

unto every Manor, so that every Lord of a Manor may keep a Court-Baron; but few have Leets: For inferior Lords of Manors cannot keep Courts-Leet without special Prescription, or some special Patent from the King. 5. In this, that in Courts-Baron the Suitors are Judges; but in Courts-Leet the Steward is Judge. 6. In this, that in Courts-Baron the Jury consisteth oftentimes of less than Twelve, in Courts-Leet never. The Reason of that is, because none are impanelled upon the Jury in Courts-Baron but Freeholders of the same Manor, but in Courts Leet Strangers are oftentimes impanelled. 7. In this, that Courts-Baron cannot subsist without two Suitors *ad minimum*; but Courts-Leet can well subsist without any Suitors. 8. In this, that Courts-Baron enquire of no Offences committed against the King; but Courts-Leet enquire of all Offences, under High Treason, committed against the Crown and Dignity of the King. In many other respects they differ: As that a Writ of Error lieth upon a Judgment given in a Court-Leet, but not in a Court-Baron. So in a Court-Leet a *Capias* lieth; but in a Court-Baron, instead of a *Capias*, is used an Attachment by Goods. So in a Court-Baron an Action of Debt lieth for the Lord himself, because the Suitors are Judges; but in a Court-Leet the Lord cannot maintain any Action for himself, because the Steward is Judge. But omitting these, with many more, I come to the Etymology of a Manor. Some derive the word Manor, *a manendo*; and then it taketh its Name either from the Manor-house, which the Lord maketh his Dwelling-place; or else *a manendo, quia Dominus ac Tenentes in Manerii sui circuitu cohabitant ac manent*. Some think 'tis termed Manor from manuring the Ground; and then it taketh its Name either from the Lords Demesnes, which the Tenants are bound to manure; or else from the Land remaining in the Tenants Hands, which are likewise tilled and manured. Others are of Opinion that it is derived of the French word *Mesner*, which signifieth to govern or guide, because the Lord of a Manor hath the guiding and directing of all his Tenants within the Limits of his Jurisdiction. And this I hold the most probable Etymology, and most agreeing with the Nature of a Manor: For a Manor in these Days signifieth the Jurisdiction and Royalty incorporate, rather than the Land or Site.

Thus much touching the Etymology: A Word touching the Division of a Manor. A Manor is twofold; 1. *Re & nomine*. 2. *Nomine tantum*. *Re & nomine*, as where the two material Causes of a Manor, the efficient Cause, and *Causa sine qua non*, do meet and join together. *Nomine tantum*, as where any of these Causes is wanting. As to insist in the two material Causes: If the Lord will transfer over to some Stranger the Services of all his Tenants, and reserve unto himself the Demesnes; or if he will pass away the Demesnes, and reserve the Services; in both Cases the Lord peradventure hath a Manor *nomine*, but not otherwise; because in the one Case he wanteth Demesnes, in the other Services. So if a Manor descendeth to Copartners, and they make Partition, and the intire Demesnes are allotted to the one, and the intire Services to the other; the Manor is now in Suspence, for neither of them hath any Manor; but in name only: But if Part of the Demesnes, and Part of the Services, be allotted to each one, then have they each of them a Manor, not *nomine tantum*, but *re & nomine*. To insist in the efficient Cause: If the King at this Day will grant a great Quantity of Land to any Subject, injoining him certain Duties and Services, and withal willeth that this should bear the Name of a Manor; howsoever this may chance to gain the Name of a Manor, yet it will not be a Manor in the Estimation of the Law. To insist in this Cause, *sine qua non*: If the King grant away a Manor to *J. S.* excepting the Courts and Perquisites, the Grantee hath a Manor in Name only. So if all the Freeholders die but one, if the Lord purchase all the Freeholders Land, or pass away the Services of the Freeholders, or release unto his Freeholders all their Services; notwithstanding the Demesnes, and the Services of the Copyholders, yet the Lord hath but a Manor in Name, because the Freeholders are wanting, which are the Maintainers and Upholders of the Court-Baron, and consequently a necessary Help to the Perfection of a Manor. So if the Lord granteth away the Inheritance of all his Copyholders, or demiseth all his Lands granted by Copy to another for 2000 Years; the Grantee in the one Case, and the Lessee in the other, have a Kind of Seigniority in Gross, and may keep a Customary Court, where the Steward shall be Judge, and shall take Surrenders, and make Admittances: And this in the Eye of the World is a Manor, though in the Judgment of the Law it cometh far short of one.

Thus much touching the Division of a Manor. I might here handle many collateral Jurisdictions appropriated to Lords of Manors; as that of erecting Dove-houses, of proving the Wills of their Tenants deceased within their Precincts in many Places, of inclosing Common, leaving sufficient besides for the other Commoners, with many the like: *Sed hac lubens libensque omitto*

And thus closing up this Part of my Treatise touching Manors, I come to the other Part, touching Copyhold.

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I need not stand to discourse at large the Antiquity of the Copyholders; for if you cast your Eye back to that is past, you shall easily perceive that Copyholders, though very meanly descended, yet they come of an ancient House: And therefore if in this