

1. A man convicted of common Barretry shall be punished by Fine and Imprisonment, and may be bound to the good Behaviour, 34 E. 3. c. 1. §. 5. Punishment.
2. An Indictment was Communis Barretror, where it should have been Barretror, and quashed for that fault, &c. 20 Jac. Alport's Case. §. 6. Indictment.
3. And although Barretry be an offence of a complex nature made up of several acts; yet a place must be laid where the offence was committed for the necessity of tryal. Rolls rep. 1 part p. 295. The King against Wells.
4. Barretry is of a mixt nature, and the Justices of Peace cannot take an Indictment and Fine, and punish the Offender havelly by virtue of the Commission of the Peace, but in respect of the clause therein to hear and determine Felonies, &c. And a Case was H. 17 Jac. Where a man being indicted of Barretry at the Sessions, brought a Certiorari, and an Indictment was certified capta coram, &c. Justic. Dom. Regis ad pacem, lut necnon ad diversa, &c. was left out, and for that cause the Certiorari was quashed. Rolls rep. 2. part p. 151. §. 7. Certiorari.
5. Suing one in anothers name is a species of Barretry, and thereby §. 8. Suing in anothers name.
6. 2. He that causeth or procureth another to be arrested or attached in any action at the Suit, or in the name of another, where there is no such person known, or without his consent, upon conviction by two Witnesses, shall be imprisoned six Months without Bail, and before delivery shall pay Ten pounds with treble costs and damages to the party, to be recovered by action of debt, &c. in any Court of Record.

C H A P. XI.

Bastardy.

Bastardus est qui nascitur ante matrimonium, Co. L. 243. It cometh of the French word Bastard, i.e. Nothus; and yet Bastardus est triplex; Manser, incestuose natus, Co. L. 244. Nothus, natus ex patre nobili, & matre ignobili, sc. Concubina; Spurius, natus ex matre nobili, & patre ignobili. A Bastard is Terræ filius, though his Mother be known. §. 1.

Cui pater est populus, pater est sibi nullus & Omnis.
Cui pater est populus, non habet ille patrem.

Much more of Foundlings, where neither Father nor Mother are known.

Lam. 122. Every Justice of Peace (upon his discretion) as it seemeth may bind §. 2.
Crom. 196. to the good Behaviour him that is charged or suspected to have begotten a Bastard-child, to the end that he may be forth-coming when the Child be born; otherwise there will be no putative Father, when the two Justices (after the birth of the Child) shall come to take order according to the Statute of 18 El. c. 3. The like may be done after the birth of the Child, and before such order taken.

Also if the putative Father of any such Child, either before the birth of the Child or after, shall, by any perswasion, procurement or other practice, be conveyed or sent away, or shall run away, so as the Justice of Peace cannot come by him, or so as the Order of the Justices, by means thereof, shall not be performed; it seemeth every Justice of Peace upon his discretion, may bind to the good Behaviour, and so over to the next general Gaol-delivery, (before the Judges of Assize) or to the next Quarter Sessions, such as shall have any hand in such practice, &c. And such Offenders may by the discretion of the Justices, (at their general Sessions) be ordered to contribute towards the maintenance of the said Bastard-child. And so of Constables, which having received a Warrant from the Justice