

feit the same; and if any person shall have exported any flour or meal out of this state to a foreign market, not branded by one of the inspectors for good and merchantable flour or meal, such person shall forfeit and pay the sum of five dollars for every cask of flour or meal so exported.

8. That it shall and may be lawful for any inspector of flour or meal to enter on board of any vessel, between sunrise and sunset, to search for flour or meal that he may have reason to suspect has been shipped contrary to the true intent and meaning of this act; and if any person shall hinder or interrupt any such inspector in so entering on board and searching, every such person shall forfeit and pay one hundred dollars, to be recovered in any court having cognizance thereof, one-half thereof to the use of the overseers of the poor in the city or town where the offence may happen, and the other half to the person prosecuting for the same.

Inspector may go on board vessels to examine.

Penalty for hinderance.

9. That no inspector of flour or meal shall purchase any flour or meal other than for his own private use, under the penalty of five hundred dollars; and if any person shall alter or counterfeit any of the aforesaid brand marks, whether state or private, such person shall forfeit for every such offence the sum of one hundred dollars; and that if any person shall put any flour or meal into any empty casks for sale, which have been branded by the inspector before such casks were emptied, without first cutting out the said brands, such person shall for every cask so repacked forfeit and pay the sum of five dollars; and that every person offering for sale any flour for wheat flour, which shall be found upon examination to be or contain a mixture of indian meal or any other mixture, such person shall forfeit and pay for every such cask so mixed the sum of five dollars, and the flour shall be liable for the payment thereof.

Inspectors not to make purchases.

Brands to be cut out of empty casks.

10. That all such fines, penalties, and forfeitures aforesaid, not herein otherwise directed to be collected, shall be recoverable before any justice of the peace, or in any court of record in this state having cognizance thereof, by any person who will prosecute for the same, one-half to the prosecutor, and the other half to be paid to the overseers of the poor of the city or town where the fraud is detected; and for the more certain and easy recovery of the penalties for the false tare or brand mark upon any cask of flour or meal, it shall be lawful for the inspectors thereof to seize and sell the same, and out of the net proceeds retain such penalty or penalties, one-half for his own use, and the other half to the overseers of the poor in the city or town where the same may be recovered, to the use of the poor thereof, and pay the remainder to the owner or consignee of such flour or meal.

Fines and penalties, how recovered.

In what case inspector may seize and sell.

Forcible Entry and Detainer.

- | | |
|---|--|
| 1. Unlawful entry prohibited. | 14. Writ when issued and returned. |
| 2. What a forcible entry and detainer. | 15. Verdict against complainant. |
| 3. What a forcible detainer. | 16. May postpone trial. |
| 4. What estates comprehended. | 17. What to be entered on docket. |
| 5. What an unlawful detainer. | 18. Penalty on sheriff for neglect. |
| 6. Cognizable before justice. | 19. Certiorari allowed. |
| 7. On complaint, process to issue. | 20. Upon reasons and bond filed. |
| 8. Summons to the party. Form. | 21. How prosecuted and tried. |
| 9. How served. | 22. No bar to other action. |
| 10. Plea and issue. | 23. Title not inquired into. |
| 11. Juror's oath. | 24. Subpoena for witnesses. |
| 12. Proceeding thereupon. | 25. Fees. |
| 13. Verdict of guilty, judgment and writ. | 26. Penalty for default of juror or witness. |

An act concerning forcible entries and detainers.

Rev. 349.

Approved April 16, 1843.

Har. 308.

R. S. 77.

1. That no person shall enter upon or into any lands, tenements, or other possessions, and detain or hold the same, but where entry is given by law, and then only in a peaceable manner.

Unlawful entry prohibited.

What a forcible entry and detainer.

2. That if any person shall enter upon or into any lands, tenements, or other possessions, and detain or hold the same with force or strong hand, or with weapons, or by breaking open the doors, windows, or other part of a house, whether any person be in it or not, or by any kind of violence whatsoever, or by threatening to kill, maim, or beat the party in possession, or by such words, circumstances or actions, as have a natural tendency to excite fear or apprehension of danger, or by putting out of doors, or carrying away the goods of the party in possession, or by entering peaceably and then turning by force, or frightening by threats, or other circumstances of terror, the party out of possession; in such case, every person, so offending, shall be guilty of a forcible entry and detainer within the meaning of this act.(a)

What a forcible detainer.

3. That no person who shall lawfully or peaceably enter upon or into any lands, tenements, or other possessions, shall hold or keep the same unlawfully, and with force, or strong hand, or weapons, or violence, or menaces, or terrifying words, circumstances or actions aforesaid; and it is hereby declared, that whatever words or circumstances, conduct or actions, will make an entry forcible under this act, shall also make a detainer forcible.(b)

What estates comprehended.

4. That the three preceding sections of this act shall extend to and comprehend terms for years, and all estates, whether freehold or less than freehold.

What an unlawful detainer.

5. That if any tenant or tenants for term of life or lives, year or years, or other person or persons, who are or shall be in possession of any lands, tenements or hereditaments, by, from or under, or by collusion with such tenant or tenants, shall wilfully and without force, hold over any lands, tenements or hereditaments, after demand and notice in writing given for the delivery of the possession thereof,(c) by his, her or their landlord or landlords, lessor or lessors, or the person or persons to whom the remainder, or reversion of such lands, tenements or hereditaments shall belong, his, her or their agent or attorney, thereunto lawfully authorized, then such person or persons, so holding over, shall be guilty of an unlawful detainer.

Cognizable before justice.

6. That the aforesaid forcible entries and detainers, forcible detainers, and unlawful detainers, are hereby made cognizable before any justice of the peace of the county in which they are committed.(d)

On complaint, process to issue.

7. That when complaint to any justice of the peace of the proper county shall be made in writing, and signed by the party grieved, his agent or attorney, specifying the lands, tenements or other possessions so forcibly entered upon and detained, or forcibly or unlawfully detained(e) by whom(g) and when done, and the estate therein, it shall be the duty of the said justice to issue a precept, under his hand and seal, directed to the sheriff(h) of the said county, commanding him to cause to come before the said justice, twelve(k) good and lawful men of the said county,

(a) In forcible entry and detainer, both the entry and the detainer must be forcible, *Pullen v. Boney*, 1 South. *125 (c). If there are no "threats or circumstances to excite fear or apprehension of danger," there is no forcible entry and detainer, *Brick v. Middleton*, 7 Hal. 266. *Butts v. Voorhees*, 1 Gr. 13. The force must be more than that technically necessary to constitute trespass; but need not excite fear of personal danger. Whether the facts amount to such force is a question for the jury, *Berry v. Williams*, 1 Zab. 423. *Hankins v. Hamilton*, 7 Hal. 203, note. But where the defendant broke open the door of the house, after the complainant had obtained possession thereof under the landlord and tenant act, re-entered and continued in possession, it constituted forcible entry and detainer. *Powell v. Mason*, *March Term*, 1876. An action for forcible entry and detainer can only be maintained by the tenant, who was in the actual possession of the premises at the time of the injury committed, and not by the landlord, *Bennel v. Montgomery*, 3 Hal. 48. *Mairs v. Sparks*, 2 South. *513 (c). The defendant may plead his three years' possession, and put in issue the force, &c. But a plea that those under whom defendant holds, have been in possession three years, is bad, *State v. Covenhoven*, 1 Hal. 396.

(b) The same threats, &c., which render an entry forcible, will make a detainer forcible, *Hendrickson v. Hendrickson*, 7 Hal. 202.

(c) For form of notice, see *Adams v. Decker*, 6 Hal. 86. A notice served on April 5th. where the tenancy expired on April 1st, is good, *Allen v. Smith*, 7 Hal. 199. But it is not necessary that it should be served after the term has expired, the notice to quit given three months before the end of the term is good, *Townly v. Rutan*, *Spen*, 604; 1 Zab. 674. If it appears by the complaint filed that the summons was issued before a demand and notice in writing given for

the delivery of the possession, the judgment will be reversed, *Mead v. Kirkpatrick*, 3 Hal. 368.

(d) An indictment will also lie, *Cruiser v. State*, 3 Harr. 256.

(e) Technical nicety is not required; it is sufficient if a substantial cause of action appear, *Houghton v. Potter*, 3 Zab. 339; 4 Zab. 735. The complaint must state that the complainant was in possession of the premises, either in fact or in law, *Corlies v. Corlies*, 2 Harr. 167. And must set out the estate of complainant and the place where the premises are situate, *Banks v. Murray*, 2 South. *812 (a). *Van Auken v. Decker*, Pen. *108. *Wall v. Hunt*, 4 Hal. 37. That the defendant detains "the messuage or dwelling house," is too uncertain, *Applegate v. Applegate*, 1 Harr. 321. It is a sufficient allegation of the estate, that "he was possessed as tenant for years of a leasehold estate not yet ended," *Berry v. Williams*, 1 Zab. 423. Notice to quit is not necessary, *Crane v. Dod*, Pen. *340.

(g) Tenants holding the lands in severalty cannot be united in one action, *Kerr v. Phillips*, 2 South. *818 (b). So, if a tenancy of two or more be averred, it must be proved, *Snedeker v. Quick*, 7 Hal. 121. And if a jury find one guilty and the other not guilty, and the justice give judgment for restitution generally and for costs against the defendant found guilty, his judgment will be reversed, *Hilderbrand v. Linninger*, 3 Gr. 38. In order to render two defendants jointly liable, their possession must be joint, *Boylston v. Valentine*, 1 Harr. 346. An allegation that the defendant has been a tenant, without averring that he is, is bad, *Ibid*.

(h) Where the venire was directed to any one of the coroners, &c., without any suggestion that the sheriff was exceptional, it is a fatal defect and not cured by verdict, *Hugg v. Kille*, 2 Hal. 435.

(k) It is no error for the sheriff to return a panel of twenty-four, if only twelve are sworn, *Adams v. Decker*, 6 Hal. 84.

qualified to serve as petit jurors in the court of general quarter sessions of the peace, to inquire into and try such forcible entry and detainer, or forcible or unlawful detainer; which precept shall be in the form or to the effect following, that is to say:

county, to wit: The state of New Jersey to our sheriff of our county of greeting: Whereas, complaint in writing is made to the subscriber, A. B., one of our justices of the peace in and for our said county, of a certain forcible entry and detainer (or if detainer only, then say of a certain forcible detainer, or of a certain unlawful detainer), made by E. F. into the messuage (or upon the lands) of C. D., in the county aforesaid; we therefore command you, that you cause to come before the said A. B., at in the county aforesaid, at the hour of in the noon of the day of twelve good and lawful men of the body of your county, being citizens of this state and resident within the county, above the age of twenty-one and under the age of sixty-five years, and who have a freehold in lands, messuages or tenements in the said county, and are in no wise of kin to the said C. D. or E. F., to make a jury of the county, to inquire of and try the said forcible entry and detainer (or forcible or unlawful detainer).—Given under the hand and seal of the said A. B. the day of in the year of our Lord one thousand

Form of precept.

8. That the said justice shall issue a summons to the party complained against, in the words or to the effect following, that is to say:

Summons to the party.

county, to wit: The state of New Jersey to our sheriff of our county of greeting: We command you, that you summon E. F. of to appear before A. B., one of our justices of the peace in and for our said county, at in the county aforesaid, at the hour of in the noon of the day of to answer to and make defence against the complaint of C. D. of a forcible entry and detainer (or if detainer only, then say of a forcible detainer, or of an unlawful detainer), made by the said E. F. into the messuage (or upon the lands) of the said C. D. in the county aforesaid; and have you then and there this precept, with a return of your proceedings therein.—Given under the hand and seal of the said A. B. the day of in the year of our Lord one thousand .(a)

Form.

9. That the said summons shall be served upon the party against whom the said complaint is made, or a copy thereof left at his usual place of abode, six entire days before the day of appearance therein mentioned; and that such service of the said summons in any part of this state, as well without the said county as within it, shall be good and effectual in law; and further, that no jury shall, by virtue of this act, be sworn to inquire of and try any forcible entry and detainer, or forcible or unlawful detainer, where such previous notice shall not have been given as aforesaid.(b)

How served.

10. That the party against whom such complaint is made, may, at the time of appearance mentioned in the said summons, and before the said jury is sworn, plead not guilty to the said charge or complaint, or that he hath been three years in quiet possession, and his estate therein not ended or determined, agreeably to a subsequent clause in this act; and thereupon the said parties shall be at issue, and the said justice shall proceed to swear the jury so returned, to inquire of and try the same; and if the said party, against whom the complaint is made, as aforesaid, does not appear at the time specified in the said summons, or appearing, does not plead to the said complaint, then it shall be lawful for the said justice to proceed in the same manner as if he had pleaded not guilty.

Plea and issue.

11. That to the said jurors and each of them, who shall be returned to inquire of and try the said complaint, the said justice shall administer the following oath or affirmation:

Juror's oath.

You do swear (or affirm) that you will well and truly try this issue joined between C. D. and E. F. and a true verdict give according to evidence.(c)

(a) The year should be stated in the return, as well as the day and month, but, it seems the omission is not fatal, *Pullen v. Boney*, 1 South. *125. It is not necessary that the return should be within fifteen days of the teste, *Berry v. Williams*, 1 Zab. 423.

(b) A return that the writ had been served "by leaving a copy fastened to the door of the house, which is said to be in the possession of defendant, as he was not therein," will be quashed, *Miller v. Doolittle*, 2 South. *845. A return "I

have summoned the within named, &c., as within I am commanded on, &c., by reading the same to them, and leaving with each of them a copy thereof," is sufficient, *Drake v. Newton*, 3 Zab. 111. Defect in service cured by appearance, *Houghton v. Potter*, 3 Zab. 339.

(c) The inquisition must show who were sworn and who affirmed, and that the latter were "conscientiously scrupulous" of taking an oath, *State v. Putnam, Coxe* 260.

- Proceeding thereupon. 12. That when the jury shall be so sworn as aforesaid, the said justice shall cause the said complaint to be read to them, and then call upon the complainant to support the same.(a)
- Verdict of guilty, judgment and writ. 13. That if the jury find the party, against whom such complaint is exhibited, guilty, or find against his plea of possession, it shall be the duty of the said justice to record the said verdict and to give judgment thereon,(b) with treble costs;(c) and also, to issue a writ of restitution, directed to the sheriff, to cause the complainant to be resealed or repossessed, to which shall be added a clause, commanding the said sheriff to levy the said costs of the goods and chattels of the offender, and, for want thereof, to take the body of such offender, and him safely to keep in close custody in the common jail of the county, until he shall pay the same, or be thence delivered by due course of law.
- Writ, when issued and returned. 14. That no writ of restitution shall be issued by any justice of the peace, upon any judgment rendered by him in pursuance of the provisions of the preceding section of this act, until eight entire days, exclusive of Sundays, shall have elapsed after the rendition of such judgment; which writ of restitution, when issued, shall be returned within three months thereafter, by the sheriff or other officer to whom the same has been delivered, with his proceedings thereon, to the justice who issued the same.
- Verdict against complainant. 15. That if the jury find against the said complainant, the said justice shall record the said verdict and give judgment accordingly, with costs, and shall issue execution, directed as aforesaid, for the said costs, against the goods and chattels, and, in want thereof, against the body of the said complainant.
- May postpone trial. 16. That the said justice may, at the request of either party, and on good reasons being assigned, postpone the said trial to any time not exceeding fifteen days; but such postponement to be on the payment of costs.
- What to be entered on docket. 17. That it shall be the duty of the said justice to enter, on his minutes or docket, true copies of the complaint exhibited by virtue of this act, and of the summons and return, also the time of issuing the venire and how returned,(d) the names of the jurors,(e) their verdict and his judgment(g) thereon; and also the names of the witnesses and the admission of evidence objected to, and the rejection of evidence offered,(h) and all the proceedings before him had touching the said complaint.
- Penalty on sheriff for neglect. 18. That if the sheriff of any county shall neglect or refuse to execute or return any precept, writ or other process to him directed and delivered, by virtue of this act, he shall, for every such offence, forfeit and pay two hundred dollars to the party grieved, to be recovered, with costs, by action of debt, in any court of record having cognizance of that sum.
- Certiorari allowed. 19. That the proceedings had by virtue of this act, on such forcible entry and detainer, or forcible or unlawful detainer, may be removed before the supreme court by writ of *certiorari*, and in no other way, and then only after judgment.(k)
- Upon reasons and bond filed. 20. That no justice of the supreme court shall grant or allow any *certiorari* to remove any judgment, order or proceeding to be had or made by virtue of this act, unless the party applying for such *certiorari* shall present to the said justice reasons for the allowance thereof, drawn up and subscribed by himself or some attorney at law, to be deemed by the said justice to contain a probable cause of reversal; and unless such applicant shall also enter into bond to the other party, in the sum of two hundred and fifty dollars, with one or more sufficient surety or sureties, being freeholders and residents of this state, conditioned that such applicant shall

(a) After the jury is impaneled they are under the control of the justice, who may select a constable to take charge of them. *Smith v. Williamson*, 6 Hal. 313.

(b) The judgment should be a restitution to complainant. *Weller v. Parke*, Pen. *661. *Cowan v. Barber*, Pen. *688. *Kerr v. Phillips*, 2 South. *818. See *Hildebrand v. Linninger*, 3 Gr. 38, *supra*, § 7, note (g).

(c) The costs are trebled by multiplying by three. *Mairs v. Sparks*, 2 South. *513 (g).

(d) A judgment of a justice was reversed for not entering in his docket a "true copy" of the return to a venire. *Prickett v. Prickett*, 7 Hal. 186. *Applegate v. Applegate*, 1 Harr. 321.

(e) He is not required to enter at large in the docket the oath administered to the jurors. *Drake v. Newton*, 3 Zab. 111.

(g) See *Crane v. Dod*, Pen. *340.

(h) The reasons that influenced his mind must be entered by the justice on the docket. *Snediker v. Quick*, 1 Gr. 306. An omission to do so will be fatal. *Scuniere v. Wode*, 3 Harr. 296. But he need not record that objections were made to evidence offered. It seems, this part of the statute is directory only, and a failure to comply with it will not vitiate the proceedings. *Houghton v. Potter*, 3 Zab. 339; 4 Zab. 735.

(k) The *certiorari* may be allowed before judgment and the court will not inquire into the time of its allowance. *Mairs v. Sparks*, 1 South. *369 (a); 2 South. *592. Nor will it be quashed because presented to the justice before he renders judgment. *Delaney v. Lawrence*, 6 Hal. 25.

prosecute the said *certiorari* in the supreme court, shall pay the yearly value of the premises in dispute, from the time of granting the said *certiorari* to the determination of the same, together with the costs of the suit before the court below, and such further costs as may be taxed, if the judgment be affirmed; and shall in all things stand to and abide the judgment of the supreme court, respecting the judgment, order or proceeding given or made by the court below; which said bond, together with the reasons, shall be filed by the said justice, with the clerk of the supreme court, for the benefit and use of the obligee.

21. That every *certiorari* to remove any judgment, order or proceeding, to be had or made by virtue of this act, shall in every other respect be prosecuted, tried and determined in like manner, and be subject to the like rules and regulations as writs of *certiorari* to justices of the peace to remove proceedings had by virtue of the act constituting courts for the trial of small causes. How prosecuted and tried.

22. That neither the said judgment nor any thing in this act, shall bar or prevent the party injured from bringing an action of trespass or other action, against the aggressor or party offending. No bar to other action.

23. That the estate or merits of the title^(a) shall in no wise be inquired into on any complaint which shall be exhibited by virtue of this act; *provided always*, that this act shall not extend to any person who hath had the uninterrupted occupation, or been in the quiet possession of any lands or tenements for the space of three whole years together, immediately preceding such complaint so exhibited to the said justice, and whose estate therein is not ended or determined; but every such person may plead the same to the said complaint, which shall be tried in the manner hereinbefore prescribed. Title not inquired into. Proviso.

24. That every justice of the peace before whom any prosecution shall be instituted by virtue of this act, shall be and he is hereby authorized to issue writs of *subpœna ad testificandum* into any county of this state. Subpœna for witnesses.

25. That in prosecutions under this act, the following fees shall be allowed: Fees.

TO THE JUSTICE.

- For every summons, thirty cents.
- For every venire facias, forty cents.
- For entering copies of every complaint, summons, and return, one dollar.
- For subpœna for every witness, twelve cents.
- For swearing the jury, twenty cents.
- For administering every oath or affirmation, five cents.
- For entering every verdict, twelve cents.
- For entering every judgment, twelve cents.
- For every trial, two dollars.
- For return to every certiorari, one dollar.

TO THE SHERIFF.

- For serving every summons and return, one dollar.
- For summoning every jury, returning the precept, and attending the trial, four dollars.
- For executing every writ of restitution, two dollars.
- For serving every execution for costs, advertising property for sale, &c., the same fees as are allowed for the like services in the court of common pleas.

TO THE JURORS.

- Every juror for each cause in which he is sworn or affirmed, twenty-five cents.^(b)
- For each cause in which he appears, but is not sworn or affirmed, twelve cents.

^(a) The estate must be set out, but the title is not to be tried, *Barnes v. Nicholson*, Pen. *326. *Youngs v. Freeman*, 3 Gr. 30. *Mercereau v. Bergen*, 3 Gr. 244. Nor will the defendant be permitted to show that the estate of the complainant is different from that set out in the complaint, *Allen v. Smith*, 7 Hal. 199. *Drake v. Newton*, 3 Zab. 111. See *Banks v. Murray*, 2 South. *849 (a). ^(b) The fees of the jurors should be taxed at twenty-five cents and then trebled. The subsequent acts of the legislature in regard to jurors' fees, do not affect this provision, *Youngs v. Sutherland*, 3 Gr. 32.

TO THE WITNESSES.

The same fees as are or shall be by law allowed to them in civil causes in the court of common pleas, and the like for serving subpoena on every witness.

TO THE ATTORNEY.

For the trial of every cause, two dollars.

Penalty for default of juror or witness.

26. That every person summoned as a juror or subpoenaed as a witness, who shall not appear, or appearing shall refuse to serve or to give evidence in any prosecution instituted by virtue of this act, shall forfeit and pay for every such default or refusal, unless some reasonable cause be assigned, such fine not exceeding five dollars nor less than one dollar in the case of a juror, and not exceeding twenty dollars nor less than five in the case of a witness, as the said justice shall think proper to impose; and such justice is hereby authorized and required to issue an execution directed to any constable of the said county, to levy the same of the goods and chattels of the offender; which fine when recovered, shall be applied by the said justice to the use of the said county.

Frauds and Perjuries.

I. WHAT CONTRACTS, ETC., TO BE IN WRITING.

1. What deemed estates at will.
2. Grants, assignments and surrenders to be in writing.
3. Declarations or creations of trust shall be in writing.
4. Grants and assignments of trust to be in writing.
5. What promises, etc., must be in writing.
6. What contracts void.
7. Promise after full age to pay debt contracted in infancy to be in writing.
8. Promise of bankrupt to pay after discharge, void unless in writing.
9. How consideration may be proved.

10. Broker not entitled to commissions unless employed in writing.

II. FRAUDULENT CONVEYANCES.

11. What conveyances of goods void.
12. Conveyances to defraud creditors void.
13. Conveyances to deceive purchasers void.
14. Conveyances with condition of revocation void, as against subsequent purchaser.
15. But deeds and mortgages taken bona fide and on good consideration not affected.
16. Conveyances by public officers embezzling property void.

An act for the prevention of frauds and perjuries.

Rev. 148.

R. S. 499, 864.

P. L. 1873, p. 50.

Parol leases and interests in lands by parol to have effect of estates at will only.

R. S. 499, § 9.

Except leases not exceeding three years.
Amended.

Grants, assignments, and surrenders to be in writing.
Ib. § 10.

Revision—Approved March 27, 1874.

I. What contracts, etc., to be in writing.

1. That all leases, estates, interests of freehold or term of years, or any uncertain interests of, in, to, or out of any messuages, lands, tenements or hereditaments, made or created, or hereafter to be made or created, by livery and seisin only, or by parol, and not put in writing, and signed by the parties so making or creating the same, or their agents thereunto, lawfully authorized by writing, shall have the force and effect of leases or estates at will only, and shall not, either in law or equity, be deemed or taken to have any other or greater force or effect, any consideration for making any such parol leases or estates notwithstanding; except nevertheless all leases not exceeding the term of three years from the making thereof.^(a)

2. No lease, estate^(b) or interest, either of freehold or term of years, or any uncertain interest of, in, to, or out of any messuages, lands, tenements or hereditaments, shall be assigned, granted or surrendered,^(c) unless it be

(a) A written lease for more than three years, signed by the party, but not under seal, is good. *Mayberry v. Johnson*, 3 Gr. 116. A parol demise for longer than three years operates as a demise from year to year. *Drake v. Newton*, 3 Zab. 111. Such lease is valid although the tenant never enter into the possession. *Birchhead v. Cummins*, 4 Tr. 44. *Hunt v. Young*, 2 South. *813. A party suing on a parol lease must show that "the rent reserved to the landlord during such term shall amount to two-third parts, at the least, of the full improved value of the thing demised." *Gano v. Vanderveer*, 5 Vr. 293. [The clause in quotation marks is omitted in the present act].

(b) An equity of redemption can be released or conveyed only by writing. *Clark v. Condit*, 3 C. E. Gr. 358. *Van Keuren v. McLaughlin*, 4 C. E. Gr. 187. The land to be conveyed

must be described or designated in the writing. *Robeson v. Hornbaker*, 2 Gr. Ch. 60. *Carr v. Passaic Land Co.*, 4 C. E. Gr. 424. 7 C. E. Gr. 85. *Force v. Dutcher*, 3 C. E. Gr. 401. *Welsh v. Bayaud*, 6 C. E. Gr. 186. A parol partition is not binding. *Woodhull v. Longstreet*, 3 Harr. 405. *Lloyd v. Conover*, 1 Dutch. 47. It may be in equity. *Scudder v. Stout*, 2 Stock. 377. Or where the parties have held peaceable possession thereunder for twenty years. *Den. Watson v. Kelly*, 1 Harr. 517. Dower cannot be released by parol. *Keeler v. Tatnell*, 3 Zab. 62. See *White v. White*, 1 Harr. 202.

(c) A parol surrender of demised premises will be sustained in equity, when consummated by the delivery of the counterpart of the lease, the key of the dwelling and the possession of the premises to the landlord. *Stotesbury v. Vail*, 2 Beas. 390. See *Maris v. Sparks*, 2 South. *513 (d).