

\* 3<sup>d</sup> It is most regular in an Indictment to set forth the day and the year of the Kings Reign and the place where the offence was committed: But a mistake in not saying the offence on the very same day and at the same place or at which it is afterwards proved upon the Trial is not material upon Evidence Coke 2 Inst. 318. 3 Inst. 230 Hale's pl. 2264 Kol. Rep. 16 Hawkins ibid. ch. 25 § 83 & 86.

\* and an Indictment for an offence consisting wholly in a non-Fraudance, and not supposing any fact done, but barely, the omission of what ought to be done, needs not to show any Time, or place, for possibly speaking it is not committed at any Time, or any where Hawkins ibid. § 81 & Lib. 1. ch. 10 § 5.

\* 4<sup>th</sup> False or incongruous Latin as *profecta Regi*, or *profecta Regina*, &c. not bailable in Indictment Coke 5 Rep. 121 Hawkins pl. ch. Lib. 2 ch. 25 § 88

\* Because tho' the Expressions be incongruous, yet the words are Latin & significant Terms of Art as *Tortonia*, *Murderium*, *Interglarin* and such like, are good, tho' they be not classical Latin Hawkins ibid. § 89.

\* For they are of such a complex and peculiar signification as no proper Latin word will come up to.

\* But if any material part of an Indictment be express'd in a word which is neither Latin as *obscoborunt*, or *excorunt*, nor a word of Art as *Murderium*, or *Murderium*, *folonior*, or *folonice*, the Indictment is insufficient Hawkins ibid.

\* An Indictment wholly in English is void, arg. 36 Edm. 3 ch. 15, whereby all pleas should be entered and enrolled in Latin.

\* Where there is no proper Latin word or Term of Art for the Thing Intended to be expressed, an English or English word joind to an improper one will help it: because in such a case there is a necessity either to use a proper word or none at all. But where there is a proper Latin word or a Law Term to be used, no English will help an improper one; nor can an English make good the use of a proper Latin word either in a more special or exclusive signification, than the Latin Language will bear Hawkins ibid. § 90.

\* 2<sup>d</sup> as an Abbreviate not justified by legal usage; or the Expression *et a numeris* in any Figures that are not Roman, is equally fatal to an Indictment, as it would have been wholly to have omitted what you Indictment in such manner to express Hawkins ibid. § 89.

\* 5<sup>th</sup> If the offence be created by a publick statute, it is not necessary to recite in the Indictment the Statute whereon it is grounded: because Judges are bound ex officio to take notice of all publick Statutes, and where there are more than one by which an Indictment may be maintained, they will go upon that which is most for the Kings Advantage Hawkins ibid. § 102.

\* But if the prosecutor take upon him to recite the Statute he may vitiate the Indictment by a misrecital, and varying from the Statute in any material part of it, Hawkins ibid. § 103. 106. 112.

\* 6<sup>th</sup> Indictments at common Law do Lay the offence *contra pacem Domini Regis* Hawkins ibid. § 94

\* But an Indictment for an offence created by Statute must conclude *contra Formam Statuti* in hujusmodi casu Edm. 2 probis § 11 Hawkins ibid. § 118.

\* And where there are more than one Statute concerning the same offence, it is safest to conclude *contra Formam Statuti* which will stand either for Statuti or Statutorum, as will best maintain the Indictment Hawkins ibid. § 119.

\* If the offence Indicted is committed both by common Law and Statute, the Indictment may conclude *contra pacem Re. nec non contra Formam Statuti* &c. as in the Statute in Indictment of High Treason above set down