag:
them & they bring error to avoid those costs ye release of one

shall barr ye other for it was their folly to joyne in ye first
accon 3: Co: 649: 6: Co: 25: a: idē.
A fyne levied to ye use of G: on Condison not performed to ye 48
use of C: and C: releaseth all his right to G: [illegible] if this
release by C: before ye Condison broken be [illegible] ficient
to discharge ye future use 3: Co: 863.
A release cannot discharge a Duty which [illegible] not then in 49
being 3: Co: 897.
Release de actions personals suits &c is not a release of a 50
Covenant not then broken Moore 34.
A man seised of land had 3: daughters & [illegible] ye one 51
daughter & her husband enters in ye intire as [illegible] ye right of
his wife & ye other 2: releaseth to ye baron & [illegible] & to their
heires Qu: if this release envie by extinguishing [illegible] or matter
l'estate if all ye parceners had been in possession it would
have envie to a Moore 59.
Where a man hath right to have an action [illegible] if he 52
release all accons he also releaseth ye Duty [illegible] if he
have other means to attain it Moore 184.
Release by ye Lord to ye Tenant of all services & [illegible] plus 53
2d. rent suit of Court & relieve are discharged though of
ancient demesne but ye rent remaines [illegible] of [illegible]
signory Moore 143.
A: & B: submitt to arbitrament [illegible] B: to 54
pay A: at such a day 100li. A: before ye day releaseth
to B: all demands for though ye money given by the
arbitrament is not grounded on a precedent debt yet

it lyes in demand presently & assignable by will to another, aliter if ye summe had been given upon a precedent condicion to be performed by either of them for that cannot be releast before ye day being a meere possibility Yelverton 15

55 If a lease be made for years remainder for life, ye remainder over [illegible] ye reversion by deed releases to all ye 3 & their heires: ye first lessee shall retain his possession as he had before & each of them hath got a reversion in fee in the same land Benlow 23.

56 A joynt estate is made to Baron & feme & to a 3d person in fee ye 3d person releaseth all his right he hath to ye baron ye baron hath ye moiety yes ye third person had & ye feme nothing of it, & ye baron hath a fee simple though ye release had not ye words (viz) to his heires for ever Benlow: 32.

57 R: brings [illegible] ag. W: & upon not guilty at ye day of Nisi [illegible] ye pl. is nonsuited & at ye day in banco ye pl. pleaded a release of ye costs by one of ye defts ye release of one is no barr ag. ye other & it is pleaded too late Benl. 201.

58 Debt upon bond condicion for an Apprentices true performance [illegible] obligacion by deed had released to ye Apprentice but not to ye obligor, ye obligacion is saved if ye release were made before any forfeiture 32 Leon: 45: et 69.

Covenants & a bond to performe releese of them before a breath discharged the obligation aliter a stem breath 3: Leon: 69: et 45. 59

Relief

N: B: ye Grandfather dyes seised T: B: ye father of ye deft at age T: B: makes ye deft makes ye deft his Executor & dyes A: as Exec: of an Exec: brought debt for releife [illegible] ye deft being Executor & good: The doeing of ye fealty is a [illegible] for ye releife & services: An Exec: may have debt for releife by the Comon Law without fealty: and ye seisin of ye services need not to be alledged when ye Exec: brings debt for ye releife otherwise where ye party himself avowes that debt may be brought for it in a forraine County & ye deft cannot plead nil debt for releife is made certain by Marg: Chart: cap: 2: The Testator cannot wage Law for that for it is certain & are ill Duty: In debt for releife ye plt ought to shew ye tenure & certain: & by what part [illegible] Knights-fee ye tenure ye Court may judge what is fit for [illegible] Roy 44. 1

Releife may be by tenure, & there distresse is incid[illegible] & it may be by Custome, & then without Custome no distresse, & one pleads releife by Custome he must alledge distresse [illegible] by Custome: Releifes reserved upon a gift are not proper [illegible] releifes but services; before ye statue of Emptores terrarum one might reserve a summe of money upon every alienation for a releife & this is a tenure Relevium est haeredibus factum post mortem antecessoris both those releifes are confounded in our bookes Latch 34. 2

3 Releife is no part of a tenure but incident to a tenure & for it debt lyeth Latch 96.

4 An Action of debt was brought for a releife in ye County of Leic: Ben l: 10:

5 The Executors of a Lord shall have debt for a releife for it is but an Improvem^t of service 4: Co: 49: b.

Repleader

1 In quare impedit Induction not being traverst & ye issue being for presentation & institution repleader awarded after issue & a writt to ye Bishop 1: Cro: 276. vide issue 4.

2 In an Action of trover ag^t baron & feme after Coverture found goods & they pleaded non sunt ipsi culpabiles & it was ruled to be ill, for that no tort is supposed in ye baron & it should have been ~~ad ipsa~~ non est: a repleader awarded 2: Cro: 6.

3 In assumpsit ag^t baron et feme for an assumpsit dū ~~[illegible]~~ sola fuit. the plea was entred Et praedictus J: et S: ven: et def: et ipse pleaded it for this plea of ye feme without ye baron a repleader was awarded 2: Cro: 288. (37)

4 No repleader after Demurrer without assent of ye parties 2: Bul:

5 The plt after verdict for him & before judgem^t moved for a new tryall because ye^t there was no issue joyned ~~[illegible]~~ Curia there is a good issue joyned but ye pleading is ill & you might have demurred: yet let ye deft show cause why a repleader should not be Sty: 140.

Assault & battery ag^t A: who pleads non culp: to the 6
battery & pleades a speciall justificacon as to ye assault
because ye issue joyned is immateriall which is not helpt by ye
statute an immateriall issue is a repleader granted Sty: 211.
If ye barr be bad & ye replicacon vicious a repleader must 7
be Sty: 354.
The issue was tempore Capcoms & more properly should be 8
tempore escapij but being after verdict non allow but because
vpon view of ye returne of ye venire nothing was inderst but
ye Jurors names a repleader after verdict awarded Noy 115.
If ye barr be nought & ye replicacon faulty if ye point of ye 9
Action be confest by ye barr ye good shall grow judgement
vpon ye barr & shall not meddle with ye replicacon but if
it be not confest by ye barr then there shall be a repleader
1: Leon: pl: 102.
The plea in barr being good & ye demurrer being vpon the 10
replicacon no repleader: ibid: for a repleader shall never be
granted where ye plea vpon a demurrer is not good: but
if ye barre ~~[illegible]~~ be not good & ye deft doth demur vpon the
Replicacon there a repleader may be: and ye pa[illegible] shall
begin where ye first defect was: Ex Anderson a [illegible] repleader
may be vpon a demurrer as well as vpon an issue for a
demurrer is an issue joyned to be tryed by ye Judges: Leon: pl: 107
The issue was whether ye deft had appeared: judged they shall 11
replead for this matter vpon which they are at issue is not tryable
by Jury but by record 1: Leon: pl: 114.
A vowry for rent & made title to it as Cosin & heir to Robert — 12
Chan: ns is to say son to Anne daughter to Robert & for rent

arrear for 16 years after ye death of Anne he avowes and because he made title to it immediately as heir to Robert, & after avoweth for rent after ye death of Anne which cannot be, for it should be intend ye she dies in ye life of Robert, & issue being joyned upon another matter they were awarded to repleade 3: Cro: 24.

13 Debt upon relig: ye deft pleades ye statute of usury made 6: febr: 13: El: whereas ye Parliam: dis begin 2: febr: 13: El: ye plt replies it was not made contra formā stat: modo et forma pldit: it was found for ye plt: yet ye statute being misrecited & being a generall Law of which ye Court is to take Cognisance though both parties doe agree there is such a stat: judgem: cannot be given for ye plt, it being in ye barre of the deft: a repleader ordered though after verdict 3: Cro: 245.

14 A Repleader maywell be after Demurrer but that is when ye pleading is insufficient not in matter but in forme as for want of a traverse & a replicacon is to it, which is ill & a Demurrer upon it, there shall be a repleader 3: Cro: 318.

15 Repleader after verdict 3: Cro: 883.

16 Where ye issue was joyned upon ye refusalls which should have been upon ye tenure a repleader ordered 3: Cro: 886.

17 No repleader where it is after Demurrer Moore 461.

18 After a verd issue be joyned ye parties shall repleade, aliter of a Coulorable issue misjoyned, no repleader shall be on a Demurrer but it may be in a verdict Moore 867.

19 Qu: if a Repleader can be after Demurrer upon ye same plea or any precedent plea Latch 147: 148.

Where no venue is & so no tryall, a repleader, but where 20
there is a good issue, but a mistryall, a venire fac: de novo
Latch 194.
The prescripcon of a Comon was laid to belong to a Messuage 21
or a Mannor, & to arrest the Inquest, this incertainty was
shewed & a repleader ordered Beul: 21.
The deft concludes Et de hoc ponit se & where it should 22
be Et hoc paratus est & a repleader ordered after verdict.
3: Leon: 90.
If ye barr be insufficient soe yt it may appear by it yt the 23
plt hath sufficient cause of Accon which in matter is not
sufficiently avoided by ye barr Judgement shall be given
for ye plt on ye barr if ye replicacon be sufficient & no
repleader. in case of demurrs no repleader Popha 42.
After Demurrer no repleader without consent 3: Cro: 52: 6. 24

Replication

The plt confesseth ye barr in his replicacon & then adds postea & 1
this is a departure from his count & vitiois 1: Cro: 1[illegible]: 1: Cro:
179: varies a little.
Where ye plt alledgeth a statute & ye deft pleads a later 2
statute & ye plt in his replicacon revives ye first statute
by a later this is not a departure, but rather a fortifying
of ye Count. it confesses & avoids 1: Cro: 187: vide ye Case.
In accon of trespasse assault &c. Two defts one justifies in 3
respect of interest ye other for preservation of ye peace ye plt
replyed de injuria sua absque tali causa ~~P~~ ipsos P: et S: —

allegata: ye plt ought to replye severally by strict rules of pleading but hele good in respect causa est nomen collectionis & shall refer to any cause 1: Leon: pl: 169.

4 Although a verdict be given for ye plt yet a deft in ye replicacon being matter of substance is not aided by ye statute 2: Cro: 221.

5 In battery ye deft set down a title to ye land & ye titles yt they were severe for yt ye plt would have taken them away he stood in ye defence thereof & ye harm ye plt received was of his owne wrong ye plt replyes ye battery was done sans tiel cause ye plt needs not answer ye plts title because he damages for ye battery but when ye plt makes a title in his declaracon to any thing & ye deft pleads another thing agt it ye plt must replye specially 2: Cro: 225.

6 If impertinent matter be in a replicacon which answers not the barr, judgemt for ye plt Sty: 354.

7 Certainly in a replicacon is absolutely necessary 1: Leon: pl: 102.

8 In debt upon an obligacon upon condition ye replicacon ought to contain sufficient cause of accon & breach of condicon or otherwise plt shall not have judgemt though issue be found with him 2: Leon: pl: 122.

9 When a barr is ill yet when ye plt replyes to it he hath lost ye advantage of his exception to ye barr 3: Cro: 625.

10 Where ye replicacon is vitious & ye matter in barre unanswered though ye rejoynder be insufficient, ye plt shall not recover Yelver: 171.

Rescous

No barre in rescuos for rescuing my owne sheep & a stranger to 1
justifye for my owne & yß ye others mingled & I could not sever them
for he ought to say he endeavoured to chase them to such a place
to have severd them 2: Cro: 568.

An accon of debt was brought by ye plt & he recovered & had a 2
Cap: ad satis: ye sherriffe arrests ye party & A: makes a
rescuous an accon of ye case lyes ag: A: Ve Heat: 95.

No rescous can be of goods but ye party shall have an accon 3
of ye case & a rescous lies only upon a Capias which lyes against
ye party himselfe Heat: 145.

This word rescussit implyes to be done with force & Endictm: 4
goods without vi et armis 2: Bul: 208.

In rescuous there is an Election of an action of ye case or of 5
trespasse quare vi et Sty: 100.

The Court was moved upon ye returne of a rescous by the 6
sherriffe to quash it for these Exceptions (1) for warrant
mon Thomae Taylor & saith not he was his bailiffe (2) he
sayth not for what cause his warrant was made & it appears
not if lawfull or not Sty: 155.

If one rescue ye party that is arrested at my suit because after 7
such arrest I have an interest in ye body of ye party the rescous is
a trespasse to me Sty: 343: ve exceptions to ye pleadings.

A rescous made from a bailiffe of a liberty that had returne 8
of writts must be exprest to be out of his hands; ~~out from~~ the
sherriffes bailiffe, out of ye hands of ye sherriffes bayliffe
Sty: 417.

The undersherriffe had processe of Extent & gathering the 9
goods ye debt endeavours to ~~rescue~~ rescue but prailed not: he
was censured though ye undersherriffe had not taken inquiry & tho
it was before appreci: fac: Noy 99.

10 One arrested upon an alias Capias out of ye Kings bench which writt is ~~[illegible]~~ only in ye nature of a plea of trespasse yet ye party who rescuous him shall answer in this action Damages for ye deft for ye plt by this means hath lost his debt Lam: 70.

11 Rescuous returned without shewing ye place where it was made ye party was discharged Moore 222.

12 Il: & 2 others were indicted for a rescous (viz) ye they riotose assembled themselves & made a rescuous & ye one was acquit ye other 2: found guilty of ye pmisses, which is intended ye riott & rescuous & because 2: cannot committ a riott ye Indictm was quasht neither was it certify yee to be presented pr probos & legles hommes Benl: 194

13 If nothing ye behind & ye Lord distraine or if he distraine soe often as ye he cannot manure his Land, he may have assize for ye distresse & in such case ye tenant may make rescues 4: Co: 11: [illegible]

Rescript

1 Whether a Tymor shall be received upon ye default of tenant in ~~[illegible]~~ 144.

2 In a quod ei deforciat ye deft saith he hath majus jus & issue there upon: deft makes default petit cape awarded & at ye day of ye returne A: prayes to be received because ye feofment was made to ye deft & his wife for ye life ye remd to A: & his heires ye ~~[illegible]~~ ye deft counterp: sesseit & traverseth ye feofment issue thereon at ye returne of ye Jury A: appeare not but B:

his son within age prayed to be received by his Guardian & he
appeals & pleaded ye same plea & prayes ~~que~~ le panel —
demurr & ye plt counterpleads his receipt takes issue on the
feofm.t they were at issue & at ye day ten.t by receipt made default
petit cape awarded he saved not his default ~~ag~~ judgem.t ag.t
him: Error for traversing ~~traversing~~ ye feofm.t & not ~~ye~~ reversion
for if he have ~~[illegible]~~ it any other way then by feofm.t it is
good: 2.d because receipt is admitted after receipt which
ought not to be unless in case where ye ten.t by receipt dyes &
his heir comes in loco suo 3.d ye judgem.t was given ag.t ten.t
by receipt where it should be given ag.t ye ten.t by the
accon 1: Cro: 190.
If ten.t for life be impleaded ye Bargainee of ye reversion — 3
after in rolm.t shall be received & yet if hanging ye writt he
purchase ye reversion he shall not Owen 70.
He who comes to ye reversion hanging ye p.cipe quod reddat 4
ag.t ye ten.t for life shall be received by W: 2: c: & plus —
Bridgm: 65.
A: & his wife were ten.ts for life ye rem.d over to a stranger 5
in fee & ye formedon brought ag.t A: only ye wife upon ye default
of A: shall not be received for this recovery does not bind
her: but he in ye rem.d shall be received though it ~~[illegible]~~
he might falsify ye recovery because his estate upon wh
he prayeth to be rec.d doth ~~not~~ depend impleaded a sole
estate 1: Leon: pl: 105.
In an Assize ag.t A: & his wife ye husband made default & 6
ye assize was awarded by default ye wife came & prayed to
be received & had it for ye wife & husband lose their shall enges to ye
Jury tho' ye land be not lost by default 2: Leon: pl: 11.

7 Formedon ye ten. pleaded non tenure & found for ye demand.
& now ye feme after verdict prayed to be received upon the
plea of her baron & he brought a writt out Chancery de attorn:
recipiendo for ye feme & it was received & there needed no new
declaracon because ye feme is party to ye suit aliter where he in
ye reversion is not party to ye suit & is rec. 3: Co: 826.

8 He in ye reversion received at ye returne of ye petit Cape
awarded upon ye default of ye ten. at ye nisi prius because ye
land was not then to be let but in a scieri fac: to execute a
fyne for ye judgem. at ye nisi prius in default without other
processe he in ye rem. by ye Equity of ye stat: shall be rec.
& when ye feme is rec. in default of ye baron she being
party to ye writt no new account is but quære if upon the
receipt of him in ye reversion it be so Moore 29.

9 The demand. shall not declare a new ag. him in ye reversion
that is ten. by receipt & such ten. by receipt shall not have
Imparlant. Moore 34.

10 Dower ag. W: & D: upon ye grand Cape W: makes default
& D: came & surmised to ye Court yt he is not ten. of ye land
but yt ye husband of ye demandant leased it to him for 50:
years & yt his accon is covenous to make him loose his terme
& prayed to be rec. Pr Curia though he be party to the
writt he shall be rec. & here ye party shall not plead upon
his receipt as upon St: W: but have a day to plead 3: Leon: 168

11 Baron & feme joyntenants for life, ye baron was solely misleaded & ye feme
not receivable, but he in ye reversion may be rec. & abate ye writt
by joyntenancy Moore 242.

In Assize of Novel disseisin receipt lyes not 8: Co: 50: a
In Assize of Mordauncester ag^t baron & feme & ye Assize 13
awarded upon ye default of ye baron: she was received for it
was not ye final judgem^t 11: Co: 39: a.
Admeasurem^t de pasture ag^t baron & feme: judgem^t for 13
admeasurem^t it was executed in pays & returned in B: R: ye
ye baron makes default ye feme was rec^d 11: Co: 39: a.
Præcipe ag^t Tenn^t in taile who makes default he in the
reversion shall not be rec^d 1: Co: 84: b: 3: Co: 6: a:
Receipt shall be granted to him in ye reversion upon
default of tenn^t in taile after possibility of issue extinct
10: Co: 44: a.

Respondeas ouster

If ye deft after Imparlance plead in barr as outlary & upon nul 1
tiel record pleaded he fails of his record judgem^t shall be absolutely
given & not a respondeas ouster but if ye plt will pray ye he shall
be awarded to answer over he may so pray for it in his delay only
& no error 1: Cro: 400: Informat: 24.
Trespasse, ye deft justifies for toll by vertue of a Patent reserving 2
rent for ye same to ye King & prays aide he was ousted of aide
because ye grant was ibi & alibi intra regnum Angliæ & soe void
for incertainty: ye plt replyes, ye deft demurrs ye defts plea being
judged ill he was awarded to answ^d over 2: Cro: 422.
In debt ye deft pleads outlary in ye plt who saith nul tiel record & ye 3
truth was at ye time of ye plea he was outlawed but before the

day assigned for bringing in ye record it was reversed ye Court orders a respondeas ouster 2: Cro: 484.

4 Joynt tenancy in Dower pleaded after Imparlance is no plea no more than non tenure and judge qd respond: ouster but otherwise it should have been if there had been a speciall imparlance tam ad breve quam ad narracionem Heat: 143.

5 In trespass a forte kenig Cattle ye deft pleads joynt possession of ye plt with another of ye Cattle & not named in ye writt judg of writt: ye plt replyes ye party was dead at ye time of ye action brought ye deft demurrs for delay: rule a resp: ouster Sty: 102.

6 After Imparlance & before ye day of Continuance a plea is pleaded in abatement to which ye plt demurrs it is not peremptory but a resp: ouster vide Style 114.

7 Ex bringes trespasse agt [illegible] who pleads recusancy & averrd ye plt was [illegible] inde petit judicium of ye bill, ye plt demurrs: the plea judged nought 1: because not shewn before what justices he was convict 2: if denyed ye Court might know to whom to write for a Certificate of it: 3: he hath not averrd ye plea with a hoc paratus est verificare oy record 3: ye conclusion should have been if he shall be answered a respondeas ouster awarded.

8 The deft after Imparlance pleads outlary in ye plt & demands judgem of ye bill & a respondeas ouster awarded Noy 89. Sheol: many cases of it 425.

9 If ye deft demurr on ye declaracion in appeale it is but respond: ouster 3: Cro: 196.

10 A plea in barr concludes with aide prayer to ye Queen & it is demurred unto: it is not peremptory but a resp: ouster 3: Cro: 694.

A demurrer upon a plea in abatem is but a respond: ouster 11
~~[illegible]~~. (Abat: brief 45.)
Debt ye deft pleads Utlary in ye pltt who replyes nul tiel record 12
ye deft hath day till ye next terme to bring it in ye interim
ye Utlary is reverst a respondeas ouster only Gelvert n 36.
Where pltt demurrs on a plea in Abatem it is only a respond: 13
ouster but if ye pltt goeth to issue upon it & it be found ag:
ye deft he shall lose 1 and Gelv: 112.
Q: brought debt ag: D: for rent ye deft pleaded a [illegible] and 14
pleaded 3: Jac: ye pltt was a recusant Convict judgement
si accon, this pleading is not good & a respondeas ouster
shall not be but a recuppet. If a man pleads plea in
disability of a person which is not true & demur judgem:
shall be Respondeas ouster, but if issue shall be joyned
on it & found ag: ye deft judgem: gts recuppet, In personall
accons where ye deft pleads ~~[illegible]~~ an insufficient, judgm:
is peremtory as upon nihil dicit vide plus Bent: 94.
In Grover of goods ye deft pleads waiving of them upon a 15
Manner of ye Q: & prayes in aid, aide prayer over ruled:
it is but a respondeas ouster 5: Co: 111: a.

Restitution

The sheriffe upon Elegit delivers a Lease of ye defts to ye 1
pltt & ye judgem: is reverst & restitucon of ye Lease was awarded
for there is a difference of his sale & delivery upon an Elegit to the
pltt & a sale to a stranger upon for that gives authority to ye sheriffe
to sell & bring ye money's into Court & in that case ye pltt shall
never be restored but to ye money's.

2 A Burgesse for saying I care not for me Major or any of the burgesses was expelled but this being judged no cause a writt of restitution 2: Cro: 506: 2: Cro: 540.

3 The good [illegible] in a writt of restitution a tempore judicij predicti vai: Colore judicij predicti good: and not for ye profits after execution 2: Cro: 7[illegible]

4 An action [illegible] sheriffe for an escape & he hath his body in execution [illegible] he hath ye monie due & then ye originall judgement is [illegible] by Error ye party shall not be restored to his money be[illegible] was a thing executed 2: Bul: 101.

5 The sheriff [illegible] for a supersedeas delivered to him does execution upon an [illegible] facias possessione upon which a writt of restitution was granted by ye Court 2: Bul: 194. proptys

6 A man shall have restitution notwithstanding ye [illegible] is not known but he shall have like in value 2: Bul: 310.

7 For ye restitution of one to ye place of a common Counsell man see many [illegible] to ye returne Style [illegible] 32.

8 A writt of restitution hath been judged good to restore a Constable to his place which is only a place of trouble Style [illegible]

9 The grounds for a writt of restitution (1) a Contempt to the King (2) a hurt to ye Commonwealth (3) particular damage to ye party:

10 A writt of restitution issued for a recorder of Norwich it was said ye returne was not traversable: it being held not good an alias was awarded for it was not amendable after filing Sty: 84. Office 22: Corporat: 21.

After verdict & before judgem.t upon an Indictm.t of forcible 11
Entry ye party ought not to move for restitucon Sty: 136.
Vide exceptions taken to a returne of a writt of priviledge 12
granted to one to be restored to ye place of an Alderman
Sty: 151: Appeale 19: & restitution without fresh suit.
If ye party will goe to try all a [illegible] restitucon 23
may be stopt upon a forcible entry [illegible]
Sty: 155.
Upon an Indictm.t of forcible entry ye def[illegible] it & 24
pleads & ye Court would not grant restitucon [illegible] ye try all
Sty: 186.
If ye Justices will not grant restitucon upon [illegible] Indictment 25
of forcible entry sent downe by a procedendo [illegible] of B: R: a
Certiorari may be granted upon Motion Sty [illegible].
If ye felon have not wasted ye goods when he is hanged ye party 26
shall have restitucon but if they are wasted he shall have
restitucon in value if there be other goods: though moneys
stolen by ye felon be forfeited to ye state by Conviction yet an
accon of trespasse lyeth pro tanto to render damages though
in specie he cannot restore ye moneys Sty 34[illegible]
In Ejec: firm: verdict for the plt but by agreem.t [illegible] def.t was to 27
enjoy his terme & held 2 years of it & then ye plt execu[illegible]
fac: poss: ye matter was moved & prayed restitucon prayed but
denyed: take ye accon sur case for not performing his agreem.t Sty: 408.
Vide exceptions to a writt of restitucon for a Recorders place well 28
answered 446.
For a private office a writt of restitucon doth not lye & if the 29
publique be concerned in ye office it doth lye tho' it be an office
with a fee belonging to it Sty: 457.

30 A writt of restitucon prayed by some freemen who were disfranchised vt good matter 477: ye Court resolved ye rest upon tryall of ye Case of one being all alike Sty: 401:

31 Cattell taken in wither nam are not repleviable but for satisfaccon of ye damages he shall have restitucon of the Cattell by writt of restitucon Owen 46.

32 A man was restored to his land by Parlam: as if he had never been out of possession at all & he shall have a trespasse ag: those that are occupiers by title Owen 112.

33 Where one is ousted of his Office it is ye way to trye ye title upon ye returne of ye restitucon Noy 78.

34 How restitucon may be (by trespasse) of ye goods stolen ye party stealing bl[illegible] on Indictm: convicted Noy 82: joynder in accon (16)

35 The writt of [illegible] restit: good tho' it expresseth not any particular prejudice ye Alderman had Noy 92.

36 If a man be endicted of a forcible entry upon 8: h: 6: c & before restitucon ye force is pardoned he shall not have restitucon upon ye Indictm: but if ye party had brought his accon for such forcible entry such a pardon shall not reach restitut[illegible] 19.

40 H: [illegible] Cattell sells them in open Markett he is apprehended & his [illegible] & ye theife is arrained & hanged at ye suit of the owner of ye Cattell he shall have restitucon Noy 121.

41 Upon ye stat: 8: h: 6: c Per Curiam ye restitucon shall be always made to him in ye reversion & not to ye Lessee for ye ars for he who is ~~[illegible]~~ disseised shall be restored & then ye Lessee may reenter 1: Leon: pl: 46.

Goods taken in withernam are not repleviable but upon satisfac- 42
tion a writt of restitucon shall be Eli: Cro: 162.
W: by a writt de villana removenda awarded out of ye Chancery 43
returnable in B: R: was put out of possession by ye sherriffe
& upon suggestion ~~[illegible]~~ of this to ye Court by [illegible] vit
restitucon was awarded 3: Cro: 465.
Upon a vi lanā removenda no restitucon is awarded in B: R: but 44
in ye Chancery Moore 781.
If ye sherriffe upon a vi ~~[illegible]~~ lana remov: non in [illegible] armatā 45
potentiam ye Lessee shall have restitucon in B: R: Moore 462.
Notwithstanding a traverse tendred on an indictm: of forcible 46
entry on 8: h: 6: ye Court may by discrecon awarde a stay ye writt
of restitucon according as ye truth of ye title shall appear —
to them: and note a sup sedeas granted to stay restitucon —
granted by other Justices Dyer 122: pl: 34.
In a writt of restitucon a false ~~return is not~~ [illegible] reversable, yet 47
ye Court ordered yt they should swear ye truth of [illegible] returne
or an accon of ye Case may be brought, & ye title may be tryed
upon ye returne where it was maintainable by [illegible] that had
ye office of a towne Clerke in reversion, though he never —
had possession Latch: 123.
Vide good matter in a writt of restitucon for an [illegible] — 48
disfranchist for words spoken agt ye Mayor & cou[illegible] returne
of ye writt Latch 229.
Where judgemt is reverst by Error & judgemt was that ye plt 49
should be restored to ye meane issues if ye judgemt be of another
terme ye party is without remedy Latch 259.
Upon 21: H: 8: c: 11: the Executor of ye party robbed shall 50
have restitucon of ye goods upon Indictm: Benlow 4.

51 If a writt of Entry be brought on 8 H: 6: c and it be found for ye plt yet he shall not have restitucon of ye same land Benlow 23.

52 Upon an Indictm on 8: H: 6: though ye Indictm was quasht yet ye Court being informed yt ye possession was gott by vndue means, would not grant restitucon Benl: 154.

53 A Justice of peace may remove a force by 8: H: 6: but he cannot put another in possession 3: Bul: 92.

54 If ye goods of one outlawed be sold by ye sherriffe by a Cap: vtlag: & afterwards the outlary reverst by Error ye debt shall have restitucon of ye goods 5: Co: 90: 6. A liter in a fieri facias for [illegible] ye sherriffe is compellable to sell ye goods 5: Co: 90: 6

Retraxit

1 Retraxit on [illegible] to be in propersson & not by Attorney for that is quasi a dep[illegible] from his warrant: and it is a departure in despight of [illegible] Court & as a Contempt & it cannot be a departure except it [illegible] by ye party himselfe 2: Cro: 211:

2 Dower ag: [illegible] & B: A pleads non tenure to parcell & pleads a barr for ye [illegible] annor & so to issue on ye barre, and A: relicta verificacone confesseth ye Accon, ye Dam and pragede & had judgem ag: A: & entred retraxit as to ye issues upon the non tenures Benlow 19.

3 A retraxit cannot be before a Declaracon if before a Declaracon it is but a nonsuit 3: Leon: 19.

Riott

In information ag^t ye Major &c of London ye Lamb was killed 1
tempore divino & none of ye offenders taken posuerunt se in gratiam
Curiae & amerct 1150 marks 1: Cro: 183: vide le case.
Severall were indicted for a riott & rescuos of a person taken at 3
Cherring Crosse & being so near ye Kings house some were fined
in 100, others to ye Pillory & those that were acquitted yet ye evidence
being probable were bound to ye good behaviour 1: Cro: 364.
Resolved to goe in a warlike manner to surprise a pr[illegible] Counsellor 3
is Treason 1: Cro: 421.
If tenant at ye end of ye terme keep it ag^t his Lessor with- 4
force it is a forcible detenim^t & ye statute where one hath
possession for 3: yeares quietly he might hold his possession
with force that is intended where ye estate is con[illegible]ed 2: Cro:
199: v^e ye Case.
Upon Indictm^t for a rescous to a serj^t of ye Ma[illegible] London a fine 5
assest, imprisonm^t without baile & manipris[illegible] to find sureties
for good behaviour 2: Cro: 473.
To quash a returne of a rescous vide how Justices [illegible] returne a record 6
of a riott upon their owne view & ye Justices that [illegible] may bring in
ye record proprijs manibus or may send it ye pris[illegible] were bailed
not discharged though ye returne was not good [illegible] is not usuall
to discharge prisoners at ye first reading of ye returne [illegible] 166.
Indictm^t of riott & an exception taken: but order[illegible] read non culp: 7
to all ye Indictm^t for if he be guilty of entry into ye Land though
he carried away no hay ye Endictment is good Sty: 191.
Upon view of ye force ye justice may set a fyne upon ye party 8
& refuse to admit ye party to his traverse or plea at his
pleasure: if diverse be indicted of force & some come in & find
sureties for ye damages it is good for them all to remove the
Endictment for the rest Sty: 360.

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