

objected to. That Judges of the Courts of Common Law cannot enlarge prisoners but where cause for such supposed Criminal matters as arose by at Common Law.

And that they cannot bayle one committed in Chancery or by the Ordinary in Ecclesiastical matters.

I know not any that have made these objections but satisfied that the Stat. Capus. Act 31. Cap. 12. which Mr. Smithson has alleged proceeded did it extend to this province has no express nor intent to bayle any but such who are committed for such supposed Criminal matters for which they are liable to be indicted - In Jurisdiction of the Courts of Star Chamber and high Ecclesiastical Courts with others of that nature having long before vanished and not left any shadows behind them at the time of the making that Act.

As to the Courts of Common Law having authority committed for contempts in the Court of Chancery as well as in the high Commission Court will not deny, and in the latter several committed for contempts of their Decrees and even in the Court of Admiralty but the reason is plain because of its being an inferior Court to the High Commission and that those Commissioners had either taken upon them that for which an action lay at Common Law, as in S. Anthony Rosses Case in Hughes Abt. about the year 1600, &c or because they have exceeded their Authority given by the Statute in detaining and imprisoning others without any such Authority of any Legal proceeding in the Spiritual Courts before that time (even under the usurpation) See 20/10/16

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