

cannot be Declined upon pretence of Enmity, Malice or prejudice against either party; because Judges of the Courts of Justice are supposed to be not Capable to Entertain such Partial Prejudgments, *Neu iud.* Nor can a Lord of Session decline his Office in any Cause, unless the Clerk of the said Court bid him to do so; One cannot be both Judge and Advocate in the same Cause. *l. b. c. d.* But one may Judge in a Cause where in he has been Employed and give Counsel at another Court before he can sit on the Bench. In several Courts in France the Jemors Advocate in Absence of the Judge sits upon the Bench and performs the other Functions of a Judge; *Les Lois Civiles l. c.*

Quaritur If Declination should be Extended to Causes carried on in the Name of Benefactors and Trustees for the Relief of the Judge, or of those in whose Cause he may be Declined, it is answered such an Extension seems Reasonable, because it is more properly party in a Cause, for whose Relief it is sought, than he in whose name the Action is carried on; Thus the Earl of North gave by his Will in Exchange to the Duke of Devonshire the Estate of Devon for William Comyn who was Trustee for the Earl's Bechose; Because the Earl's thing could be done in Exchange; and so was necessitated to sit for Making up a *Barum*, altho he did thereby substitute a *Quere*.

By the Common Law of England Judges cannot be challenged; *Coke 1 Inst. 294* *Ed. 2* *3* *4* *5* *6* *7* *8* *9* *10* *11* *12* *13* *14* *15* *16* *17* *18* *19* *20* *21* *22* *23* *24* *25* *26* *27* *28* *29* *30* *31* *32* *33* *34* *35* *36* *37* *38* *39* *40* *41* *42* *43* *44* *45* *46* *47* *48* *49* *50* *51* *52* *53* *54* *55* *56* *57* *58* *59* *60* *61* *62* *63* *64* *65* *66* *67* *68* *69* *70* *71* *72* *73* *74* *75* *76* *77* *78* *79* *80* *81* *82* *83* *84* *85* *86* *87* *88* *89* *90* *91* *92* *93* *94* *95* *96* *97* *98* *99* *100*

Judges ought to be of good fame, Undisputed Integrity and pure the quality of Justice to be without bias, accompanied with Courage and Resolution to Resist all Solicitations, Comendations and other Impressions from Men in power, and not suffer their Respect for any person to bias the Administration of Justice, for Delays in the Term it shall and Court Judgement into Vinegar. Make some Complaint by Vertue and Compassion to poor Widows or Orphans, to provide Justice in their favour, if their Cause be bad; but ought to be all together Disinterested, and to be Justice Conform to Law and the Merits of the Cause, without Respect to persons; and to shew by their Conduct, that no Consideration what so ever Influenced them against their Duty, or can Make them Deviate from it; So as they may justly assume this Motto out of the Magna Charta of England, *Nullo Regimini Nullo Vindemio, Nullo Differenti*

2. If so the Resp. B. Bussell, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000.

Judges in a Plea 3. Page 29. *l. 1* *2* *3* *4* *5* *6* *7* *8* *9* *10* *11* *12* *13* *14* *15* *16* *17* *18* *19* *20* *21* *22* *23* *24* *25* *26* *27* *28* *29* *30* *31* *32* *33* *34* *35* *36* *37* *38* *39* *40* *41* *42* *43* *44* *45* *46* *47* *48* *49* *50* *51* *52* *53* *54* *55* *56* *57* *58* *59* *60* *61* *62* *63* *64* *65* *66* *67* *68* *69* *70* *71* *72* *73* *74* *75* *76* *77* *78* *79* *80* *81* *82* *83* *84* *85* *86* *87* *88* *89* *90* *91* *92* *93* *94* *95* *96* *97* *98* *99* *100*

Judges ought to join to Equity and Integrity, application to the respective functions, which obliges them to Constant Residence or a continual abode in the place where their functions are to be exercised, and not to absent themselves casually for Just causes of Time; *l. 1* *2* *3* *4* *5* *6* *7* *8* *9* *10* *11* *12* *13* *14* *15* *16* *17* *18* *19* *20* *21* *22* *23* *24* *25* *26* *27* *28* *29* *30* *31* *32* *33* *34* *35* *36* *37* *38* *39* *40* *41* *42* *43* *44* *45* *46* *47* *48* *49* *50* *51* *52* *53* *54* *55* *56* *57* *58* *59* *60* *61* *62* *63* *64* *65* *66* *67* *68* *69* *70* *71* *72* *73* *74* *75* *76* *77* *78* *79* *80* *81* *82* *83* *84* *85* *86* *87* *88* *89* *90* *91* *92* *93* *94* *95* *96* *97* *98* *99* *100*

No Judge is Compellable to Deliver his Opinion before hand in Relation to any question which may at last come Judicially before him; *Coke 3 Inst. 29* *l. 1* *2* *3* *4* *5* *6* *7* *8* *9* *10* *11* *12* *13* *14* *15* *16* *17* *18* *19* *20* *21* *22* *23* *24* *25* *26* *27* *28* *29* *30* *31* *32* *33* *34* *35* *36* *37* *38* *39* *40* *41* *42* *43* *44* *45* *46* *47* *48* *49* *50* *51* *52* *53* *54* *55* *56* *57* *58* *59* *60* *61* *62* *63* *64* *65* *66* *67* *68* *69* *70* *71* *72* *73* *74* *75* *76* *77* *78* *79* *80* *81* *82* *83* *84* *85* *86* *87* *88* *89* *90* *91* *92* *93* *94* *95* *96* *97* *98* *99* *100*

2. If so the Resp. B. Bussell, 1773, 1774, 1775, 1776, 1777, 1778, 1779, 1780, 1781, 1782, 1783, 1784, 1785, 1786, 1787, 1788, 1789, 1790, 1791, 1792, 1793, 1794, 1795, 1796, 1797, 1798, 1799, 1800, 1801, 1802, 1803, 1804, 1805, 1806, 1807, 1808, 1809, 1810, 1811, 1812, 1813, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1826, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, 1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000.