ABRIDGMENT
OF THE
COMMON LAW

MANUSCRIPT
2

Reviver

1 A farmer for 30: years deviseth to his wife durante viduitate
ye occupacion of his terme ye residue of his terme to his son
he dyes ye wife enters & ye reversioner by Indenture grants
totum illud to ye wife & her heires & covenants to discharge it
of all former charges &c, ye Devisee marryeth, ye son enters
ye wife brings accion for Informance of Covenants ag^t the
Reversioner [illegible] for ye pit: for this possibility to have ye
residue of ye terme which was dormant shall be accounted a
former charge & before ye Covenant & shall awake & have
relation [illegible] ye marriage Owen 6: vide relation 16: ac:
2 If one exhi[illegible] an Informacion who is not ye party grieved as
an Informer [illegible] a penall stat: if he dyes his heir Exec: or
Adm^r shall [illegible] have a bill of reviver but ye Attorney gl^l
may Noy[illegible]
3 The Gran[illegible] of a rent charge takes a Lease of part of ye
Land & surr[illegible] it ye rent shall shall be revived for the
Contract i[illegible] [illegible]mind, but if he had granted his interest over
to Is: & he [illegible] surrendred it this shall not revive it Hutt: 94.
4 Prescripcion of titles though interrupted by ye seisin of a Lay
person [illegible] regranted to a spirituall person is revived:
but homage [illegible] if it be once in a forrain seisin altho
it be reasonable yet it is not revived 1: Leon: pl: 336.
5 Vide good cases where a rent may be suspended & revived
Godb: 325.
6 Where a man exhibits his bill in Chancery & dies the suit
depending whoever have interest in ye thing complained for
whether have Exec^t or Adm^r [illegible]
[illegible]

they may put in a bill of reviver ag^t ye deft: and if ye deft dye
ye pl^t may exhibit his bill of reviver ag^t ye heiries Exec^ts or
Adm^ts of ye Deft Compl: Atturny 346.
The bill of reviver must pursue ye first bill exhibited,
for where there is any variance between them ye deft may
be discharged & ye bill will be dissolved: & where ye pl^t hath
exhibited his bill of reviver & procured subpoena thereon
to be served he will be in ye same case his p[illegible]essors was
unless cause to ye contrary be shewed in ye de[illegible] Answer
ibid: 348.
Lessors enters upon Lessee for life & makes a [illegible] fm^t & the 7
Lessee reenters qu: if ye rent be revived Moo[illegible]21.
It was ruled in ye Starr Chamber y^t if one [illegible] in an Infor= 8
mation in ye Court by which he himself [illegible] greife, but
as Informer upon a misdemeanor or pena[illegible] he dyes
his heir Exec^ts or Adm^ts shall not have a[illegible] of reviver
but ye Atturny gl^l may Moore 628.
If land be given to Is: in fee, so long as D[illegible] issue, and 9
if D: dye without issue his wife Infant ye issue [illegible] afterwards
shall not revive ye estate for it is a coll[illegible]ateral [illegible]ermination
which being once interrupted cannot be revived [illegible] Everton 149.
If lands in antient demeasne be assured to ye King in fee 10
upon Condition, during ye possession of ye King, [illegible] nature of ye
antient demeasne is gone, but if ye Condition be broken so
soe that he hath his Land again it is antient demeasne as it
was before 3: Leon: 12.
A man appoints his Executors should found a Chauntry & 11
appoint a priest to say Masse pro omnibus his Executors
[illegible] procured no Corporation but appointed a priest who was

alsoe to be Schoollmaster who tooke ye profitts vere a Layman succeeded him & B: a layman succeeded him but turned preist & said Masse accordingly ye Will vere ye Layman was noe interruption of ye Chauntry & when B: performed ye preists office, ye reputation if disturbed was revived [illegible] Leon: 114.

12 Where a [illegible] is admitted to traverse which abates by the death of ye [illegible] & a bill of reviver is exhibited which abates by [illegible] death or [illegible] age of ye plt, there cannot be any other [illegible] bill of reviver Cro: Jac: 106.

Right

1 Such a right [illegible] for which one hath no other remedy but by action to [illegible] land is a thing that consists so in privity that it cannot [illegible] at or be forfeit by Comon Law: & yt no right of act[illegible] but only right of entry have been given by any acts of attain[illegible] but a right to chattells by attainder as to obligations [illegible] forfeit 3: Cro: 3: a.

2 Though [illegible] knowledge his presentation yet before execution he hath [illegible] right Owen 3.

3 If ye Les[illegible] disseised before ye Lease begins ye Lessee after ye day [illegible] ye Comencement may grant over his terme, otherwise where a Lessee for years is ousted by a stranger for there his terme is turned into a right but in ye first case he hath not any terme in esse & therefore it cannot be turned into a right nor any wrong done to it Bridgm: 109.

Satisfaction

The Pformance of what Ought to Pforme being done with more 1
charge to my selfe or more for ye advantage of a Person then ye Law
doth appoint may be a good satisfaction not only for ye thing to be
Pformed but for a Collaterall duty also 2: Cro: 42.
The deft pleaded yt ye plt accepted a load of lyme in satisfaccon 2
of ye bond but it ought to have been ~~[illegible]~~ pleaded in
satisfaccon of ye summe mencioned in ye Condicon &c for ye bond
it selfe cannot be discharged without specialty [illegible] 254: vide
arbitram: 42.
In arbitrium it may be awarded ~~[illegible]~~ to receive [illegible] summe in 3
satisfaction of a greater for ye plt hath, for [illegible] shall
accept it in satisfaccon & if he doe not acce[illegible] & sueth &c
he forfeits his bond 2: Cro: 447.
In trespasse if they be sued in severall a[illegible] though ye plt 4
may chuse ye best damage yet when he ha[illegible] ken one
satisfaccon he can take no more & if he re[illegible] two audita
querela lyeth.
The Court upon motion would not give a r[illegible] acknowledge 5
satisfaction of a judgem: upon paym: made [illegible] there is some
trick in it Sty: 164
If one pay moneyes in satisfaction of an oo[illegible] ye party to
whom it is paid saith he will receive upon a[illegible] cause
yet if he receive it it shall be judged paid in [illegible] satisfaccon of
ye oblig: for he must receive it on such term[illegible] as ye other
will pay it Sty: 239.
A plea to indebitatus assumpsit: ill because he doth not 9
say yt he delivered ye bills in full satisfaction but that the
plt received them in full satisfaccon for ye plts receiving ye
bills must be as they are delivered & not otherwise Sty: 263.

10 Satisfaction given by the Assignor to his Assigne for being ejected of a tenure shall not bar ye Assigne of his action ag: ye Lessor that covenanted for quiet enjoying Sty: 300.

11 The Deft acknowledgeth ye bond but saith yt he gave another be[illegible] in satisfaction of that bond unto ye Testator which he did [illegible]cept of in satisfaction: the acceptance of one thing in a[illegible]ction for ye satisfaction of another thing in action is no g[illegible] plea Sty: 339.

12 In act: sur [illegible] for words ye defts pleads yt ye plt had agreed to acc[illegible]t of him 3 juggs of beer in satisfaction & sets not down [illegible] yt they were paid or tendred not good Sty: 452.

13 Neither arbi[illegible] nor accord with satisfaction is any plea when ye acc[illegible] foundedon a Deed 6: Co: 43: b: but when a duty accrues [illegible] Deed in Certainties there tho: it be meerly in ye Personalty [illegible]st be avoided by writt: but when it is a tort subse[illegible] that together with ye deed may give cause of action [illegible] damages which are only in ye Personalty accord & s[illegible]ction is a good plea 6: Co: 44: a.

14 Debt v[illegible]d to pay 40.th at Mich: ye deft pleads an accord [illegible]ve a hanke & 20.th at Mich: ye oblig: should be void [illegible] gave &c at ye day & ye plt accepted it no plea: for [illegible]ppeareth at non paym[illegible] at ye day the bond was forfeited & so became single which cannot be discharged by such a makedavemt in fait of such an acceptance though ye agreem[illegible] was before ye day but acceptance before ye day was a good discharge El: Cro: 46.

A guardian or Infant or Executor cannot acknowledge 15
satisfaction for more then they receive & ye Court ordered ye
Guardian accordingly to doe & ye no execution should
ever issue for ye residue Moore 852.
The Law respects satisfaction & recompense quid pro 16
quo Latch 100.
If one make a Lease for years without preservation 17
the Law reserves attendance Latch 100
If a man shall acknowledge himselfe [illegible] writeing to be 18
satisfied this is a good barr though he [illegible] nothing
5: Co: 117: b.

Seisin

Rent whereof ye beginning is not known [illegible] thereof 1
must be always alledged in an Avowry [illegible] traversable
& a traverse shall never be of a seisin [illegible] but ever
of a seisin within time of limitation 1: [illegible]
A seisin of rent by ye hands of one of ye [illegible] of the 2
ye heiris where ye hand descended to two [illegible] is a
sufficient seisin in an Assize 1: Cro: 37[illegible]
Seisin of rent by ye hands of a termor for ye [illegible] sufficient 3
seisin to maintain an Assize for a rent [illegible] as yield to
one for life. for it is a payment not a seisin: for [illegible] for years
cannot charge or bind a freehold 2: Cro: 142.
In a writt of right by 32: h: 8: c limitations ye esplees 4
alled of ye seisin of ye demand. himselfe must be laid

to be within 30 years or it is Error 2: Cro: 293.

5 A seisin to maintain an Assize ought to be of such a thing as is sufficient as is sufficient seisin in its owne proper nature & if he be disturbed in ye means to come to this it is disseisin 1: Bul: 7.

6 Seisin by wrong shall be of no force Noy 176: Corporat: 27:

7 If a villein [illegible] regardant ye seisin of ye Manner to which it is sufficient [illegible] of ye villein: & if a [illegible] have not seisin of a villein [illegible] within 6: years he shall be barrd by 32: H: 8: c [illegible] in native habendo for liberty is favourd Noy 27.

8 Seisin of ye [illegible] is ye seisin of ye services Hutton 50: Discont 7.

9 When a man [illegible] of lands he hath two things in him ye land or [illegible] & secondly ye use which is ye profits & if he makes [illegible] without consideration ye estate passeth but ye use [illegible] to ye son & heir 1: Leon: pl: 256.

10 Tenz by [illegible] to pay every years such a quantity of salt ye tenz [illegible] ye monies for salt: if ye Lord takes a certain sum [illegible] for ye salt ye same is not seisin for ye service is [illegible] if ye sum used to be [illegible] is uncertain rising [illegible] falling according to ye price of salt such payment of mon[illegible] sufficient seisin of ye salt 1: Leon: pl: 356.

11 The [illegible] of Case for erecting a Mill alledgeth seisin in Law but not in fact & not good to maintain that action 1: Leon: pl: 368.

12 In Avowry in a Rent Charge granted to himselfe he need not alledge seisin within limitation of 32: H: 8: c: 2

Scales

King may present to any church he has in right of his wardship either 1
vnd. ye. Greate Seale or ye. Seale of Ex.ct of wards: The presentation vnd. ye.
greate Seale & ye. Seale of ye. Ex.ct being ye. same day & ye. presentation
vnd. ye. Seale of ye. Ex.ct not the presentation vnd. ye. Greate Seale
and revoke it it is void: 1: Co: 71:

An Indictm.t pleaded it was his Commission & sub Mag: Sigill. 2
Angl: was omitted & it were well [illegible] not ill tho
omitted: 1: Co: 332:

Lands Leased for Life vnd. ye. Exchequ.r Seale being of Lands 3
vsually leased & reserveing ye. Antient rent [illegible] good 1: Co: 369
380 simile:

Any Mannor or Land ye. comes to ye. King by a[illegible]aind. or otherwise 4
ye. Custody thereof may be granted over vnd. ye. [illegible] Seale for
it is but a disposing of ye. profits: See a Lease [illegible] Mannors
Land wch. comes to ye. King by attaind. is but a[illegible] & grantable
vnd. ye. same Seale 2: Co: 309:

Action of ye. Case for tearing a Seale from a deed [illegible] by A pitted 5
to him Annuity reddite sive [illegible]: it shewed [illegible] was ye. Seale
of ye. Grantor nor ye. Seale of ye. same deed or ye. [illegible] thereof ye.
deed lost its force but good 2: Co: 255:

A Licence upon ye. Statute 3 Jaco: of Recusant [illegible] vnd. their 6
Seales it not sufficient except it be pleaded also [illegible] Lands
2: Co: 352:

Forrain Honors may be granted by ye. broad Seale of Engl. Sty: 253: 7
A Gut of an Office to keep the entrly Ex.cts by Privy Seale is not 8
good but by entrly Seale: Noy 53:

A Privy Seale pleaded without date is good for ye. matters wch. are vnd. 9
it are not issuable nor any thereof can be taken to it neither is it

returneable in any Cr: but the Queene shall returne it & the Message thereupon & the her selfe is Judge of ye C[illegible] & she make a Warr.t toward ye Commission to seise, which is signed with the Seale Manuel of ye Queene & set downe ye Com[illegible] such seisure in ye Warr.t & noe other Certificate [illegible] & if ye other party will say ye Queene hath not certified it [illegible] shall be concluded [illegible] which is under ye Greate Seale 1: Leon: Pl: 12:

10: Twenty men may seale a good [illegible] one seale & upon one peice of Wax only & yt shall serve for ye all if they all lay their hands upon it together & Manwood it must be upon [illegible] all peices of Wax 2 Leon: pl: 21

11: In a Charter [illegible] if Mr [illegible] Queen [illegible] severally [illegible] of their Seales are debruised [illegible] it remaines good agt ye others 2 Co: 408:

12: All Corporations [illegible] ye Dutchys Seale ye are without ye Corporatys Pollantine are not good for it [illegible] legale to make a Corporation Moore 164:

13: The Office [illegible] ye Seale is thought to intitle ye King to a Chattell 5: Co: 40: 24

14: By Customs [illegible] ye Seale is sufficient Warr.t for disposal of monys & such personal [illegible] but for Chattells reals or Inheritance ye Greate Seale. The [illegible] would have excused themselves of 14: laid out by ye [illegible] and [illegible] but were [illegible] ye [illegible] Mo: 476:

15: The King [illegible] Nowwsonian Right of the Dutchy of Lancaster present [illegible] Judged good for it [illegible] by ward. but [illegible] of a Wardship of ye Dutchy [illegible] Greate Seale is not good Moore 874

16: If ye Seale [illegible] of Attorneys be torne of: if ye authority be [illegible] it is not material [illegible] Atch: 122:

17: The Condition may be pleaded by Ind: sealed with ye Seale of ye other [illegible] yet a Conveyance cannot be pleaded unless sealed with the Seale of ye [illegible] agent [illegible] the Feoffor [illegible] 3: Leon: 95:

vide &c In what Cases ye Law takes notice of ye Severall Seales of ye King 2 Co: 37: 6:

Severance

Severall defts in debt upon [illegible] joyn contract may 1
plead severall pleas, for otherwise if one who never
bargained or joyned in ye action he must [illegible] their pleadings
Hutt: 26.

As Summons & severance shall be in Qua: impedit so it 2
shall be in a writt of Error brought upon it 3: Cro: 324

Severall plts in aud: quæ: & disability [illegible] ye one pleaded 3
& allowed ye other shall have Summons & severance for
where ye suit is to discharge ye Land it is [illegible] reasonable yt
ye act of one should make another mans [illegible] be charged
3: Cro: 448.

Before appearance there cannot be jud[illegible] of severance 4
without processe, but after [illegible] Cro: 4.

where ye action [illegible] ye personality [illegible] severance 5
lyes not 6: Co: 25: a.

Simony

What is & where a Church is by donation [illegible] the 1
stat: 3: El: c: 6: Simony may be by cont[illegible] twixt
strangers without ye privity of ye Incumbent or Patron 1: Cro:
241: Quæ: if a Summe promist one for his pains & labour
in procuring him to be present is a Symoniacall ground to avoid
ye Contract 1: Cro: 257: 263: wsolo: it is vt 1: Cro: 307.
vide another case judged not Symony 2: Cro: 249.

2 A bond conditioned yt he being present to such if he shall resigne then: this is no symony but a good policy to tye him to resigne 2 Cro: 274.

3 Symony not knowing ye agreem.t & disabled after to be presented to ye Church 2: Cro: 533.

4 Ve Case of Symony Heat: 100: 104: where in a present: title ought to be shewn & where not ibid:

5 Oblig: conditioned whereas ye pl.t pro intended to prefer the deft to such a benefice yt ye deft at any time after his admission & at ye pl.t request resigne ye benefice to ye Bishop of L: That then & judge such a bond may be good & upon good reason required by ye patron 1: Cro: 129.

6 Neither ye Pa[illegible] King can pardon Symony quoad culpa but quoad pr[illegible] they may Ow: 68: vide pardon 18.

7 If ye patron present one having taken an oblig: of ye presentee yt he shall [illegible]gne when ye obligee will after 3 months warning it [illegible]ony by 21: El: c: 16: Noy 22.

8 Symony wh[illegible] well debated Noy 25: If A: be obliged to present [illegible] present him by symony it is forfeited [illegible]

9 The [illegible] an oblig: of ye [illegible] he presented yt he should pay 10.lt to ye son of ye last Incumbent so long as he should be a student in Cambrige unpreferred: no symony Noy 142.

10 Whether ye presentee not party to ye corrupt agreem.t shall be prejudicial? If one be presented by symony at ye Comon Law this is not void untill ye presentee be deprived and if

ye Incumbent & Ordinary had been free ye presentm't should
ensue: but if money be given by friends of ye presentee and
after ye King have notice thereof & assent then it is
pardonable at ye discretion of ye King Lane 73: [illegible]
Symony no ground for a prohibition it is more apt to be 11
tryed in ye spirituall Court 3: Cro: 642.
The father buyes an Advowson with an intent to provide 11
for his son it is not Symony though ye son were privie to it
3: Cro: 686.
There are no accessaryes in Symony but all principalls 12
3: Cro: 709: and it may be Symony in ye Incumbent where he
is not privie to it at first Simony defined Barburton if
one be presented by Symony & he who is [illegible] presented is party
he shall be deprived & always disabled to take any
other benefice, but if he be presented by Simony by 2: strangers
whereto he is not privie he is deprivable but [illegible] disabled to
take another benefice 3: Cro: 709.
Debt upon oblig: ye deft pleads ye summe [illegible] for Simony 13
& demands judgem: [illegible] on demurrer judges [illegible] for
Simony is not ag: one Law nor any contra[illegible]
relateing to it made void by any statute: neither [illegible] available
yt ye money was for any other cause then what is exprest
in the obligacion Moore 564.
Simonia est studiosa voluntas emendi vel vendendi 14
spiritualia vel spiritualibus annexa et dividitur in
& conventualis of both these ye Eccles Court may judge and

proceed by examin: upon bath of ye party or witnesses, but
ye temporall Court upon ye Conventuall only: Pr Dodridge but
ye title of ye King by symony is examinable in ye temporall
Courts Pr [illegible] Attorney 9th Moor 1777.

15 A grant of a next avoidance voyd for symony Moore 847.

16 If an estranger buyeth ye next avoidance & presents one
who is not privy till afterwards, & then is made privy &
then is made privy & is presented this is simony, aliter
where ye fatu[illegible] buyes who is bound by nature to
provide for [illegible] Moore 916.

17 Concerning [illegible] Bulstr: 88: Pr totum Casum.

[illegible] Leisure.

1 If an office [illegible] found by Escheator virtute brevis & entry
is given by [illegible] ye King it binds ye party untill it be avoided
but otherwise [illegible] it be found virtute officij for if it be false
it shall pu[illegible] man out of possession nor ye King gains no
interest [illegible] 34.

2 Where Conds may only inquire but not seise ye lands in the
Kings hands being Copyholds Lands in trust for a malient Style
76: vide King 31.

3 If an Advowson is holden of ye King & ye tenant alien without
licence yet ye King may not seise without [illegible] office: & sure
facias issueing [illegible] ye Alienee will not intitle ye King without
an office found Winch 9: Licence 6 – 4: to seise for alienation
without licence.

7 How far one deft shall be received as a competent testimony to condemne his companion (he must accuse himself) 2d. what advantage if one of ye defts be examined upon interrogatories for ye Ring ye other may have: 3d. ye examination of a [illegible] Counsellor Noy 154.

8 To entire Infants to enter into Recognizances knowing them to be within age punish: in ye Starr-chamber Moore 555.

9 The Clerke of Assizes was fined because in reading an Indictm.t he received it verd & did not inform ye judge thereof before ye tryd of ye felon Moo: 555.

10 Ten.t fined & [illegible] prisoned for maintaining & contributing to suits agt ye [illegible] where it concerned freehold otherwise of tents in Comon [illegible] Copyh: Moo: 562.

11 Two fined for [illegible] exhibiting a bill in Chancery ye one agt the other by agreem.t to examine a matter to ye prejudice of a third person M[illegible]: 562.

12 The prisoners [illegible] fleet were fined for scandalising an Exemplification of an order concerning regulating ye fees, this was by their Petition in Chancery, neither was it proved they spoke any words of it in any other place Moore 563.

13 One fined for [illegible] monie to one to confesse his forgery in a Court of Record & ye party at his owne Costs protured the Ledimus Potestatem to take his confessing Answer Moore 563.

14 For rescous to a sheriffe though it tooke no effect & 100 given to ye sheriffe for his Costs tho' it appeared not he pd any ordinary fees in ye suit being a relator only to the Attorney genl Moore 564.

[illegible] forgery 8: and pardon 46: yt after non Culp: pleaded. 15
[illegible] shall not in ye Star Chamber have ye benefit of ye [illegible]
pardon Moore 619.
One censured because a libel being made [illegible] the 16
incontinency of ye plt: he maliciously repea[illegible] part
of it in ye presence of diverse Persons Moore 627: and a Libell
is punishable tho' ye matter of it be true ibid: the Court would
not examine a Cause where ye presid: might be dangerous to
draw jurors into ye Court for matters presented at their Inquest
ibid:
Vide [illegible] justice of peace 26 17
Hubart censured for yt assuming ye name o[illegible] levied a fine 18
by ye name of G: ye sentence was yt a va[illegible] should be entred
on ye fine Moo: 630. Vide forgery 9: ma[illegible] 27.
A will being made by one non sana memo[illegible] judge void 19
Moore 76.
In a bill of nott for destroying 16: foot o[illegible] dge: ye debts 20
being 10: were fine 40 a peace & ye plt fi[illegible] for suing
so small a nott [illegible] Moo: [illegible]
One was censured for inserting ye name of [illegible] Bagliffe [illegible] 21:
made with a blanck by ye [illegible] and if [illegible] only
censured [illegible] ye other y shall have costs against [illegible] relator. The defts
shall not have ye benefit of ye [illegible] Pardon [illegible] ye hearing of ye
cause. Except they have [illegible] it in their Answ: to the Court. because it
appears not to the Court, yt they are not the Persons Excepted in ye Act
Moo: ~~[illegible]~~ 760:
Where Examination taken in another cause in another Terms 22:

may be read against another person for explanation sake —
Examinat: 5:

23: A Sheriffe tooke money for ye Gaulership [illegible] for ye
he gave it first to his Servants who sold it, but himselfe [illegible] ye
money [illegible] it was malu in se & he was censured — Moore 783

24: Where [illegible] Commoners may joyne & charge for maintenance
of their Common or publick custome & a blanck subscribed for to draw
a Petition to ye King censurable though ye complaint was not
censurable: Moore: 788:

25: None can inform of a Libel ye doth not touch himselfe but ye
Kings Attorney: and vide good learning who shall be publishers &
what shall be said publishing; He ye lends a Libel to be copyed or ye
repeat it or any parte of it or shews ye contentes of it or any pte
of it knowing it to be a Libel is a Publisher Moore: 815:

26: I bound over for [illegible] ye Jury found Ignoramus: such conspiracies
are punishable [illegible] Indictment before Just of peace & Oyer & Termi
& censurable in [illegible] Star Chamb. Moore: 813:

27: One censured in [illegible] Chamb: for words of Scandall in his answer.
That ye Ju[illegible] of Chester ought not to have made such an
order: and called [illegible] Affidavit an Equivocating Affidavit: Mo: 858:

28: If ye Bill charge [illegible] with forgery & alledge circumstances as
Inducements, ye [illegible] if he relinquish [illegible] forgery shall not insist
on ye circumstances [illegible] he had in his bill confect the will & relied
upon the circumstances as undue practices to procure the will:
This Court gave greate damages, because ye Common Law could not
take notice of ye Bill though Slanderous because it was preferred before
a Competent Judge: This Court may begin a new [illegible] to increase
damages: Moore: 820:

29: Concerning Slandering of Peers upon 2: R: 2: c: 15: it is not enough to
produce the Author but he must apprehend ye party & have him
in his hand ready to Justifie or otherwise he will be punish'd: ve plus
Moore: 821:

Forgery & Perjury not within ye Statutes but if ye Conclusion of ye 30
Bill in ye Starr Chamber be contrary to ye Laws & Statutes the
Starr Chamber may punish them as misdemeanors at
Comon Law 3: Leon 170.
A Bill in Starr Chamber for procuring him to be 31
endicted & convicted of felony thereby to avoid a former
assurance made by him of his lands, it was demurred on because
he is a Person attainted & dead in Law & therefore shall not
be put to answer, rules in criminall Causes he shall answ
3: Leon: 220.
In Starr Chamber if one be fined that is not answerable 32
respondeat suppor, vide ye wife censured for procuring
one to whip her husband Popham 139.

Statutes

A soldier running away from his Conductor is within the 1
Statutes of 7: h: 7: c: 1: & 3: h: 8: c: 1: [illegible] Conductor by
equity of ye Statute shall be accounted a Captain: for penall
Statutes being made for a publique service may be taken
liberally 1: Cro: 51.
Saving of an Act of Parliam. is no grant of a new thing 2
vulesse in some speciall Case, but it is quasi an Exception
or foreprise 1: Cro: 58.
The misrecitering ye makeing of a Statute or ye purview or 3
substantiall part of ye Act upon which an Action is brought
or in ye body of ye Act is cause to stay judgem. but not smaller
variances which by intendm. may be helpt 1: Cro: 96.

4 A Statute being to alter ye course of Comon Law shall not be extended to other Actions than what are mentioned in ye Statute 1: Cro: 101.

5 Statutes in ye affirmative take not away former Statutes 1: Cro: 125.

6 A gen Statute that needs not recitall if it be misrecited and relyed upon it is vitious & there vt ye mistake of ye date &c 1: Cro: 168.

7 Statute in ye affirmative ye a dr may be & restrains not 1: Cro: 187.

8 Where this [illegible] ye purview of a Statute shall bind it to the pr amble 1: Cro: 349.

9 In Statutes the particulars [illegible] yet it excludes not [illegible] what soever is in ye same reason & equity shall be [illegible] same Statute 1: Cro: 383: multitude of presidents [illegible] expounds a Statute unless after debate in Court [illegible] adjudge ibid.

10 Where one Statute is an explanation of a former it shall not be helpt with Equity or Intendm [illegible] cannot be [illegible] an explanation 1: Cro: 23.

11 Informa[illegible] [illegible] to Church contra formam Statuti for which he [illegible] ye 3d part & because there are three Statutes in this Case & it appears not which it was judged [illegible] 2: Cro: 142.

12 Accon upon ye Statute of Winton of Hue & Cry & then shews according to ye Statute of 27. El: ye he was sworne & contra formam Statuti predicti & it was moved ye Declaration was bad because

ye action is founded upon 2 Statutes & so mentioned in the
declaration & he concludes contra formam Statuti but judged
good because it was grounded only upon Winton which gives
penalty & remedy ye other is only de modo 2: Cro: 187.
Vt a good case where a judgem. in ye Kings Bench was reversed 13
in ye Exchequer & ye record remanded & ye plt in ye Kings Bench
had a writt of Inquiry of damages & judgem. upon it though
it was moved ye it was Casus omissus 2: Cro: 206.
What shall be said penall Laws within ye proviso of 18 Eliz: for 14
Jeofailes 2: Cro: 414: for Statutes which give only addition of
damages are not to be accounted penall Laws within ye proviso
Vt 39: El: for restoring pasture into tillage & grounded that 15
it should not be illusone 2: Cro: [illegible]
Lands let omitting an exception of formerly excepted 16
void 2: Cro: 459.
A Statute in affirmative repeals not ye former 2: Cro: 481. 17
The King is within a Statute for his benefit not for his 18
disadvantage 2: Cro: 481.
De excomunicato capiendo because he was [illegible] in to ye 19
Kings Bench &c 2: Cro: 566.
Vt Endictm. upon it & quashed 2: Cro: 605 about erecting 20
Cottages & not laying out lands vide Endict. 28
All Statutes that settle possessions [illegible] 21
benignly Heat: 27: and where it is for [illegible] it binds
both King & Realme ibid.
When one Statute is made which conforms [illegible] at ye four Courts 22
if by a second Statute you will alter that you must have precise
words: affirmative words in a subsequent Statute take not away
former Statutes vt plus Heat: 101: 102: 103.
Whether Brewers be victuallers see ye Case well argued Heat: 101. 23

24 If an action may be maintained within ye statute of Limitacons Heat: 112: 1: Cro: 59.

25 An antient trespasse with a Continuando to avoid ye stat: of Limitat: Heat: 116.

26 Where ye statute of Limitacon may be given in evidence & where shewn in arrest of judgem: & whether an action ought to be brought within 6 years after ye promise or after ye request videt: from ye request Pr 3 Justices Heat: 129: Hutton 105: 109.

27 To prove the [illegible] of wood was not felonye in 5: El: 3: c: 2: they argue yt by a[illegible] statute to cut trees ab: ones house it gives but damages a fortiori 1: Bul: 99.

28 What shall be [illegible] within those statutes to avoid a lease made by ye [illegible] Bul: 111.

29 The act [illegible] ye Customes of London is a private act & ought to [illegible] 1: Bul: 115.

30 If ye statute [illegible] misrecited yet in substance it warrants the justificacon [illegible] grounded upon it a variance in matter if it be not a [illegible] variance hurts not 2: Bul: 50: if ye party do goe [illegible] than he needs to goe in a point of surplusage & mistakes [illegible] this is bad for no such statute is to warrant it ibid.

31 Wh[illegible] shall be extended by equity to things beyond ye letter 2: [illegible] 63.

32 A statute in [illegible] affirmative yt ye suit shall be in such Courts yet not being in ye negative how it shall be construed ve 2: Cro: 179.

33 Secundum formam statuti cannot help where ye statute is not shewed to be pursued Sty: 77.

34 Words of a statute ought not to be interpreted to destroy natural justice Style 81.

An Act of Parliam^t is sometimes a Conveyance sometimes a judgem^t & vnde good matter concerning provisoes & savings & the interpretacon of them Sty: 161. 35

If a Statute have a double sense one ag^t comon justice and ye other with comon justice in equall ballance it shall be interpreted in ye better sense Style 161. 36

1: R: 3: c: 3: an action brought vpon it & declares for felony & ye Statute is for suspicion of felony it is a substantiall misrecitall: nil iap: ut billam Sty: 185. 37

If one bring an accon vpon a Statute & in his declaracon misrecites it in words which goe to ye ground of ye accon verdict helps it not but if ye misrecitall be in ye [illegible] does not goe to ye ground of it, it is helpt by [illegible] verdict Style 231. 38

Part of an Act may be publique & part p[illegible] & of that part which is private the Court is bound to take [illegible] Sty: 265. 39

Though accons of Grover be not in ye [illegible] statute of limitacons yet being accons of ye Case are [illegible] shall be comprehended 1: Cro: 179. 40

Statutes that are made of grace & as a boon [illegible] ye people in which they have a speciall interest are not [illegible] abridged Sty: 37. 41

Enumeracons of particulars in a Statute [illegible] it is exclusive of others: Sty: 467. Statutes liberally to be [illegible] that are made in restraint of ye Comon Law [illegible] 42

What shall be said stabbing within 1: Jacobi vt well debated Sty: 467. 43

Statute for buying of Tythes is pro termino diversorum annorum yet if a Lease be made but for one yeare it is within ye penalty of it Cro: 47. 44

45 Where a Statute is continued de tempore in tempus & was never discontinued or determined it shall be said contra formam Statuti: If a Statute doth prohibit a thing & another Statute gives a penalty thereupon in formacon upon ye penalty both Statutes ought to be re[illegible] & to conclude contra formam Statutorum: & so where a Statu[illegible] is revived & an addition to it Ex en 135.

46 A Statute that is [illegible] law ye Court shall take notice without pleading [illegible] 10.

47 Where ye Sta[illegible] ground of ye action it must not be varied Noy [illegible]

48 Vide exposit: [illegible] fraudulent Conveyances Noy: 105: 115 [illegible]

49 Where a subse[illegible] Statute that [illegible] shall not take away a praeced[illegible] particular Statute Noy 141.

50 The venire [illegible] quilibet habeat quatuor libras for libras & ye Stat[illegible] is libras but ye intent of ye Statute being to have able [illegible] & ye usage since ye making being so it is good: ye Stat[illegible] Mercatoribus speaking of recognis: to be of monies [illegible] yet if it be lawfull monies it is good Noy [illegible]

51 A [illegible] out of rent reserved by Indenture is not within ye Act [illegible] Jac: c. 16 limit: Hutton 109.

52 Statutes are [illegible] do to extend to those things which seldome or never happen but to those that frequently happen Hutt: 111.

53 Rationabil: part: bon: is not within ye Stat: of Limitacon Hutt: 109

54 Penalties which concerne life shall not be taken by equity Hutt: 134.

If an Advowson in grosse by reason of ye words tenemts 55
be within 29: Eliz: 6: Statututa non sunt ad voluntatem
principis sed ad voluntatem totius regni Winch 12: Statutes
which are repugnant to for[illegible] laws take them away &
doe not confirme them ye Kingis party to every Act of
Parliam Qu: if he be by that means bo[illegible] Winch 12: —
savings repugnant are void ibid.
If I doe what I can on my part to answe[illegible] intention of 56
ye statute ye statute shall not hurt [illegible] if it [illegible]
every one to bring in his deed to be [illegible] bring in my deed
& it is not inrolled it shall not prejudice [illegible] 63.
In statutes there is substance [illegible] if ye substance 57
be observed tho' not every circumstance [illegible] good Winch 43
Where a statute of explanacon may [illegible] further 58
explanacon Winch 84: 123: for it is impossible an Act of
Parliam should provide for every incon[illegible] that shall
happen Winch 123.
Where statutes appoint judges & assista[illegible] so them it must 59
be pursued Bridgm: 119.
In pleading statutes be [illegible] cautious to [illegible] there be 60
no omissions Bridgm: 123.
When a statute gives a new thing which w[illegible] Comon 61
Law & limits a course & means whereby it [illegible] be tried that
course ought to be pursued, & it cannot [illegible] in any other
manner Lane 106: plus.
Where a statute imposeth a penalty for a Contempt as ye 62
Contempt is personall so is ye penalty Lane 107.
A private statute must be pleaded or no advantage shall 63.
be taken by it 1. Leon: pl: 39.

64 Where a statute runs in gen[illegible] words yet construction shall be according to ye meaning of them 1: Leon: pl: 44.

65 Statutes made for publique good & ye repose of Inheritances must be liberally expounded: in ye statute of fine mentions only heires but it shall include successors 1: Leon: pl: 102.

66 Gheten[illegible] of ye King aliens without fine & through some defects ye alienation is void but afterwards it is confirmed by Parliam[illegible] Wideturn[illegible] now no fine is due for ye new assurance to take effect by ye Act of Parliam[illegible] to which ye Queen herself being a principall part pag[illegible] her owne act shall not claim a fine 1: Leon: pl: 11[illegible]

67 Statutes [illegible] made to take possessions & hereditam[illegible] out of persons are [illegible] taken strictly: the intention of ye Law sometim[illegible] [illegible] liberall sometimes a strict construction: and many [illegible] that [illegible] ye meaning of a statute which are not with[illegible] Law sha[illegible] Leon: pl: 126.

68 Of [illegible] is strict [illegible] made for ye benefit of ye subject ye King shall [illegible] 19[illegible] [illegible] tage & in construction of statutes ye opinion of th[illegible] [illegible] next to ye makeing of them is much to be regarded [illegible] pl: 707.

69 In all [illegible] statutes ye plt ought to pursue ye very words of ye statute [illegible] sense must not appear by argum[illegible] or implication [illegible] by expresse allegation 1: Leon: pl: 291

70 If an Act of Parliam[illegible] give me all ye lands whereof [illegible] seised & ye [illegible] shall be in ye seis[illegible] thereof now is ye actual possession in me without entry 1: Leon: pl: 345.

71 Many are bound by Acts of Parliam[illegible] which are not parties to ye election 4: inst: p: 4.

An ordinance differeth from an Act because it wants the 3 fold assent 4: inst: 25. 72

The division of Acts of parliamt: All acts of parliament relate to ye first day of ye parliamt if it be not otherwise provided by ye Act 4: inst: 25. 73

Before printing & after printing statutes were [illegible] proclaimd 4: inst: 26. 74

Where seeming a statute is not pursued in [illegible] & yet good for if ye statute remedieth 2: things it [illegible] one 1: Leon: pl: 413. 75

Where a thing formerly may be done, & subsequt statute [illegible] prescribes a diverse way of doing it if [illegible] only in affirmative words & not in ye negative it [illegible] not the former power 5: Co: 5: b: de jure regis [illegible] 76

Where ye King shall be bound by a statute [illegible] 1: Co: 68: 72: a. 77

When ye gen words of a statute include [illegible] that [illegible] of Law in some cases may exempt [illegible] 78

The words of 4: H: 7: of fines are gen ye [illegible] to them [illegible] not bind ye successor of a bishop, parson &c a [illegible] bind ye successors of a body politique aggrega[illegible] for the mischeife that might ensue 11: Co: 71: [illegible] 79

Generall words in a statute shall not [illegible] to doe or to take benefit of a thing which by Law [illegible] merly he was disabled to 11: Co: 77: b. 80

There is a diversity betwixt a gen Act (viz) by or from any person or persons bodyes politique or corporate & an Act that mentions particular kind of persons bodyes politique or corporate 11: Co: 77: b: (Replead 13) 81

82 A Case may be within ye words of a Statute & yet not within ye intent of ye statute 1: Cro: 2: (Error 458)

83 Speciall statutes ought to be pleaded or given in evidence or found by verdict and vide ibid: what shall be agt statute what a speciall statute 1: Leon: pl: 427.

85 One may prescribe agt an affirmative statute as to hold a Leet more than twice or at other dayes 2: Leon: pl: 31.

86 Acts of Pa[illegible] are so to be construed as no man that is innocent shall be by a litterall construction punished vide ff instance on ye stat. Glost: c: 1: 1: instit: 360: a.

87 Examples of Statutes that crosse ye Comon Law shall be taken strictly [illegible] also where cases that are with in ye letter yet are not with[illegible] ye statute 2: Leon: pl: 183.

88 Statutes that [illegible] in ye affirmative & doe not abridge the Comon Law sha[illegible] have a reasonable construction: but a penall Law is strict: j[illegible] shall not be taken by equity 2: Leon: pl: 195.

89 Exposition of [illegible]tutes belongs to ye Queens temporall Courts 2: Leon: pl[illegible]7.

90 By stat: of [illegible] wh[illegible]ester debt under 40s. lyes not in [illegible] but since a lat[illegible]te of 23: h: 8: gives costs upon nonsuite in an inferior [illegible]t a lesse summe for costs so given is recoverable ye [illegible] Court 3: Cro: 96.

91 Construe one [illegible]: 6: of a statute by another: 2d ye words of an Act must be taken in a lawfull & right sense 3d. so to be expounded as to suppresse the mischeife and advance the remedy 1: instit: 381: a: b.

The statute 8: El: c: 2: is to hold plea in actions personall & 92
ye statute is recited to hold plea in any accon: though the
statute is gll & need not to be recited yet when he recites it
falsly it makes ye plea ill nil cap: pr bill: 3: Cro: 234.
The deft avowed for an estray error assigned was for that 93
ye deft had a returne awarded him with costs & damages whereas
there is none given by 7: h: 8: c: [illegible] 21: h: 8: c: [illegible] for those
statutes enumerate actions whereof this is [illegible] it was
said they were recited only by way of Example but the
Court advised for damages are penall & [illegible] not be taken
by Equity 3: Cro: 258.
A restraining clause in a statute implies ye Law was 98
otherwise before 2: Instit: 336.
When a statute allows a thing in gll [illegible] as 10: 2: c: 1: 99
Dona prius facta it intends lawfull [illegible] executed in
due manner 2: Inst: 336.
It is enacted by 9: R: 2: c: 31: yt if ten [illegible] life or in dower 100
by ye curtesy or in taile after possibility [illegible] extinct
looseth in a precipe & yt he in reversi[illegible] here it was
resolved yt remainders by Equity were [illegible] that a
reversion or rem expectant on an estat[illegible] are not
comprehended for by ye precise enumer[illegible] those
particular estates it appears ye ma[illegible] that Act
intended to exclude all others 3: Co: 4
Relacon by an act of Parliam: which [illegible] Acts worker 101
stronger than other relation God: 354.
Statutes in ye affirmative take not away ye jurisdiction of former 102
Courts 3: Cro: 104.

103 A statute will never help a man that forecloseth himself
3: Cro: 271.

104 Misrecitall of a statute tamdiu, where ye words are tam
rito made ye plea is sufficient 3: Cro: 490

105 When a statute is in ye affirmative & not in ye negative
it takes not away ye Comon Law yet in an affirmative
statute may be implyed 3: Cro: 500.

106 Severall negative words in a statute shall not restraine
ye Queen 3: Cro: 542.

107 31: El: c: 5: [illegible] doth [illegible] Informers to bring their Action
only in ye prop[illegible] where ye offence was done, but
ye party grew [illegible] at large to prosecute 3: Cro: 645.

108 23: H: 6: c: [illegible] statute intends only obligations taken
by such who [illegible] their Custody by ye Course of Law
3: Cro: 64[illegible]

109 In ye 32: H[illegible] c: 34: The words Executor to take
advantage [illegible] Conditions is necessarily to be intended
of a grant [illegible] for years 3: Cro: 650.

110: 21: H: 6: c: 13: wh[illegible] may be excused for non residency of what
[illegible]

111: What Obligation [illegible] do to a Sheriffe for appearance shall
be void yet if ye Sheriffe take but one Surety it is good 3 Cro:
6: 12: Stat 23 H: 6: c: 10:

112: Where a remedy for a punishment is given by a Statute that
shall not take away ye punishment that was before 3: Cro: 684

113: Where tho ye Statute be not pleaded yet ye other may be take
advantage of it, if it be a gen: Stat 3 Cro: 723:

What Person may obtain a dispensacon by 21: H: 8: c: 13: to retain 114
a second benefice 3: Cro: 73.
A bond for appearance taken out of ye County the by — 115
duresse not within 23: H: 6: c: 10: because not within the
sheriffes Custody 3: Cro: 946.
Where a Statute is made perpetuall in part or in whole without 116
any new addition or alteracon ye offence may well be supposed
against ye forme of ye first Statute otherwise where it is —
continued with a new addicon 3: Cro: 750.
Debt upon 2: E: 6: c: 13: not guilty a [illegible] thereon in — 117
debt for it is a malfeasance & not non[illegible]nce 3: Cro: 621: et
766.
The originall writt ought to have ye [illegible] name to ye 118
returne but ye deft shall take no such [illegible]antage after
appearance of such misprision 3: Cro[illegible].
Obligacon condiconed if such a one who [illegible] arrested on a 119
latitat appeared Personally the bond is good [illegible] cause by —
appearance unnecessary to put in special [illegible] 3: Cro: —
776: within 23: H: 6: c: 10.
The Queen had let Lands & granted ye re[illegible]ion to one 120
misreciting ye name of ye ten[illegible] & after wa[illegible] made a new
grant to another with a true recitall o[illegible] & name &
after 18: El: c: 2: is made Resolved it shall not revive the
first grant because it was void before ye Statute 3: Cro: 308.
13: El: 10: & 18: El: concerning Leases of Ecclesiasticles are gtt 121.
Statutes 3: Cro: 816.
The generally of 33: H: 8: c: 6: prohibits not those weapons to be 122
carried in execucon of justice a dagger is within ye stat: 3: Cro: 821.

123 A bond made to ye sherriffe for appearance where one of the obligors had nothing in ye County not within ye statute 23: H: 6: c: 7 3: Cro: 852.

124 The statute is recited to be made at Westm^d whereas it was begun in London & so ought to have been pleaded unless there had been diverse sessions wherein bills have been signed — 3: Cro: 853.

125 An Averm^t ye Queening was of ye value of 8th without saying it was so it was soe in ye Queens bookes is good 26: h: 8: c: 13: — 3: Cro: 853.

126 32: H: 8: c: 34: doth not extend to Covent^s upon estates in fee or in taile but only upon Leases made for life or for years 3: Cro: 863.

127 The Executor of an Executor shall have debt for a releife ag^t ye Executor of ye heire; for ye Testator was charged as by a duty to him [illegible] which he could not have waged his Law 3: Cro: 883.

128 A Haint by [illegible] H: 8: Cap: 3: lies ag^t Exec^s by Equity Moo: 17.

129 Sonne in tay[illegible] is a joynture within 27: H: 8: c: 10: Moore 28: vide [illegible]

130 2: 3: P: [illegible] : 4: Quære if ye fee simple be in abeyance or in ye Queen Moore 42.

131 A Cessavit is not within ye statute 32: H: 8: c: 2: Moore 44: of Limitations

132 If a man covent in consideration of marriage & monies paid to stand seised to ye use of Baron & feme, if ye feme after ye death of her husband alien ye land she is within 11: h: 7. cap: 1 for consideration of marriage shall be preferred before consideration of monies vide plus Moore 93.

The bargain of a reversion is a sufficient assigne within 133
32: H: 8: c: 34: Moore 98.
Land given to maintain poore men to pray for ye good of the 134
soul is not given by ye statute 1: E: 6: c: 13: to ye Crowne the
possessions of lay Corporations which they have to their owne
use are not given by ye statute where no certainty is appointed
to be imployed upon ye substitutions use all ye land shall be
given to ye Crowne but where certainty is appointed nothing
is given but what was imployed within 5 years before the
statute Moore 129.
The issue in taile shall be barred by ye fine of his Ancestor 135
without A verm. qd partes finis nihil habuerunt Moore 114:
the son barred by ye fyne of ye father in ye life of ye grandfather
who was tenant in taile Moore 146: The issue shall be barred by
ye fyne of ye Ancestor, where ye remd is in ye Crowne & so by a
recovery where ye remd is in ye Crowne by ye [illegible]sion of a
subject Moore 115: upon statute 32: H: 8 [illegible]
Where a statute appoints a summe of money [illegible] be pd upon 136
feasance misfeasance non feasance & nam[illegible] not to whom
ye forfeiture shall be, it shall be to ye [illegible] except the
penalty be assest for takeing such thing [illegible] in ye subject
hath a property Moo: 228.
Where a statute must have negative wor[illegible] where without 137
negative words it shall have ye force of them Moore 245.
Upon 18: El: c: 5: none shall sue for a penalty but by original 138
writt or information & not by bill for he shall not be put in
baile or answer in Custodia Moore 247.
Land purchased in part with ye money of ye baron & part with ye 139
money of ye father of ye feme is within ye statute of 11: H: 7:

c: 1: [illegible] Lease by render of a fine for 100: years by ye feme is a forfeiture within ye statute Moore 250.

140 In one devise land in which he hath nothing & after purchase them that is not a devise within ye statute of Wills because it is not according to ye words Havenig &c Moore 255: 34: H: 8: c: 5.

141 Lease by a Bishop for 3 lives where there is a Lease for years in being is void & 1: El: is a gt statute in a particular whereof the Judges are not to take notice without pleading Moore 253.

142 See good Cases on 1: E: 6: c: 14: where lands is given & where a summe certain & concerning ye Provisoe relating to Dean & Chapter Moore 263.

143 Debt upon 2 & 3: E: 6: for treble damages for not setting out tythes ye deft pleads non Culp: & not non debet & yet good: and he recited ye statute to be made 2: Nov: Anno 2: El: 3: El: [illegible] in truth that could not be ye day in ye 2d. & in ye 3d. yet [illegible] ye King judgem[illegible] stayd Moore 302.

144 Stat: 18: El [illegible]: extends not to make good ye grants of such Persons w[illegible] could not grant by ye Comon Law but to enable those [illegible] by former statutes were prohibited Moore [illegible]

145 5: Eliz: [illegible] concerning weaving of woollen Cloaths abrogates not 4 & 5 P: et: M: because there is no repeale or negative Clause in 5: Eliz: but it only increaseth ye penalty Moo: 412.

146 Where 2 statutes are & ye last shall give ye land to ye King tho' there be no negative words in it viz: he shall have the lands by this statute & no other Moo: 420.

Generall words of a Statute restrained vide Action [illegible].66. 147
No Custome or prescripcon agt a Statute, if it prescribe in roll mt in such a way it is not enough to say it is ye Custome of such a Court only to take Memorandums of it in a paper book Moo: 445. 148
Where ye Action is not upon ye stat: it needs not be recited tho' it be a gst: Moore 460. 148
Beneficiall statutes are still expounded by Equity ultra the strict Letter, but never agt ye letter vide instances thereof Moo: 508. 149
A bond from ye Sheriffes Clerke to ye Sheriffe to pay ye Kings monies into ye Exchequer within 14 dayes after he had rece it is not within 23: h: 6: c: 10: Moo: 542. 150
One pleaded a private Act & mistook ye day of ye beginning of ye Parliam: on a generall demurrer: it was judged agt ye pleader, for tho' ye judges need not take notice of ye Act being private yet ye day of ye Parliam: beginning is publique whereof they are to take notice Moore 551. 151
39: El: c: 6: of Charitable Uses well expo[illegible]d Moo: 560. 152
The Colledge makes a Lease to lye a title [illegible] reservingne rent was void by 13: El: ye judgem: was aff[illegible] in Error this being assigned for he should have pleaded ye [illegible]tute or the justices will not take notice of it Moore [illegible] 153
Examples of statutes with negative wor[illegible] Moore 658. 154
Vide statutes in ye affirmative only [illegible] if they were negative Moore 714. 155
The King for ye love he bears to his subjects will not grant ye penalty of penall statutes, for it is but a trust by ye Parliam: to restrain enormities & not be enricht with ye penalties Moore 764. 156
A Sheriffe censured in Starr-chamber for farming his Bailewick et Moo: 781. 157

158 It is but declaratory of ye Comon Law as to ye Kings power in Eccles: matters Moo: 782.

159 It is but decl: of ye Comon Law yß ye Clergy shall not enact Constitucons without ye Kings assent Moo: 782.

160 What Lease shall bind ye issue in taile Moore 783.

161 Obligacon to secure a Lease of Church Lands where void Moo: 789: & that statute is explained to extend to a judgemt ibid.

162 Though ye publisher of false News produceth his author yet he is finable Moo: 821.

163 Tho' ye Will be void in Law yet it shall enure as a Declaracon of a Charitable use by ye Statute Moore 823.

164 No Avermt agt an Act of Parliamt certified into ye Chancery as to say ye Comons did not assent but with a proviso that is lost, which yet appears in ye journall of ye Lords house, but if it appears in ye body of ye Act that ye Comons did not assent as be it enacted by ye King with ye assent of ye Lords omitting ye Comons it is void Moore 824.

165 Vide how to plead licence granted by a recusant convict upon 3: Jac: c: 5: Moo: 836.

166 If any English Court hold plea of a thing whereof judgemt hath been [illegible] ye Comon Law Prohibicon lyes by 27: E: 3: c: 1: and 4: H: 4: [illegible] 23: Moo: 836.

167 Vide 32: H: 8: c: 1: and 34: H: 8: c: 5: of Wills good learning where lands are in Capite & some in soccage, & what shall be an Impedimt to devise &c Moo: 836.

168 Articles ex officio are in ye nature of a Libel & therefore ye deft is to have a copy of them by 2: H: 5: c: 3: Moo: 840.

169 A Deputy Constable is within ye Equity of it to plead ye gen issue Moo: 845.

If ye justice vpon ye force found limit not ye offendor, if the 170
record be certiorarie it will be judged void Moo: 848: (forc: Entry 6)
Videtur a serjt at Arms is not within ye statute Cro: Car: 225. 171
Where ye word forfeiture being coupled in an enumeracon of 172
Chattels & Personall things shall be intended only a forfeiture
of Personall things 2: Leon: pag: 125.
28: El: cap: 4: what fees sheriffes shall take for execucon 173
well expounded & tho' ye statute give not accon for it, yet
when it becomes a duty, ye Law gives an Accon Moo: 853.
Though ye statute 32: H: 8: I sayth yt all ye possession of 174
Wards shall be within ye survey of ye Court of Wards, yet if
a benefice which appertains to a Ward becomes void the
Chancellor shall present if it be one of vndervalue —
Moore 874.
Where there is no literall provision in ye statute of 21: H: 8: 175
concerning avowing vpon ye Land, yt the tenant may entitle
another in his plea, but ye meere consequence of reason
changeing, changeth ye Law, for ye statute is indifferent to
Lord & tenant, & ye Lord having ye election to avow in the
Person as at Comon Law or on ye Land by ye statute, then
ye tenant may plead nothing in discharge of ye Land —
Hob: 106.
31: El: c: the grant of ye next avoyd[illegible] 176
Symony Moo: 877.
27: El: c: 5: what shall be forme, what substance in 177
Demurrer Moore 885.
5: El: c: 4: well expounded whether it give [illegible] 178
to ye Corporacon Moore 886.
43: El: c: 4: what shall be a Limitacon or Assignem: to a 179
a Charitable vse Moore 889: 890.

180 21: H: 8: c: 19: In what Case an Avowant shall have damages & vide examples how statutes may be extended by equity to Causes without ye Letter Moore 893.

181 Debt on 2: E: 6: c: 3: Tam pro Domino Rege quam pro seipso lyeth not Moore 911.

182 32: H: 8: c: 24: Judged yt ye Patentee of ye King himselfe shall pay tythes though ye Lands propriis sumptibus excoluntur because ye pr[illegible]edge to be discharged of tythes is proff to spiritual Persons Moore [illegible]3.

183 2: E: 6: c: 13: [illegible] statute that [illegible] treble damages allows not ye Jury to give [illegible] other dles which are costs being given by ye statute ye Jury cannot [illegible] costs, not farmers may joyne in Accon upon ye statute [illegible] farmer of ye tythes shall have an action by ye Equity of [illegible] statute because he hath ye right of ye tythes though ye statute give no accon to ye farmer, agreem[illegible] with one farmer shall bind his Companion Moore 915.

184 2: E: 6: c: 13: Ja debt non Culp: is good plea Moore 914: tribble damages given.

185 21: Jac: 2: 16: ye Accon was brought before ye Parliament and ye prosecution [illegible] after resolved it was within ye statute by ye word [illegible] Catch 2.

186 After [illegible] set out ye parson by 2: E: 6: c: 13: may have trespasse if all one takes them, but if a meere stranger set out ye tythes, they [illegible] no proffity in the Parson: If tythes be set out & ye parson takes them not in due time ye party may have his Accon [illegible] of ye Case Catch 8.

187 29: El: c: 4: what fees ye sheriffe may take for execution above 100li vide notably explained with many other good Cases Catch 14.

23: H: 6: c: 10: the books that speak yt a sheriffe may 188
take an obligacon for ease & favour, is where ye arrest is
vpon meane processe & soe baylable by Law, & not where is
in open execucon Qu: if one make a bond, being in execucon
to ye Marshall to be a true prisoner & not to escape if good —
Latch 23.
What shall be suffstitious vses within 1: E: 4: 14: Latch 38. 189
Two Coparceners in tayle the husband of one of them being 190
ten: by the Curtesy Joynes with ye other in a [illegible], rendring — 191
rent to them & their heires [illegible] is not good by 32: H:
8: c: 28: because ye [illegible] survey of [illegible] to ye Bonee & his
heires, for rent goes strictly to [illegible] by ye Lessor —
Latch: 45.
28: E: c: 4: what fees a sheriffe shall take vpon an execucon 191
above 100th Latch 51.
An obligacon to save ye sheriffe Harmless for an escape 192
is within 23: h: 6: c: 10: Latch 55.
Remedy in Equity not taken away in any execucon by the 193
Statute of Limitacons 21: Jac: c: 16: March 129.
The Marshall hath E: in execucon [illegible] vpon Hab: Corpus 194
suffers him to goe into ye Country & [illegible] an obligacon —
yt he shall be a true prisoner, & had [illegible] with him &
he left his keeper which was adjudg[illegible] escape, the
Marshall sueth ye obligacon (and [illegible]) notwithstanding
23: H: 6: c: 10: vide [illegible] Case.
who shall have restitucon vpon 21: Jac: c: 15. 195
5: El: c: 9: if A: by order be made party to a bill in — 196
Chancery & B: examined as a witnesse in ye behalfe of A:
falsly deposeth for yt it is decreed ag[illegible] me, yet I cannot
bring debt vpon this Statute against Yelverton 22.

197 The statute 2: El: 6: c: 13: gives only double costs for want of proofe of suggestion & for no other cause Yelver: 80.

198 32: H: 8: c: 37: extends not for ye recovery of arrears of Coppyhold rents Yelver: 138.

199 A thing that is an unseparable thing to another thing shall not be given by ye [illegible] words of an Act of Parliam.t Benl: 167.

200 Copyhold lands are by equity within 34: H: 8: c: 5: of Wills 3: Leon: 82.

201 A Chantery in reputacon is within 1: E: 6: c: [illegible] 3 Leon: 115.

202 In all cases of statutes which are with provisoes, ye Law upon them shall be taken not generally but in such part only as are restrained to ye provisoe 3: Leon: 132.

203 Private Acts of Parlyam.t are to be expounded strictly & by ye Letter as ye Deed of ye party should be 3: Leon: 133.

204 One statute appoints a penalty, a subsequent may appoint a different penalty in altiorem pœnam, & being in ye affirmative takes not away the former 3: Leon: [illegible] 215.

205 31: H: 5: c: 4: expounded ab.t restitucon of goods taken at sea 3: Bul: 28.

206 27: El: 3: c: 13: concerning restitucon of goods taken at sea 3: [illegible] 8.

207 ~~28: H: 8: c: 15:~~ [illegible] all robberies done upon ye sea shall be tryed on ye Land 3: Bul: 29.

208 A feme Covert within 23: E: c: 1: about recusancy 3: Bul: 87.

209 35: E: c: 2: this gives debt & brings ye husband in about recusancy 3: Bul: 87.

210 31: El: c: 9: about symony 3: Bul: 89.

N: 1: c: 15: Bayle about ye death of a man 3: Bul: 113. 211
1: & 2: P: & M: c: 13: Baylable for manslaughter 3: Bul: 113. 212
4: H: 4: c: 13: about judgemts questioned in Chancery 3: Bul: 115. 213
27: E: 3: c: 1: Judgemts not to be questioned in Chancery 3: Bul: 114 214
37: H: 8: c: 14: Copyholds not within it 3: Bul: 151. 215
1: E: 6: c: 14: Copyholds not within it 3: Bul: 151. 216
Tho' all be parties to an Act of Parliam: yet in judgem: of Law ye land moves from him that is seised of ye land 1: Co: 47: b. 217
Any other thing to ye contrary notwithstanding quid oppatur 1: Co: 47: b. 218
An Act of Parliam: or ye Act in Law may make an estate void as to one & good as to another: see nor precipe the vouchee is ten: as to ye demandant not as to a stranger 1: Co: 87: b. 219
Statutes bind because every one is consenting to them 6: Co: 12: b. 220
Where a statute enumerates particulars it shall not be exclusive of what is not so particularised 3: Co: 4: b. 221
Later statutes controll ye former 2: Co: 46: b. 222
Four things to ye expounding of a statute (1) what was the Comon Law before ye statute (2) what was ye defect for which ye Comon Law had not provided (3) what remedy ye Parliam: intended (4) the true reason of the remedy 3: Co: 7: b. 223
An explanatory statute shall not be expounded beyond ye letter 1: Co: 31: a. 224
Statutes in ye affirmative take not away a Customs 3: Co: 35: a. 225
11: H: 7: c: 20: well expounded tit: discont: d'terres 3: Co: 51: a: b. 226

Suggestion

1 In audita querela one surmises yt he was sued &c for a battery in London & there condemned & made satisfaction to ye plt & afterwd by ye plt sued for ye same battery as done in Herefordi adjudged a good surmise for ye action being transitory may be laid in what County ye plt will 1: Cro: 320.

2 Vt what suggestion in audita querela is not good vizt entry into a new bo[illegible] to pay ye same adjudged & yt ye plt accepted it & averd it to be for ye same debt 2: Cro: 579.

3 Qu: if a suggestion in a prohibition may be double pr Yelver: contra pr Rich[illegible] Het: 147.

4 In debt upon [illegible]ligat: ye serjt may pray ye debt for ye Queen & yet it is but a surmise Owen 8.

5 If ye King make a grant upon a suggestion made to him which is false the will avoid ye patent but if a true suggestion be made to ye King & he himself there upon makes a collection or surmise this doth not avoid ye ~~[illegible]~~ patent vide good matter Lane 75: pr totum.

6 The Chancellor ought not on surmise of ye Attorney gll to delay ye party by keeping his Lands in ye Kings hands Benl: 112.

Subsidie

1 The Earles & Barons granted for themselves one subsidy & ye Comons another & ye Lords granted another by themselves Elsing 39.

2 14: E: 3: ye 9: pt of their grane & wooll was granted on condition yt ye King would grant their peticons in ye schedule following these peticons which by ye Lords & Comons were drawn into ye forme of a statute 4: inst: 29.

All grants of subsidies or aids in Parliam.t doe begin in the 3
house of Comons & therefore it is in divers records pro communitat:
Angliæ nobis concessum 4: Inst: 29.
Custuma parva, magna, of what things antiently it was taken 4
3: Inst: 29.
Butlerage quid, prizage quid. 5
New Inventions for aids & subsidies not succeed 4: Inst: 33. 6
Fifteens what they are always certain 4: inst: 34. 7
No subsidy before ye end of Parliam.t because it is to accompany 8
ye pardon 4: M: 34.
Fifteenth was originally set upon ye Poles but now it is — 9
certainly rated upon every towne for 8: [illegible]: Taxations —
were made of all Cities, Boroughs & towns in England and
recorded in ye Exchequ.r & that rate was at that time ye 15: pt
of ye value of every towne & soe retaineth the name (2 pt inst:
pag: 77) It is granted by Parliam.t & without further inquiry
is certain & differeth from a subsidy which is uncertain untill
it be assest 4: pt instit: p: 34.
Matters of supply must first proceed from ye grant of ye 10
Comons & then be assented unto by ye Lords: journ: Parliam.t
1640: pag: 125: The Comons may set ye rates upon the
peers in a Pole Bill ibid: et pag: 176.
300000.lb resolved upon ye question to be a fitting summe for ye 11
friendly assistance of Scotland & yt ye Comons house will in
due time take into consideracon ye manner how & the time
when ye same shall be raised pro Parla: speech 553.
The father is assest & dyes ye lands shall be charged on the heirs 12
lands Moo: 14:
Tho' ye Parson shall pay 10.lb to ye King, yet ye lay farmer shall pay 13
15.lb & his Cattle are distraniable for ye same upon ye Glebelands
of ye Parsonage 3: Leon: 259.

Severall Tenancy

1 In a writt of Entry in ye per ag: A: & B: A: pleaded severall tenancy: it was held no plea: In no accon founded upon disseisin is this good: for tho' ye demandant by policy will bring his writt ag: ye tenant of ye Land & another whom he will name [illegible] his writt in trust that he will not agree with ye tenant [illegible] ye Land in Dilatories yet in that case sever: tenan: [illegible] plea 2: Leon: pl: 9.

Tenant at sufferance

1 If ten: at suff[illegible]ance of a comon person makes a Lease for years this is a disseisin [illegible]

2 ~~Ten: may [illegible] damage~~ feasant Owen 29: a ten: at will shall have aw[illegible] shall not be: and a release to ye one is good to ye other not: he comes in by right: he may grant copies for he is Dominus pro tempore: Cestyq' use for life ye remainder over in tail made a Lease for ye terme of ye life of ye Lessee & dies & the Lessee continues his estate judge he is but ten: at sufferance: — when he holds over he doth assume an interest [illegible] shall not be thought wrongfully for he is neither abator nor disseisor: If a tenor holds over [illegible] there an estate [illegible] fee is confest to be in him by matter [illegible] Law but he seemes not to be a disseisor for trespasse lyeth not ag: him before a segresse: Owen 27: vide discent 1: not tolls Entry: Owen 27.

3 If Lessee for years after his terme expires takes a new Lease from a stranger rendring rent & pays that yet he is ten: at sufferance to ye first Lessor & in such case ye Lessor may lease it to another

before any entry by him for it is not out of his possession Noy 120.
A tenancy by sufferance cannot be after ye Lessor of an estate 4
of Inheritance & when tenant at sufferance makes a Lease for
years it is a disseisin 1: Leon: pl: 117.
Vide excellent matter abt tenant at will tenant at sufferance 5
whether they are disseisors or gain a fee [illegible] they may grant
Copies videtur non 2: Leon: pl: 59.
If a Lease be made for default of payment [illegible] & payment 6
is not made ye Lessor may [illegible] land for ye [illegible] Lesse is but
tenant at sufferance 2: Leon: pl: 119.
Tenant at sufferance shall not pay rent for it [illegible] ye folly of his 7
Lessor to suffer him to continue his possession 2: Leon: pl: 178.
If tenant pur auter vie continue in possession after ye death
of Cestuy que vie he is but tenant at sufferance [illegible]
& his distent shall not take away entry 3: [illegible] 38.

Tenant for life

One seised of lands forfeited to him by mortgage in fee in A: 1
B: E: He devises the lands in A: & B: to [illegible] all & their heirs
& adds this Clause: all ye rest of my goods & [illegible] Leases
Morgages I devise to my wife after debts & [illegible] Court an estate
for life only past to her: 1: Cro: [illegible] 323: [illegible]
ibi differentia in fine.
A: tenant for life grants by fine his estate to [illegible] by indenture 2
limited ye use to B: for ye life of A: and B: & if he dyed living
A: yt it should remain to B: afterwards B: dyed living A: [illegible]
entred & let to D: for years & dyed living A: the Lessee shall have
it as an occupant & his Lessee shall hold it as an occupant & that
A: had not any residue of ye use in him [illegible] ye Case with ye reasons
2: Cro: 201.

3 Rent granted to one & his heires during ye lifes of 2 others his owne life doth not drowne ye lives of ye 2 others 2: Eco: 282.

4 If a man take an estate for his owne life & ye lifes of 3 others he shall have ye benefit of all ye 3 lives to grant ye same over or to charge ye same but not to keep ye same in his owne hands because his [illegible] life is greater to him 1: Bul: 136.

5 If tenant for life [illegible] a fine of lands he is so seised of whereby he should forfeit his estate if he in ye remainder will joine with him in declaring ye [illegible] this is a dispensation with ye forfeiture Sty: 464 vide dissent 1: [illegible] entry.

6 If tenant for terme of life holds in his estate after ye death of Cesty q' vie he [illegible] no dissessor for he was legally in at first he is tenant at [illegible] Owen 47.

7 A man gives land to Js: in ye premisses habendum to him & 3 others for their lives et [illegible] viventium successive: Resolved that ye 3 could take nothing in possession jointly nor by a way of remainder & yet no occupant could be in ye case & yet Js: had estate for terme of his own life only Ow: 38: because he cannot have an estate for his owne life & another where ye interest of both begins at one instant, & ye habendum cannot make a remainder Owen 38: [illegible] have an estate for life & for another life also in present interest for ye greater doth drowne ye lesser but if ye greater be present & ye other future as a Lease to him for life ye remainder to him for another life or a Lease for life & three years over this is good Owen 39.

8 W: leaseth to G: for 21 years if he so long live & continue in his service W: dyes ye Lease is not determined because it is the

act of God: so an Annuity pro Consilio to ye Grantee for his
life is not determined by ye death of ye Grantor Noy 70.
To find a Lease for life they must find, levery & seisin & an 9
expresse deuise for life Noy 118.
Gen.l for life levyes a fine it is a forfeiture or if he makes a 10
feofment in fee ye Lessor may have a writt of ensayal —
terminum qui praeterijt which proves ye by ye forfeiture the
estate is determined 1: Leon: pl: 297.
If ten.t pur auter vie after ye death of Cesty is vie holdeth 11
over he is no disseisor nor gaineth a fee for at first he comes in
by right 2: Leon: pl: 59.
A Lease is made to Js: habendum to him & his Assignes for 12
his owne life & and for ye life of A: & R: Js: dyes judged
a good limitacion for tho' he cannot have a greater estate
of freehold than for his owne life yet he may have to —
grant to another & by his death ye estate is not determined
but occupant conceditur 1: Cro: 182.
Vide what shall be judged of estates limited in perpetuity 13
for life to all ye sons 3: Cro: Moore 171.
A: ten.t for life remainder to his next heir & he hath issue 14
a son & enfeofs Js: with warranty & he hath but an —
estate for life 3: Cro: 453.
Joyntresse for life shall not have birch trees where they 15
are accounted by ye Customs of ye Country to be timber, nor
winfals that have timber, but dotares she may Moo: 813.
An estate to one & his heirs during ye life of A: it is but 16
an estate for life on which a rem.d depends 1: Co: 140: b.

Leet

1 In replevin avowes for ye Amerciam.t in a Leet 2: Cro: 520.
2 Although there be private Leets yet ye Leet of ye hundred may inquire of things omitted by them to be inquired being publique Nusances 2: Cro: 551.
3 Where ye grant Leet hath supiority of all ye other Leets within it 2: Cro: 5[illegible] Plet: 21: vs good matter of Leets & for presentt & amercem.ts in Leets Heat: 61.
4 One said to a [illegible]eward of a Leet in execution of his office you lye he was [illegible] 20.th & accon brought to recover it & held maintainable If any misdemeaned himself in a Leet in an outrageous manner ye steward may committ him Cro: 113.
5 The keeping of a brothel house is inquirable in a Leet Noy 117.
6 In a Quo warranto [illegible] Curia a man may p.t scribe to hold a Leet oft[illegible] than twice in ye year & at other dayes then magna [illegible]ta cap: 35: allowes because ye statute is in ye affirmative 2: Leon: pl: 31.
7 If ye King grant to one to hold a Leet quoliet anno & doth not say ad libi[illegible] of ye Grantee ye Grantee may hold at what day [illegible] will 2: Leon: pl: 99.
8 The [illegible] Dove house or warren is presentable in a Leet Moore 421.
9 Two Leets cannot be in one place in simul: Leet lyes for Amerciam.ts in Leet & not a distresse without Custome vide plus Moore 426 et Patents 40.

Tenant ꝑ le Curtesie —

If Ten.t by Curtesy grants out his Estate & then enters into 1:
religion & the Gr.tee shall have his Estate dureing his naturall
life & if the heir be implead ed dureing ye Life of the Ten.t by
Curtesy he shall not have his Age: Owen: 83:
The mother is seised of Lands had issue two daughters & 2:
Coven.ts to stand seised to Either Eldest daughter in taile
upon Condition yt ye said E: should pay to ye other [illegible]
daughter att such a time 300.l & yt if E: should fall or should
dye without issue before such paym.t then to ye [illegible] said second
daughter in taile: ye mother dyeth E: taketh [illegible] and hath issue
& ye issue dyeth before ye day of paym.t judge ye [illegible] shall be
ten.t by Curtesy & as to ye dyeing without issue [illegible] is not a
Condition but limitation of ye estate. 1: Leon: [illegible]: 288.
Ten.t by Curtesy grants over his estate; ye grantor deviseth it & 3
dyeth this is a void devise & out of ye statute of Wills: though the
Devisee doth enter after ye death of ye Devisor he shall not have
ye land as an Occupant 1: Cro: 58.
If a man makes feoffm.t in fee of ye land [illegible] his wife and 4
afterwards takes an estate to ye wife in fee he shall not be
tenant by ye Curtesy Moore 31.
If one marry an Inheretrix & & hath issue which was 5
borne & baptized and afterwards that issue dyed, though it
was never heard to crye, or if it was borne alive & not baptized
or never heard to cry, ye [illegible] is tenant by Curtesy Bent: 25.
She shall not be ten.t by Curtesie but actuall seisin 1: Co: 197: 6

Affidavit

1 Where Affidavit shall be made for restitution not in B: R: but in Cancell: Moo: 782.

Title

1 An Accon of [illegible] is well maintainable by reason of the possession without makeing any title in it: and although the title wch he makes in it being but an inducem^t to ye Traverse is not formall [illegible] is not materiall 2: Cro: 86.

2 In a possessory Accon there needs noe speciall title to be made & possession is [illegible]fficient ag^t a stranger 2: Cro: 123: vide mons: chas: 10: [illegible] here necessary to be shewen.

3 A replication is good without traversing a title in barre when it confesseth & avoideth ye defts title by a former 2: Cro: 299: Hot: 114.

4 In debt upon 2: [illegible] for not setting forth title because the Accon is grounded upon ye tort for which he demands the penalty of ye [illegible] he needs not make a title & therefore it is usuall yt ye pl[illegible]ing his Accon as firmarius & it differs from the Case of [illegible] of tithes for there he ought to make good title & in debt upon a Lease for years there need no title to be shewn.

5 A man shall never make unto himself a title by a que estate unto a thing which lyeth in grant as to a rent possessor firmarius & good pleading upon 2: E: c: 13: 2: Bul: 228.

An Action Case for slandering a title saying His right & title thereunto is nought & I have a better title than he: Ps Rolles there ought to be a scandall & a particular damage set forth: quod fuit verisimilis vendere is too generally pleaded — Style 169: 176. 6

If one have colour of title to land & saith I have better title to ye land then you though his title be not so good as ye others no action lyeth for saying so: Sty: 414. 7

The plt in suing debt upon obligacon condicon for the quiet enjoying of lands past to him ought to shew that his expulsion was by title 1: Cro: 3. 9

If one joynten agree with ye other yt he shall occupy all the land alone & sow it with his Corne this passeth an interest but if it were in ye negative he would not occupy it is otherwise Cro: 103. 10

When ye Incumbent pleads presentmt by a stranger there he ought to shew ye stranger had title but there of ye plt himselfe or by Collacon or lapse of ye ordinary not Noy 30: 11

One must not plead ye title of another man Winch 2. 12

In all cases when an office is to be traverse one shall be rec to traverse ye title of ye King without making a title to himselfe: In reall Accons it is sufficient to traverse ye title of ye demandant without making title to ye Ten himselfe but in personall Accons it is otherwise 1: Leon: pl: 58: vide 2: Leon: pl: 185. 13

If ye plt have not title according to his declaracon though ye deft have no title at all he shall not recover for that it is not so in trespasse 1: Leon: pl: 297. 14

15 An Accon sur case lyes for slandring my title if ye words be spoken to a stranger as well as if they were spoken to the party 2: Leon: pl: 147.

16 One leaseth lands to ye husband & wife for ye life of ye wife rem^d to ye right heirs of ye husband who makes a feofment to ye said uses: ye husband dyes ye wife is not in by ye Lessor or feoffee but by ye stat[illegible] of uses 2: Leon: pl: 282.

17 If an ignor[illegible] man takes upon him to know ye Law & affirms a Conveyance to be good (in p^r judice to my title) which is not good [illegible] 1: Cro: 34: 1: Cro: 175.

18 Vide good rases [illegible] title ought to be shewed where not 3: Cro: 64: [illegible] vide what words may maintain an action of ye case for sla[illegible] ongoes title: reg^t [illegible] when one in titles a stranger to ye [illegible] so ye proprietor is dampnifyed an action lyes, but [illegible] lyeth not where one doth in title himselfe 3: Cro: 197. (45)

19

20 Title is not [illegible] in trespasse aliter in reall accons Trespasse

21 An action lyes [illegible] for slandring a title, but when it is expressed & not by way of [illegible] gum: for if Gs: hath [illegible] by discent & sells it to D: & he [illegible] sell it to B: & one sayeth to C: in comon discourse [illegible] bastard & B: heareth of it, yet D: shall have no accon, but if he had said to B: take heed how you buy ye Land for Gs: is a bastard Action lyeth 3: Cro: 346.

22 No Accon lyeth ag^t a man for saying he himselfe hath title to my Land though it be false 3: Cro: 428.

23 Where a Covent for quiet enjoym^t is ye breach must be averidy by entry or recovery was by good title. 3: Cro: 675.

(248)

An Attorney discouraged ye buyer who came to him for Counsell 24
no action for slandring his title lyes Moo: 187: (Accon sur case 114.)
He had rather buy ye title of ye younger brother than ye elder 25
& that he had seen an Indenture to lead to ye vse of a fyne
whereby it appeared ye plt had no authoritie to sell ye lands —
Judged ye words were not accionable Yelver:
In an accon for slandering a title some spe[illegible] matter ought 26
to be shewed containing apparent damage to [illegible] plt & upon
generall words, no speciall slander shall be repose, and they
shall be taken meliori sensu: Yelver: 89.
In replevin for taking his sheep in a Com[illegible] deft makes 27
Conusance as bailiffe to [illegible] to whom ye [illegible] be longs &
ye plt pleads in barr ye [illegible] contains [illegible] acres, & leaves
a blank for ye numbers & ye [illegible] is seised of [illegible] acres parcell
of ye Comon & ye he hath Comon for 400 [illegible] ope in ye residue
good though he omitted ye whole numbe[illegible] acres in the
Comon, for he makes no title to ye Co[illegible] but is to recover
damages and there cannot be parcella [illegible] there must be
totum & let ye residue be more or lesse [illegible] matters not
Yelverton 14[illegible]
Tho' in a Declaracon demisit is good with [illegible] alledging seisin 28
in ye Lessor yet when ye deft hath made a [illegible] fitacon
as yt it was ye freehold of A: & he entred by his Comand
it is not enough for ye plt to traverse ye Comand but he
must make a title to himselfe not saying yt A: before the
entry least to him at will but that A: was seised & let to him
at will Yelver: 117:

29 If I have right & having judgemt to recover this to the which I have a right, my right by this shall be recovered. there are judiciall patents which shall revest one in ones antient right, a fortiori a judgemt shall doe it, & where a judgemt & my right meet together, I shall be in my right and this holds though ye Crowne hath a title by wrong 3: Bul: 46: 47.

30 In accon of ye Case for slandr[illegible] his title there must be an avermt of dam[illegible] [illegible] fore to say havens propositu et [illegible] [illegible] are in ye Declaracon as it was adju[illegible], that [illegible] ~~[illegible]~~ such a woman not good If one saith he hath title to my Manor of Dale If these words hinder me not in sale or in setting of Leases noe accon lyes 3: Bul: 74.

31 If one saith [illegible] hath not right to black Acre but ~~[illegible]~~ himselfe yet though he have none it is not acconable 4: Co: 18: a.

Toolle

1 An Exception taken yt ye two bridges are within ye Manor but not all eadyes they are parcell of ye Manor for if they be upon ye Land of a freeholder ye King cannot grant ye toll Bridgw 189.

2 Tents in antient demeane shall pay tolle for their merchandises but quit of toll of all things bought or comeing of their lands 1: Leon: pl: 315.

3 The King by patents cannot discharge one of tolle: and lands held in soccage can only be discharged of tolle 2: Leon: pl: 240.

A grant of a faire cum omnibus libertatibus grants not 4
Tolle v.e plus concerning Tolle & franchises 3: Cro: 558.
Tolle thorough & tolle traverse may be by prescripcon 3: Cro: 5
711.
Tolle is payable of comon right for live Cattle but not for 6
victuall or other ware for for them ye Lord is satisfied by stallage
& pitrage & this incident to ye soile: The King may grant tolle
with a new fair or Market so it be not vnreasonable, & he may
grant pontage & murage [illegible] that erects a new bridge or
wall for it it is for ye [illegible] people Moore 474.
without a speciall Custom [illegible] is not [illegible] forne brought & 7
not sold in ye Market [illegible] 835.

Tithes.

Tithes shall not be paid for any Cattle eaten [illegible] ye family no more 1
than for Cattle reared for pale & plough 1: Cro: 143.
Tithes of fishes taken in ye sea are paid to ye parish of ye 2
parson where they are landed 1: Cro: 192.
Ejectione firmæ of a Lease for tithes appertaining to such a 3
Chappell supposing ye takenig so many [illegible] of wheat
severed from ye 9 parts [illegible] adjudged it would ye well
1: Cro: 230.
Tithes be not payable for fish taken in Rivers except by 5
Pr Richardson 1: Cro: 247.
Upon suggestion grounded upon speciall Customes yt 6
cut for feeding plough Cattle & head lands sowed with Corne
for ye same purpose were not tithable a prohibicon granted
1: Cro: 305.

7 Prohibition upon surmise paying ob for every lamb under 1 & and for tithes of aftermonaths & for tithes of bees granted 1: Cro: 292.

8 Tithes that were in a prior quære if by ye dissolution of Abbies that priviledge was determined or went with ye land to ye King & his Patentee ve bon Case 1: Cro: 305: 2: Cro: 559: 1: Cro: 67: Bridgm: 72.

9 Resolved yt tithes shall be paid for little trees in a nurse rg because they are set to be digged up & sold & are as Corne & Carrot roots 3: Cro: 378.

10 Tithes shall be paid for Kouy 3: Cro: 403.

11 No tithes for houses but by Custome 1: Cro: 423.

12 Wood because it grows in nature of an herb ye tithe thereof ought to be in nature decimæ 1: Cro: 20.

13 of right without any speciall Custome tithes ought not to be paid for aftermonth for tithes shall be paid ex annuatis renovantibus simul & semel 2: Cro: 42: 2: Cro: 116: ac:

15 One may not prescribe in non decimando & it is no surmise in tithe for rough hay to say they gathered it only to give their Cattle 2: Cro: 47.

16 The possession of ye priory of S. John were given to ye King in general [illegible] of all lands & tenements in tam amplo modo & forma as ye Abbot had them & adjudged he cannot hold them discharged of tithes as ye Abbot did 2: Cro: 58: ve ye Case.

17 Trees above 20 years growth which be timber though ye Koppings are cut every 10: years yet they be not tithable 2: Cro: 101. vide leases 8: prohibit: 11: assigne 9.

18 Tithes of birch holly Alders Maple shall be paid although it be of 20 years growth & more 2: Cro: 199.

Tent for 6 months by Lease dated 10: March 24: of August 19
cuts his Corne & ye 10: of September carryes it away though ye
interest was determined before ye tithes carried away yet he
remained owner of ye Corne & if Corne be cut downe though 20
a stranger take it away before severance yet an Accon
lyeth by 2: E: 6: c: aq: Xim 2: Cro: 324.
If one buys Corne standing from ye proprietor of a rectory 20
if he have not speciall words to discharge he ought to pay
tithes & ye carrying away such Corne without ~~paying~~ setting
forth tithes is offence within 2: E: 6: vide ye case 2: Cro: 362.
A horse vsed for labour tithes pd for things remanent would not 21
include such a horse 2: Cro: 430.
Vide a good Case where land shall be held discharged of tithes: & 22
how ye Accon is maintainable not being sued within 40
years 2: Cro: 362.
Vide how to plead a prescription of holding [illegible] a Close in view 23
of tithes 2: Cro: 501.
Tithes of a fulling Mill & Dodderidge that of such things 24
whereof ye gain comes only by labour of men tithes are not
payable 2: Cro: 524.
Tithes of dry Cattle & of such ~~beasts~~ as are plough beasts 25
not payable 2: Cro: 576.
Vide Case well argued of tithes how they may be discharged 26
of a appropriations & ye statute 21: H: 8: c: 27: H: 8: c well
expounded 2: Cro: 609.
Ejectt: firm: of a Lease of tythes & doth not shew it was by 27
Deed & therefore ill 2: Cro: 613:
Tithes of fish which is meerly due by Custome in respect of the 28
Custome shall be tryed by ye Comon Law & see ye difference
[illegible] modus denunciandi which is customary Heat: 13.

29 Tithes of pidgeons & acorns those ought to be gather & sold Heat: 25.

30 If one contract with ye Parson for ye discharge of ye tithes of his lands for years & demises his lands to another yet he shall not have tithes but ye discharge runs with ye land but if one take a Lease of his tithes by deed & makes a demise of his land ye Lessee must pay tithes Heat: 31.

31 A prescripto to be acquit of tithes within Tetick paying 10s. to ye Chaplain of Tretick is ground for a prohibition agt one that [illegible] for tithes of Tretick Heat: 52.

32 Forrest in ye hands of a subject shall pay tithes but ye King hath a Personal priviledge which extends to ye Lessee of ye King but not to [illegible] Parson & Vicar for tithes must sue in ye Ecclesiastical Court Quære between ye servant of ye Vicar & ye Parson Heat: 60.

33 No tithes are due for ye herbage of young Cattle without Custome, but if he sells them before they come to perfection ye Parson will have tithes: he cannot prescribe to have tithes for ye hedging stuffe because yt it preserves ye land out of which he [illegible] tithes vide plus Heat: 85: 86.

34 Tithes of [illegible] Cattle preserved for ye Cart a Custome ought to be allowed on ye Parsons side & a surmise on ye other side: if a man had an antient garden for which he paid a penny & he inlarge it of that inlargement tithes ought to be paid in specie Heat: 94.

35 Tithes of Apples not due till they are pluckt & if they be pluckt by strangers unknown no tithes are due except by neglect I suffer them to hang longer then they should: tithes of Milch Cows let dry for Calves is not due Heat 100.

A Modus decimandi being to intitle ye Court to a jurisdiction 36
being surmised for a Prohibition must be proved certainly yet
if ye modus had been alledged 20s & proved 40s it is good Heat 100.
A Parishioner compounding for his tithes for life must be by 37
deed Heat: 107: 122.
Stovers are not tithable because they are not renewing every 38
year Heat 111: v. ye Case.
Where tythes are by way of demise for more than one year 39
it must be by deed but where it is by Contract by way of
discharge it may be by parole but Cur: for a man cannot
bargain & sell ye profits of beasts which a man hath not in
his owne possession Heat: 122.
The Abbot had a privilege to hold ye land discharged of 40
tithes quamdiu she makes a gift in tail ye Abby is dissolved
3: H: 8: ye Donee & his heirs shall not be charged Heat 133.
Tithes naturally were but ye renew of any ground & not of any 41
labour or industry where it may be devided in [illegible] & tithe of
after month dissallowed Heat: 134: 147.
Wood is inter minutas decimas & alteraquam shall be expounded 42
according to ye use in tithes betwixt vicars & [illegible] ye Ordinary
may increase ye vicars part but not diminish [illegible] Heat: 135.
Tithes of pidgeons that are spent in a mans house not [illegible] 43
Hendon if they be sold aliter: tithe of Hay which grew upon
grounds that yeilded a profit is not tithable for 7 years Heat 147.
Horses for a man's owne saddle not tithable but aliter for working 44
[illegible] 1: Rul: 171.
A prohibition granted where a parson hwells aq. an Inkeeper to have 45
tithes of ye profits made of his [illegible] stable wine sell &c 2: Rul: 141.

46 Tithes whether due to Parson & vicar only questionable in the spirituall Court 2: Bul: 157.

47 Where 2 interests are conjoined in one & ye same person simul & semel as if one be Lessee of ye ars for a parsonage & of other lands also within ye [illegible] sowed with Corne & before severance he sells ye Corne [illegible] in law being owner of ye lands & not of ye tithes these are two distinct interests & stand together without any suspension 2: Bul: 148: fee without words are necessary to discharge tithes: ibid: 184 [illegible] is not tithe before severance ibid: but ye Dedrige ye profit growth not by ye severance but ye severance gives him only a Lay interest 184.

48 Barren Cattle for ye plow or pale not tithable unless it be averd ye they were fatted & sold away: tithe of broome if ye land be not averred to be sterilis vel modus decimandi 2. Bul: 240.

49 If there were a prescripcion of modus decimandi for land when it was a parke & after it is disparkt & improved ye prescripcion for ye modus shall continue 2: Bul: 240.

50 He which takes any thing as a profit apprender is not tenant or occupied [illegible] takes ye profits he is to pay tithes & how to plead to be discharged of tithes as a farmer [illegible] tenant &c 2: Bul: 249

51 A whole County may be discharged of tithes but this ought to have a lawfull commencem: by way of Composition: if land being under timber (which is not tithable) be meliorated it shall pay tithes 2. Bul: 265.

Tithes which lye not within any paroch are due to ye King: yet 52
Lands lyeing within a forrest & in ye hands of ye King do not pay
tithes tho' within a paroch: but if ye lands be disforrested & be
within a paroch they must pay tithes for it was but a temporary
munity Sty: 137.

Upon debt recovered of a Parson if ye tithes are [illegible] dable 53
by Elegit Quæ: a Parsonage cannot be extended [illegible] ye debt
may be levied out of ye profits by ye sherriffe Sty: 167.

Where rights of tithes are in dispute ye Comon Law shall 54
take place but not where ye tithes themselves are in dispute
they are meerly spiritual things & exempt from lay
consideration Sty: 169.

Tythes belonging to a rectory cannot passe by ye name of a 55
portion of tithes Sty: 270.

One had a parke & paid for ye tithes a [illegible] it was disparkt 56
& turned into arable resolved he need pay no other tithes but ye
[illegible] for though they are not tithable they may be paid by
Composition: Patridges & pheasants in a garden are not tithable
Owen: 35.

A parcell of ye glebe is set reserving rent: tithes of it must 57
be pd notwithstanding it was pro omnibus exactionibus et
~~[illegible]~~ demandis for tithes is not issueing out of ye land but
is a thing collateral: if a Parson release to ye parishioners all
demands in ye land ye tithes are not released Owen 40.

paid no tithes for lands quas propriis manibus 58
excolunt but if they let it to farmers then they were to pay tithes
by Stat: 31: ii: 8: of monasteries: judged ye Queen & her farmers
shall hold ye land discharged so long as ye Queen hath ye freehold
[illegible] Owen 46.

59 The pope endows a vicar quod habebit tertiam partem
decimarum bladorum et feni provenientem de Manerijs de
sale judge he shall have ye third part growing upon the
lands of ye freeholders for it cannot be without freeholder.
Owen 59: Hannor 16:

60 A Church in which in which ye Parson had ye great tithes
& ye vicar ye small a tempore quo &c and for 40: years
past there was a Close that ye Parson had ye tithes of it
being 20 acres of corne & now ye fields is sown with saffron:
judge ye saffron heads are small tithes: The parson
prescribed pro modo decimandi to be pd 3s: 4d for a parke
& tho' it was afterwards converted into arable yet no other
tithes shall be paid: ye difference is when ye prescripcon is to
pay so much monies for all tithes & when to pay a Doe at
Christmas for there if ye parke be disparcit tithes shall be
paid for tithes are not due for venison Owen 94.

61 W: in consideracion of 20th pd by B: sis agree yt he & his
Assignes should be discharge of tithes during ye time that he
should be pd B: makes a Lease to N: W: libels against
him & N: prayes a prohibicon upon ye 1: contract: Resolved
this being by words only amounts only unto a cause of Accon
upon a promise for B: but no cause of Accon for his Lessee
tithes cannot be least without deed so they cannot be
release without deed Owen 103.

To prescribe to pay ye 10: part of Corne for ye Corne & the 62
hay that grows upon ye head lands is not good modus —
dermiandi: for ye 10: part is due for ye Corne Noy 15.
By ye Civil Law ye Parsoth ought to give notice to ye parson 63
when tithes are set forth but not by ye Comon Law Noy 19.
One may compound for tithes with ye parson for one year — 64
without Deed Noy 28.
The use of ye Country for scarsity of ~~[illegible]~~ timber alter the 65
case in tithes of trees Noy 30.
The parishioner not bound to guard the tithes of ye parson 66
but if ye parson carrie them not away in a convenient —
acc: of ye case lyes ag.t him Noy 31.
Parson makes a Lease of his glebe of 13 ℔ ann pay 13s. — 67
rent ye Lessee shall pay ye tenths to ye Le[illegible] but not if it
had been a rath rent Noy 35.
After ye tithes are severed if any stranger takes them 68
away ye parson hath his remedy ag.t him at ye Comon —
Law & shall not sue ye parishioner in ye spirituall Court
Noy 44.
The parson may sue for modus dermiandi in ye spir: Court 69
but if the parishioner denyes that they [illegible] to surcease
for that is tryable at ye comon Law Noy 81.
A Lease of tithes for a year by ye Impropriator without 70
Deed is not good otherwise of a Lease of tithes ~~by~~ for a
year by ye parson himselfe Noy 89.
By ye Comon Law ye parson cannot have tithes of fishes 71
taken in ye sea for it is not within any parish & when ye parson
by ye Custome ought to have tithes of them he ought to —
take them according to ye Custome Noy 108.

72 An agreem^t betwixt ye parson & parishioner for his tithes for years may be without deed, otherwise for life & it is better to plead it as an agreem^t then a Lease. Noy 121.

73 If ye parson of a Church which is not impropriate leases his glebe ye Lessee shall pay tithes but aliter of an impropriate Church Noy [illegible] A Copyholder [illegible] Parisiance may prescribe in ye name of [illegible] to be [illegible] of tithes. Noy 132.

74 Debt lyes on [illegible] 6:c:13: for fraudulent setting forth of tithes. Noy 132.

75 If tithes [illegible] ye parson or vitar is meerly spirituall Noy 147.

76 A prohibition [illegible] for suing of tithes in kind of a parke now converted [illegible] tillage upon a surmise [illegible] decimandi to pay a [illegible] tithes. Though [illegible] nature they may be given [illegible] tithes & [illegible] they may be given for a modus decimandi: that that is a discharge to ye very soyle & ye owner may furnish it with [illegible] when he pleaseth: That such a modus decimandi generally for ye parke is not good if it be disparked but it shall be particularly for all acres contained in ye parke Noy 148: Hutt: [illegible]

77 A parishioner [illegible] privately sets forth his tithes & takes witness thereof & after privately carry's them away that is not a setting forth within ye statute: A parishioner sells his grain the parson shall not be compelled to sue ye vendee Noy 152.

78 Those things that are minute decime in their owne nature may be majores decime if all ye profitt of ye parish consist

therein: Now things as saffron hopps wood if by materiall —
ye contrary is not omitt are unius te decimie —

Hutt: 70.

Tithes of Corne by antient composition may appertaine to the 79
Vicar here he prescribes ye parke being disparkt to have plea buck
& Doe in satisfaction of all tithes due to ye Vicar: To pay buck —
arising out of ye parke [illegible] ye parke [illegible] destroyed
his owne prescription: [illegible] of land
& ye appellation may not pay tithes but ye land [illegible] Winch 2:
46: well argued.

Of Cows for ye Dairy & beasts for ye plough notice [illegible] Winch 33. 80

Tithes shall not passe as appurtenances to a Grange for they 81
are of severall nature except that ye Grange [illegible] glebe for if it is
ye rectory may [illegible] that name Winch 72.

If a man keep [illegible] one parish untill [illegible] & then 82
[illegible] shall pay ye tithe wool
to ye parish where they were depastured in ye greater part of the
time of ye growing of ye wool Lane 16.

Or a perpetuall union of [illegible] charged is a suffit 83
discharge of ye tithes & a prescription may be well enough to be
discharged of ye [illegible] tithes Lane 14: v.

If a Copyholder of ye King's Manner [illegible] prescription for 84
modus decimandi ag ye parson ye right of ye tithes shall be
[illegible] in ye Exchequer Lane 39.

[illegible] between parson & Vicar where ye King is patron of the 85
Vicaridge: suit may be in ye Exchequer for these tithes by English
[illegible] or by Action in ye office of pleas for ye King is supreame
Ordinary Lane 100.

86 18: El: c: 6: well explaines ye tithes of comon right & not customary tithes are intended 1: Leon: pl: 25.
Tithes will not passe by grant without deed: in divers respects they become a Lay fee & a fine may be levyed of them: but Lu: if devisable by [illegible]: but no prohibition shall be granted on such a surmise for whether ye party hath right or no right to ye tithes ye [illegible] of comon right ought to pay his tithes & the ought to sever them from ye 9: parts & whosoever takes them ye farmer is discharged 1: Leon: pl: 29.

87 Where ye matter [illegible] betwixt 2 spirituall persons & ye right of tithes ye spiritu[illegible] shall have jurisdiction 1: Leon: pl: 76.

88 If a parson be [illegible] to find a parish Clarke & such a summe hath been used to be [illegible] to ye parish Clark in discharge of the parson it is a good prescription 1: Leon: pl: 122.

89 A Custome [illegible] ye parson shall have ye tenth land sowed with any [illegible] of Corne & he shall begin his reckoning on that land which is next ye Church: ye parishioner sowed this 10: land with small & thin Corne & unmanured: judges a void Custome & if [illegible] of ye Case would lye for ye fraud which shall not [illegible] paym[illegible] of tithes 1: Leon: pl: 127.

90 Who shall have ye tithes parson or vicar belongs to ye spirituall Court modus decimandi not so: 1: Leon: 174.

91 The parson in consideration A: promises & agreed to pay 10[illegible] yearly during ye terme promised he should hold his land without tithes or any suit for ye same it is a good composition & not like a Covent 1: Leon: pl: 208.

Altho' ye speciall manner of discharge of tithes be not set 92
downe as by composition unity of possession priviledge of order
yet it being proved by old persons yt ye monastery paid no tithes
wee ought to suppose it was discharged by lawfull means 1. Leon:
pl: 325.

The prescription de non decimando is good in ye Case of a 93
spirituall person but not in ye Case of a Common person neither is it
interrupted by ye seisin of a common person being regranted to ye
bishop for tithes are not issuing out of ye land neither can
unity of possession extinguish extinguish them nor a release of
all right to ye land 1. Leon: pl: 336.

Tithes when they come into temporall hands are liable to a 94
temporall charge but where they continue spirituall without
particular words they shall not be charged on ye secular: —
otherwise of glebe land Herus reading upon [illegible] pl: 99.

Tithes are not things issuing out of lands or any secular duty but 95
spirituall & if ye pason doth release to his parishioner all
demands in his lands his tithes thereby are not extinct 1. Leon:
pl: 411.

What unity of possession shall be a discharge of tithes within 96
31: H: 8: c ye Case is a Prior was seized tim[illegible] of mind of a
Rectory impropriate B: in ye County of N: & of ye Manner of
B: in ye same parish untill ye dissolution and yt yesse Prior
were yesse land discharged of tithes & yt it being surrendred to ye
King he held it discharged of tithes & ye King granted to A: the
Manner & to S: ye Rectory ye Question is A: shall hold the
Manner discharged of tithes 1. Leon: pl: 464.

97 One prescribes for eating of green tares for ye fodder of their draught Cattle because they want meadow & pasture & it was holden good see more 2: Leon: pl: 30.

98 A prescription for ye 10: shock of all Corne, Hay upon the head ridges & rakings was allowed, for ye Civil law gives yet for ye pains in cutting &c it may well be prescribed 2: Leon: pl: 93.

99 A Parson in consideration of 12d grants to one of his parishiend yt he should holde his lande discharge of tithes: It is no discharge being without deed: but though this grant cannot be pleaded as a Lease might yet assumpsit will lye 2: Leon: pl: 98.

100 A wood of Cordon right ought not to pay tithes not because ye sorte yeilds other tithes of herbage but because non renovantur in annum: & therefore no consultation shall be granted of quarry stone & coales: but by ye statute of Sarum they shall be granted de sylvis cædua: that statute is explained by 45: E: 3: c: 3: not to extend to great wood of ye growth of viginti annorum et amplius & if ye trees be not cut within 20: years before no tythes shall be paid: and of fagots where ye greatest part of them is oake & ye rest & rows minimi valoris tithes shall not be paid 2: Leon: pl: 105.

101 Tithes shall be paid of birch & of oake & elme cut down before ye age of 20: years 3: E 20: 1.

102 If one cut trees which are or may be timber trees tho' they be under ye age 20 years no tithes are due: and so if trees of that age be cut & new germins grow no tithes due though they be cut under that age 3: E 20: 55.

The officer of ye bishop which is to demand ye tenths on 26: 103
H: 8: c: 3: ought to be authorised to receive them for he cannot
appoint them to be paid at another place; or to another person
for ye parson is to pay them at his house 3: Cro: 81.
A grant for life of tithes without deed is not good, a lease for 104
years of tithes without deed is good: The parson in consideration
of 5^{li}: pr kini agrees yt B: & his Assigne shall holde ye land
discharged of tithes during ye life of ye parson Qu: if upon this
agreement prohibit. lyes 3: Cro: 188.
A house in London that was part of ye possession of a priory 105
that was discharged of tithes ~~without~~ yet by 31 H: 8: c: 2: shall
be charged for tithes because ~~[illegible]~~ yt
before that statute no dwelling house was chargeable by
tithes because no profit arisetk out of it 3: Cro: 276.
If ye parson ~~[illegible]~~ sue for tithe of hay, it is no plea in discharge 107
of them to prescribe yt ye Owners of ye Land [illegible] find straw for
ye body of ye Church for ye parson had no benefit by it but
aliter if ye parson had a seat in ye body of ye Church 3: Cro: 276.
No tithes are due of a Quarry of stone or slate for ye parson 108
may have tithes of ye grasse or Corne that growetk on ye
surface of ye ground 3: Cro: 277.
Tithes cannot be parcell of a Mannor & though ye King 109
may have tithes, yet he hath them not as a layfee one
may prescribe to have decimam pro tem grauorum but not portionem
decimarum 3: Cro: 293.
The right of tithes between parson & vicar is tryable only in 110
ye Court Christian 3: Cro: 309.

111 That they usually paid ye 10: fleece for all wooll & lotts is a good suggestion for a prohibition: but ye 10: sheafe in satisfaction of all Corne & rakings: for ye rakings is as good as ye Corne 3: Cro: 363.

112 It is no good prescription to be discharged of one title for ye paym^t of another for some what ought to be paid for ye title of every thing that is due, Tithes must be pd for Agistm^t of Cattle, if not agisted for provision of ye house 3: Cro: 446.

113 A parsonage & vicarage to one Church ye parson had ye greater tithes & ye vicar ye small and a feild that for 40: years pd ye parson being now sowed with saffron, the vicar demanded them as minutae decimae & judg^d for ye vicar 3: Cro: Reding fells.

114 The bishop presents for non decimando for him & his tents & ye party was discharged of paym^t of tithes 3: Cro: 511.

115 Lands overflown & recovered & grown up & shall pay tithes immediately notwithstanding 2: E: 6: c: 13: Tithes for one thing cannot be tithes for another ibid: 3: Cro: 475.

116 Trees above 20: years not to pay tithes nor ye topping though they be lopt every seaven years & ye body being discharged ye branches shall be 3: Cro: 477.

117 Tithes not to be pd out of Glebes but if ye vicar be endowed to have ye small tithes & ye parson makes a Lease of his Glebe lands the Lessee shall pay ye small tithes to ye vicar Ecclesia decimas solvissie non debet 3: Cro: 479.

Lands discharged of Tythes att the tyme of the dissolution 118
or att time of Appropriation shall be soe held by the
Patentees or Grantees for the Priviledge runs with the
Possession 3 Cro: 578
A Lord may prescribe to have the 10 shocks for he hath it 119
as a profit apprender as a thing appertent to his mann.
& not as Tythes for a Layman cannot have Tythes by
prescription but Tythes cannot be [illegible] a mannor
& therefore one cannot prescribe to have decimas Garbam
but decimum Garba 3: Cro: 599.
By setting out of Tythes the yare become [illegible] chattles 120
for which ye parson may have his remedy at Comon Law by
trespasse but ag. ye party himselfe that sets [illegible] ye tithes a
suit is maintainable in ye spirituall Court if he detaines
them 3: Cro: 607.
Hewell expended in ye house not tithable to pay the 10: 121
theese for tithe milke a good prescription for it comes of
labour but not good to pay ye 10: part except at ye parsons
house 3: Cro: 629
Debt on 2: E: 6: c: 13: not guilty pleaded & not non debet & 122
good for this Action being founded upon a statute upon
a wrong done ye issue is well joyn'd but an Action for him
selfe & ye Queen upon this statute is not good 3: Cro: 621.
The suit for treble value upon 2: E: 6: c: 17: for true 123
paymt of tithes may be brought at ye Comon Law 3: Cro:
608.

124 Tithes not to be paid for after month, nor rakings without
averm^t they are foul or covenous 3: Cro: 660.
125 Prescripcon for rakings minus voluntarie dispers^t he needs
not aver they were minus voluntary for that ought to come
on ye other side Wooll is due de jure when ye sheep are
clipped but by prescripcon it may be set out at another day:
young Cattle rear^d for paile & plough not titheable for the
parson hath [illegible] of them in another kind 3: Cro: 702.
126 The Copyholders of ye Manner of Bishop cannot prescribe to
hold ye Lands discharge of tithes 3: Cro: 704: sed vide 3: Cro:
475: et 511.
127 Let good prescripcon to pay a sume of money for all ye tithes
within ye Manner and that by a que estate 3: Cro: 763.
128 Prescripcon for Copyholders of a Bishop to be discharge of
tithes good 3: Cro: 784.
129 How to plead a [illegible] for ye tithes of dry
Cattle 3: Cro: [illegible]
130 Tithes cannot be [illegible] of a Manner & therefore cannot be
granted by Copy [illegible] Manery 3: Cro: 814.
131 If ye parson makes a Lease for years of his Glebe, ye Lessee
shall pay tithes. The Lands of Abbye [illegible] if they were not
parcel of Glebes shall be chargeable with tithes in ye hands of
ye Kings Patentee [illegible] chargeable & they
were not discharged in ye hands of ye Abbot but only by ye unity
of possession: But if they were discharge de jure by composition
then they shall be discharge Moo: 46.

What vnity shall not extinguish but suspend titles by ye Comon 132
Law Moo: 5[illegible]
Decimā Garbā by prescripcion good for titles & rat. gs Moo: 278. 133
Copyhold Lands appertaining to a Monastery is not discharge 134
of titles by vnity of an Abbot or prior vere seised of lands that
discharge of titles he that is now farmer by 2: F: 6: c: 1: & 31: H: 8:
~~[illegible]~~ c: (may prescribe
in non decimando Moo: 219.
Vnity with prescripcion or composition is [illegible] but to discharge 135
titles ℔ 31: H: 8: c: 13: & no Consultacion [illegible] been ever
granted on perpetuall vnity Moore 420.
The Bishop may prescribe yt his predecessors their farmers & 136
tents of the temporall lands have held the lands discharge
of titles: but a temporall person cannot prescribe in non
decimando Moo: 425.
Fenny land drained shall pay titles & is not within ye statute 137
of barren lands to be ~~[illegible]~~ Moo: 480.
Dismes for one thing only cannot be in satisfaction for the 138
titles of ye same thing & for ye titles of [illegible] things of
another kind & [illegible] where titles shall [illegible] of barren
cattle feed to be sold & a Consultacion dummodo non agatur
Moore 454.
The Case of ye title of Mills was never yet judicially determined 139
if any be it is no personall title [illegible] from ye game of ye Miller
by his labour: some hold ye [illegible]
disk as a prediall title 2: Instit: 621: upon suggestion of a
modus to be pd of a Mill prohib: granted No personall title by

140 ye statute is to be paid for Mills but where by speciall usage ye same hath been pd, & not otherwise: A modus shall not be allowed to a new erected Mill for ye ~~[illegible]~~ antient Mill it shall be allowed 3: Bul: 212.

141 Of first fruits & tenths Ecclesias: they are ye first fruits after avoidance of every spir: ~~[illegible]~~ Living for one whole year they are given by statute to ye Crowne: now within ye survey of ye Exchequ under a [illegible] of ye Remembrancer of ye first fruits Eccles: Kings were sometimes relaed by a book of taxacon made 20: E: 1: and by another 26: H: 8: both in ye Exchequ: what pope first imposed them in certain: but afterwards ye popes Nuncio & Collectors forbidden to collect them: Canonists say they are jure divino but our Parliaments aliter 4: Instit: 120.

142 Dubitatur if ye Kings Patentee shall hold discharges of Tithes the ye King dies 2: Car: 67.

146 Unity of inheritance with occupacon is not a perpetuall discharge If one prescribe to Ragmonies in satisfaccon of tithes he may give in evidence ye he himselfe being parson hadretaine the money: for this retainer shall be payment to himselfe Moo: 527.

147 Tithes not to be paid of Beeches above 20: years nor of decayed oakes the converted to fire-wood Moo: 541.
How tithes at first concent (2) what manner of discharges of tithes were at ye Canon Law before ye statute (3) The words of ye statute as they relate to discharge by unity Moo: 530.

148 Tithes not payable of Turkeys or their Eggs or of tame Partridge or Pheasants quia fera natura Moo: 599.

To prescribe ag^t tithes of after month, it is not enough to make 149
ye first Crop in little Corps Cocks, aliter to make it in great
Cocks Moo: 756.
The Parson cannot prescribe ag^t ye composition made by 150
ye vicar for things allowed to ye vicar by composition Moo: 761:
et 780.
Loppings of trees above ye age of 20: years not tithable 151
for ye branch hath ye privilege that ye body of ye tree hath
& it is not material if it hath been lopt usually within
20: years or not Moo: 762.
A Bishop seised in fee of tithes in ye right of his Bishop 152
made a Lease for 3 lives of them rendring ye antient rent
ye tithes having being antiently set for ye same rent, ye Lease
binds not ye successor because there is no remedy for ye rent
by distress or debt aliter if it had been a Lease for years
Moore 778.
Prohibition was sued in a modus decimandi in a parke (vizt) 153
vizt yt ye vicar shall have 2^d. yearly for ye shoulder of
every three Deere within ye parke, ye parke was
disparkt & ye vicar sued for tithes in kind quere if prohib:
lyes Moore 863.
Modus decimandi yt he hath pd 10^d. yearly to ye vicar 154
for all tithes of wood, where ye right of tithe is between
ye parson & vicar ye Court Christian shall trye it Moore
907: yet vide Ehid: 907: pl: 1268: dubitatur.
If in a modus decimandi tho' to ye vicar if a Consultation 155

shall not be granted because ye Court Christian will not allow a modus decimandi Moo: 907.

156 Small oakes vnder 20: years of age fit for timber in future shall not pay tithes, no tithes of dotard nor of branches of trees of 20: years growth: where tithes shall be paid of Loppings & where not. A Clarke & removeable cannot prescribe for tithes Moore 908.

157 Tithes payable for pidgeons, saffron is inter minutas decimas: Tithes of a parke that is disparkt shall be pd according to ye old modus, what land shall be said barren, & not to pay tithes within 7: years within 2: El: 6: c:

158 Of dry Cattle & depasture tithes, but for Cattle for plough or house none, a penny for every milch Cow shall not be in satisfaccon of more than ye milch Cow, & not in satisfaccon for other Cattle: tythes not to be pd for fewell spent in ye house Moore 909.

159 Tythes of after youth and rakings, ye vicar shall not have tythes of ye glebe without speciall words, but if ye person loose ye glebe the vicar shall have minutas decimas & ye Lessor ye great Tythes 910.

160 A good Custome to pay a halfe penny for ye wooll of sheep that are sold: a prescripcon to be discharge of Locks of wooll ought to be shewed of Locks casually lost Moo: 911.

161 Nodwelling house by ye Comon Law is to pay tithes Moo: 912.

Suit lyeth at Comon Law ag^t a stranger that takes away 162
tithes set forth.
For setting out of tithes ye baron & feme may joyne & ye 163
Action lyeth in the temporall Courts Moore 912.
Custome ye ye patron shall have every 10th Land for tithes 164
Moore 913.
No Tithes to be pd for Hedge poles Moore 917. 165
If two Persons have porcons of tithes by halfes in one parish 166
they need not devide ye tithe but only set out ye 10th for if ye
tithe were of a Lambe the parishioner cannot devide it
Latch 24.
What Lands shall be discharged of tithes by 31: H: 8: c: 13: 167
which were discharged quamdiu in manibus proprijs suis —
excoluerunt, Et vide ye nature of those [illegible] of templers
& Hospitallers, that they were ecclesiastical as well as
religious Latch: 89.
A Parson & parole least his tyth have to ye vicar paying
who paid it the first year, but finding ye bargain hard
refuses to hold ye bargain longer: agreed he may be sued
for ye rent in Court of Requests, notice of ye refusall
not necessary, for it is a void Contract & ye vicar hath
no remedy to recover ye tythes, but ye parson hath ag^t
ye tents if they set them not out or ag^t a stranger that
takes them being set out Latch 115.
A Parson may sue pro modo decimando in ye Court Christian 168
as if ye parishioner will not put his tithe in Cocks when he
ought by the Custome. but then ye suit must be speciall for

not putting it into Cocks & not generally for not setting them forth Latch 125.

169 The parson sues upon a modus decimandi alledging a Custome to have 2s: for every house, if ye Custome be denyed they cant try a prescripcon & if ye modus be denyed they cannot proceed Latch 210.

170 That is a good Custome in tithing where the parishioners doe more than of comon right, for abatemt. Latch 226.

171 The parishioner is not bound to sett out ye tithes by moietyes tho' they belong to severall parsons but ye parsons must devide them amongst themselves by 2: E: 6: c: Latch 228.

172 If ye parishioner had three Calves he shall pay 1s. for the tythes of them if 7: Calves one Calfe: the parson sued for one Calfe because he had 3: one year & four another Prohibition granted Latch 254: If ye parishioner sell sheep, ye parson shall have allowance of ye tythes after shearing ibid:

173 A Composicon for tythes for years may be without deed-ulitor for life Yelver: 95.

174 Tythes cannot be granted for life to comence from a day to come for tho' they be spirituall things ye thi Conveyance they must pursue ye nature of other Hereditaments Yelv: 132.

175 The Pope discharged an Abbot from paying of Tythes of Lands and where ye Bull was yt ye Land should be discharged dumode it was in their proper hands, if it be in ye hands of a farmer he shall pay tithes, but when ye Lease is finished the Patentee shall have ye same benefitt as ye Abby had Benlow 148.

Tythes not payable of Conyes, qui sunt fere naturæ Benl: 176
144.
The Court doubted if Oade was inter minutas dominas — 177
Benlow [illegible]: 139: Oade shall pay tythe Benl: 159. 178
All lands by comon right are to pay tythes & may be discharged 179
by prescripcon (2) by reall composicon (3) by priviledge of order
& this priviledge is obtained (1) by ye popes Bull (2) by a gtt
Counsell vide plus Benl: 163: Popham 156.
One exhibited a Bill in ye Exchequ Chamber upon 2: E: 6: 180
c: 13: to have trible value for not setting forth tithes the
bill lyes, for he hath his remedy in ye Court of pleas in the
Exchequ, and there shall be no proceedings according to ye
order of ye Exchequ Chamber in case of Conscience upon
any penall statute 3: Leon: 204.
No tithes for Coale digged out of a Mine or stone out of a 181
quarry 3: Bul: 114.
Land shapte natura barren & if one gaine Land from the 182
& with great Costs makes it arable he shall pay tithes
3: Bul: 166.
A modus betwixt me & ye parson will not discharge 183
me from paym of tithes as to ye vicar 3: Bul: 220.
The parson libels for a modus decimandi not paid, the 184
ptie suggest another modus, which suggestion ye spirit:
Court refused to receive ppd oddrige if there be a modus
& ye parson libels to have tithe in kind & ye modus is
suggested prohibicon lyes but aliter in that case, Haughton
Justice contra quare lege 3: Bul: 241.

185 Tythe of neck fleeses demanded & because it appeared
yt for exemption from this they use to bind up ye other
fleeses at their owne charge a prohibition was granted
3: Bul. 243. plus 769.

Value & Valuation

1: That the 8.^t value of a Church shall be according as it is
valued in the valuation of the benefices & not according to
the true value as it is upon the improvement from the
Statute 1: E: 6: c: 14 intends at as it was valued in the antient
books of first fruits & tenths which was taxed 29 E: 1:
shall not render it value more than the Land was att the
time of the Warranty 1 Cro: 329:

2: Five peices of Pewter it matters not what they be for it is ad
valentiam which makes the value certaine enough to the
jury: Sty: 102:

3: In Trespass Quare Clm fregit & he declared for pulling down
his house & sheweth not the value of it, it is not necessary, the
Action being a Reall Action Sty: 385

4: The value of the Church for plurality by 21: h: 8: shall be
accepted to the very of the Church Noy 38:

5: Value of Jewel is according to the estimation of the buyer
valoris & pretij see the difference:

6: In Trover the Jury find the taking a Cart loade of Wheate
to the value of 20.^s & doth not mention to what damage ad
valentiam is not sufficient: Lane 98:

7: Before the Statute quia Emptores terram a man made a
Proffment in Fee inter alia to pay post quamlibet vacationem

aut alienationem the value of the antient profitts of the Land: the value intended shall be the value att the time of the Feoffment made & not as it is improved by succession of time 2: Leon: pl: 548:

The antient value of the Land shall be intended more then the rent reserved 2: Leon: pl: 578: 8:

Where an order was made that such an One should have the meane profitts & Issues of the Lands the party shall not have ye Corne growing on the Land by the Manurance of another but the value of the Land as it might be leased 3: Leon: 574: 9:

Express mention of the value of the Lands ought to be made to the King where the value is certaine 3 & 33: a:

View

In Wast if the Issue be upon a collaterall point yet ye Jurors ought to take the view of the place for the Damayes given tho the Wast be confes'd for the Issue is tryed by ye verdict, but otherwayes upon a Demurrer the Jurors ought to have the view of every parcell None of the partyes may disswad the Jurors from makeing a view: Noy 5: 1

In Quod permittat after imparlance the deft demands the view & it was de Tenementis predictis which was as well of the Lands to which the Nusance as of the Lands which was the Nusance & the view in this Action is but for 15 dayes, Hutt: 28: 2:

The Demand. Counterpleads the view in Gower Quod le Tenant had lutry nife pr le baron good & the Ten. was ousted of his view Hutt: 44: 3:

In a Writt of Right of the Mannor of R. & de duabus partibus 4

Custodie Forrestae de C. ye Tent. had the view of the Rector ne was visu Manerij of duarum partium Custodie, yet was held an insufficient view for the whole Forrest ought to be put in view: where a Tent or Comon is demanded the land out of which ye Tent or Comon is goeing ought to be put in view: Leon: pl: 96:

5: In an Action of Waist of Waist assigned in a Wood the Jury viewed the Wood only without entering into it: but if Waist be assigned in severall Corners of the Wood, then the Jurors is to have view of every Corner: If Waist be assigned in every room of a house the view of the house generally is sufficient: If Waist be assigned in ~~every~~ severall places ~~of the Rome~~ & of some of them the Jury had not the view, of that they may find not Waist done: Leon: pl: 359:

6: View is grantable in Curia but not after implance in a Writt of Secta ad Molendum after implance view hath been granted. Moore: 32:

7: After a verdict in an Assise the Party cannot alledge that the Jurors had not the view. Moore: 68:

8: If a man will demand land from a Tent. in Comon all the land must be put in view: Moore: 86:

Upper Bench

1 Ve ye Ceremonies in makeing ye Lord Cheife Justice 1: Cro: 292:

2 The Court of Requests determineing matters of Legacyes or drawing things ad aliud examen this Court may well prohibit that & other Courts from holding pleas of such things for this Court is to take Conusance of all other inferior Courts & to correct all Errors & proceedings therein.

wee may prohibit other Courts to hold plea of that which 3
yet wee cannot hold plea of ourselves, note much here of the
jurisdiccon of this Court in prohibicons &c 2: Bul: 207.
Vide concerning ye Attorneys & priviledge of this Court in suing 4
& being sued 2: Bul: 207.
Coram nobis generally is to be intended in this Court 2: Bul: 235. 5
Latitat in ye Upper bench is in ye nature of an originall Sty: 156. 6
This Court hath jurisdiccon over all ye Courts in England in 7
writts mandatory & an Act of parliamt takes not away the
power of this Court if it be not in ye negative but in writts
remediall it is not so generall Sty: 255: vide prohibit: 57.
This Court is a Superintendent of all Courts Sty: 285. 8.
The party being in custod: Mares: may be proceeded agt by 9
bill Sty: 382.
This Court hath authority to keep other jurisdiccons in good 10.
order Sty: 417.
A: had ye Grant of a town Clarkship in reversion & he in 11.
possession dyes & one Joy was admitted to ye Office & A: had
restitucon: ye Kings Bench hath jurisdiccon of such causes
Comon Bench cannot write to ye justices of ye Kings Bench 12
for to certifye a record 1: Leon: pl: 114.
In case of felony ye Kings Bench may award a Committitur to 13
ye fleet or any other prison Moore 666.
If ye deft plead in barre ye plt may not be compelled the 14
same terme to put in his replicacon, but upon mocon it may
done in another terme for if then he faile a nonsuit shall
be entred Latch 129.

15 The Kings Bench is ye fountain of all Loets Latch 198.
16 Erroneous judgment given in ye Cinque ports cannot be reverst in ye Kings Bench but in ye Court of ye Guardian of ye Cinque ports 160. (116)
17 The Kings Bench hath ye survey of all other Courts 3: Bul:
18 This Court (viz ye Kings Bench) hath power to prohibit all other particular Courts which doe hold plea by reason of their particular jurisdictions or if they have a gen^l jurisdiction by Act of Parliament if they doe exceed their authority they are by ye Comon Law to be prohibited by this Court 3: Bul: 119.

Vtlary

1 An Outlary reverst by Error or avoided by plea is all one within ye statute 21: Jac: 16.
2 Pl Crooke where an Outlary on assumpsit is not reverst by Error but avoided by plea ye first originall is not determined but ye plt may proceed on it still ibid: 1: Cro: 115: vide tryall 4: supersedeas 2: Execution 44: Shep: Epitom: 1079: Dr & Stud: lib: 2: c: 3: fo: 62: b:
3 The Capias was 5: 3: men & 2: women & so ye exigent & the returne was quod ad & non comparuerunt & saith not nec eorum aliquis comparuit and it is error: 2^d it was returned vtlagati existunt & ye women ought to have been waviatae existunt Error 2: Cro: 398.

Audit: querela to avoid a statute upon usury ye deft plt quod 4
respondere non debet because he was outlawed, and this suit is
only by way of discharge & to recover nothing yet it was held —
pleadable 2: Cro: 425: for a person outlawed is not receivable
in any Court to sue only to reverse his own outlary ibid: querens
nil capiat pr breve contra 2: Cro: 616.
The Court ex speciali gratia upon affidavit yt ye outlawed 5
person was sick allowed him to appear by Attorney but ye Clerke
was comanded to enter it quod venit in propria persona 2: Cro: 462.
If a man committs a murder and after Exig: awarded he flyeth out 6
of ye Realme & after is outlawed he shall not reverse this outlawry
for that cause for he departed destinato consilio 2: Cro: 464.
An outlary reverst because it was returned after ye quinto exactus 7
ideo utlargatus est & doth not say pr judicium Coronatorum 2: Cro: 521.
One outlawed upon a quo warranto agt him for keeping of an Inn 8
reverst it because he was outlawed pr judicium Coronatorum & he
doth not shew ye name of any of ye Coroners 2: Cro: 528.
Ye Error allowed to reverse an outlary: quod recuperavit versus 9
eum pro ea: The originall was Ad de [illegible] in Com: Ebor: & in
ye Exigent nisi de [illegible]: this was in debt after judgment & therefore
ye omitting of any proclamation in ye County where she lived
was not Error for it is not necessary in an Exigent after judgmt
when she once appeard but upon ye 1: processe only 2: Cro: 566.
Error by 6 to reverse a judgment in Ejecc: firme ye deft pleads — 10
outlary agt one of ye partyes upon demurrer ordered he should
answer to ye Error for this as attainit audita querela are only by
way of discharge 2: Cro: 616: Crowne 11: no copy of the
outlary in Treason.

11 Vtlary reverst because in ye Endictmt he was named A. M.
miles de Com: Gy: whereas it should have been de such a
place in Com: Gy: alledgnig some place certain 2: Cro: 616.

12 An outlary in ye same terme for Error may be reverst in ye Com
Bench or in any terme if it be void vpon a statute as for want
of proclamation: and one was reverst where ye writt was
precipimus tibi where it should have been vobis to the
sheriffes of London Heat: 93.

13 Arrearages of rent reserved vpon an estate for life are
not forfeited by outlary because yt they are rent & no remedy
for them but by distresse aliter vpon a Leate for years Hat: 16.

14 The party outlawed being outlawed before ye Coroners shall
not quash an Endictmt by exceptions but by a writt of Error
1: Bul: 109.

15 If ye Error be assigned in ye outlary only diminution may be
alledged there being a transcript of ye record but if assigned
vpon ye outlary & also vpon ye body of ye Indictmt ye body of
ye record ought to be removed & ye transcript is not a sufficient
1: Bul: 181.

16 To reverse outlary ye Capias was contra Franciscum & ye
returne was quod Francis non est in inventa 2d ye Exigt bone
Teste after ye returne of it 2: Bul: 133. cat.

17 A: was indicted for murder & outlawed & taken vpon it & brought
to ye bar, he brought a writt of Error & by his Counsell while
Capias was not predict: A: (2) it is not said ye processe was
awarded by ye Court (3) it appears not what party is dead
doth not appear in what part of ye body ye wound was given
nor with what weapon Sty: 93.

An outlary cannot be reverst except ye party appear in 18
person Sty: 297.
An outlary after judgemt or before judgemt cannot be discharged 19
by a pardon, but ye party must bring his scire fac: upon ye
Act for ye party at whose suit et hath an interest in ye outlary
Sty: 384.
Where ones person or estate is in danger he may come in without 20
processe to reverse ye outlary but he cannot plead misnomer
yet he may protest he is a knight & save himselfe in another
suit that may be brought agt him Sty: 444.
Outlary reverst because ye place where ye County Court was 21
held is not shewed in ye 2: Exact: Sty: 451.
If ye disseisee be outlawed he shall not forfeit the profits of 22
his land Owen 3.
Debt upon a bond agt B: pleads ye plt was outlawed 23
& at his day to bring in ye record he failed judgemt for ye plt
to recover & not for ye deft to answer for in debt upon a
bond it is a plea in barr & not dilatory because all ye debts
by specialties are forfeited to ye Queen Ow: 22: but in a
trespasse or debt upon contracts ye outlary is but to abatemt
of ye writt & ye [illegible] shall not have debts upon simple
Contracts but [illegible] ye outlary pardoned ye plt may have
action for them [illegible]
[illegible] man outlawed [illegible] of a Lease from ye Queen as 24
a [illegible] to ye Queen [illegible] outlawed & pardoned hath
[illegible] his goods [illegible] ye Queen make a Lease under ye
[illegible] seale to begin immediatly after ye forfeiture [illegible]
Lessee is outlawed [illegible] ye 2d Lease shall not commence for
it is a royall forfeiture Owen 116.

25 If after ye quinto exactus & before ye returne A: (against whom ye Exig: was) dyes ye outlary is in force for ye judgement was by ye Coroners upon ye 5 exactus but otherwise if he had dyed before ye quinto exactus Noy 49.

26 A: recovered in debt ag: B: A: brings a scire fa: B: pleads ye A: is outlawed it is a good plea if he be outlawed after ye plea in barr pleaded in ye action of debt but otherwise if he were outlawed before for then he might have pleaded in barr of ye first action & if ye Kings Sist: desire ye moms being in Court he outlary sub pede sigilli & ye party ought to confesse he is ye same party Noy 148: vide Error 406 outlawed cannot assigne Errors.

27 diverse outlaryes reversed because on ye returne & proclam: some were made in ye time of ye former sheriffe others in ye new sheriffs time & his name to them: but he returns them not [illegible] de lib: fait de retordo of ye proceedings of ye former sheriffe Noy 150.

28 Debt ag: an Administrator it is no plea ye outlary of ye Testator an outlawed man can make no exec: for he shall answer for ye goods to ye King Winch 33.

29 In some cases an Executor or Administrator may have goods though ye Testator dye [illegible] outlawed & therefore outlary in ye intestate is no plea: Testator lets for life rendring rent ye rent is behind, ye Testator is outlawed & dyes this shall not be forfeit Winch 58.

30 Where ye Indictment is void ye utlary on that Indictment is void & then though an Inquisition find this outlary generally it is no double matter of record & ye party shall plead to ye Inquisition & no possession taken from him Lane 59: pleadings 136.

B: brought quare impedit ag^t C: & had judgem^t to recover — 31
B: after wch judgem^t was outlawed in an accon of trespasse
& upon that a Scri: fa: issued quare Domina Regina should not
have execucon of ye judgem^t a forensi 1: Leon: pl: 84: By
outlary in an Accon Person all ye King cannot seise ye land but
only ye profits of it plus wid:
Debt upon oblig: ye deft pleaded outlary in ye plt by ye name — 32
of Js: of D: in ye County of &c: ye plt shewed yt at ye time
of ye suit begun ag^t Js: upon whom ye outlary was pronounced
ye sd Js: now plt was dwelling at S: absq hoc yt he was
dwelling at D: judged good to avoid ye utlary without writt of
Error 1: Leon: pl: 108.
Executor may have writt of Error to avoid an outlary of — 33
his Testator tho' it were fa felony 1: Leon: pl: 159.
In a bill of priviledge B: R: upon an obligacon & upon the — 34
sd judgem^t issued forth processe of Error in deed upon which
ye deft was outlawed, but ye outlary was reversed Curia
for a Capias is not in ye originall Accon 1: Leon: pl: 465.
Judgem^t given in outlary at a Court within 2 weeks after — 35
ye last Court & they usually were kept from three weeks
yet ye Court allowed ye outlary because Dyer said he
remembred a Record in [illegible] ye London might
keep their hustings weekly 2: Leon: pl: 23.
To reverse outlary it was objected yt ye originall writt & — 36
all ye judiciall processe are directed Vicecom: Wigorn: & in
filazers rolle in ye Margent is wrote Hereford vs plus & a
Recordatur was desired might be entred in what estate the
Rolle was & it was granted 2: Leon: pl: 166.

37: Erro covers against C. in debt & afterwards releaseth
unto C: notwithstanding which sues out a Cap: ad satisf:
against C: & upon prosecution of it outlaws him: C: shall
have an Action Audita Querela & if it passe C:
the outlary shall be avoided 12 Leon: pl: 235:

38: One was presented before the Coroner to be fold de se & yet ye goods
were in the possession of A Processe of Outlary lyes in this Case
against A: 2: Leon: pl: 29:

39: Erro: brought to reverse an Outlary in Petty Treason And
alledgeth that the Offence was omitted in Q: Marys days
yt a generall Pardon was of all treasons & yet 3 Eliz: she
was rained for the same treason: the Pardon is generall & ye
Court takes not notice of it except the party take advantage
of it, but Judged upon this matter she may have a Writt of Error
brought to reverse because she had no day in Court before
to plead this matter 3 Cro: 4:

40: Upon a in debt & outlary upon it (1) the eeft brought
debt against E: & F: & the sheriffe retorned quod non hab: bona
nec catalla quod Somon: possint whereas it should be pro quod
2) it ought to be nec eoq aliquis (3) pro Judicium Coronatorum was
omitted in the Originall Launcelot in the Exigent Lancelot
4) in Hastings & doth not say in Hastings de placitis
3 Cro: 50 [Pardon [33]] 1 offence 2 outlary 3 Pardon 1 outlary
discharged

41 One was condempned in 47 £ & ye Exigent upon the Judgment
supposeth only 90 £ it is Error for there was noe such Judgment

& it can not be amended to make the outlary good 3 Cro: 71:

The Originall was against Lovellin & all the meane process 42
was against Llevellin & the process was against 2 & the
Sheriffe retorned quod non sunt inventi & doth not say nec
eorum aliquis: Judgment reversed: 3 Cro: 85

To reverse an Outlary on attainder of T. Morgan his father 43
whose son & heire he is who was attainted & Judged for murther
the Error was T. M. was indicted in the County of Somerset that
whereas the s.d T. M. nep de O. in Comit dorset gener: apud Sim
Comitat predicto &c. & that shall be intended in the County of
Dorset last mentioned & then the Indictment in Somerset
is void for tis only named in the Margent: Error 3: Cro: 101:

Error in the Exigent no place was where the Sheriff should have his 44
body 3: Cro: 104:

In the Originall Elied (his true name) in the meane process 45
Eldred: it is Error. 2. Error in fait q.t q.e alias Cap: was retorned by
Felton whereas he was removed from his Office & Townesend was
Sheriffe to which they ~~had pleaded in nulla~~ Erratum est & so
the Cor. shall intend it to be true 3: Cro: 104:

Variance in a letter or omission in the Originall & Proclamations 46
is Error 1 Cro: 116:

The Sheriffe did not retorne they day when one of the Counties 47
were held & so it appears not there were so many days
betweene every County Court 3 Cro: 158:

To reverse an Outlawry upon indictment of ~~marther~~ Murder 48
was named Walwin of Machre & the Capias was de machreo
& the name was Walwoon: reverst 3 Cro: 198:

49: The Pltf in the Originall was Barnes in the Exigent Bernes being Varience in the name of the Pltf Qu. if it be Error the Originall was blabasua & the Exigent was blade & this was held a Varience 3 Cro: 240:

50: The Original was Griffin & ye Cas Giffin reverst 3 Cro: 256:

51: A Termer outlawed for Felony grants his Terme to A: who is put out by B: & after the outlary is reversed A brings Trespass for the profitts taken between the Assignment & ye Outlary reversed: & may for being reversed, it is as if there had been noe outlawry att all & there is noe record of it 3 Cro: 270:

52: A Termer Outlawed the Queen sells it, the Outlary is reversed the Termer shall be restored to the terme the Queens interest was but Conditional: & it is not like a Sale by a Sheriffe for sells it by authority of Law to levy the moneys 3 Cro: 278:

53: The Pltf prosecuted pr Juonim ~~Attornatsum~~ in the Rear roll but the roll of the Warranty of Attorney is point ~~[illegible]~~ Jones son Attorny: it was Error & reverst & ye Judgmt in det 3 Cro: 308:

54: Otlary reverst because the Capias was Este E: Andersono & S: left out for the Teste is the Warrant of the Writt 3: Cro: 592

55: Error to reverse an Outlawry can not be assigned but in person & therefore the Baron because he could not bring in his feame was 3 Cro: 611:

56: Det against A: & B: upon an Obligation & Judgment against both & a Cas Satisfa issued out against A only who was thereon Outlawed & because it ought to have been awarded against both & because upon the retorne of the Exigent it appeares not to be by the Judgment of the Crown: the outlary was

reversed 3 Cro: 649:

In avoidance of an Outlary one may say he was not living 57
att the place the day the writt was pchast nor ever after: Moore 70:

One pchaseth a Supsedias & delivers it not to the Sheriffe 58
till after the five Cunty days & then he is outlawed yt
Otlary is void for the Supsedias is upon record: Moore 73:

A Lease rendring rent is made by the Queene to a person 59
outlawed it is good & not forfeited, but if the Lessee of the Queen
be outlawed afterwards the terme is extinguished & not
revived by a generall Pardon with a [illegible] in it persons
outlawed have a property in their goods by a generall pardon
without [illegible] scire facias but not liberty in their bodies
Moore 238:

The Pltf in a Qd impedit was outlawed after recovery 60
the Queene must have a fit scire fac: to execute the Judgmt
for the Queene hath privity to maintaine it for the thing as
it was in the Pltf is in the Queen & yt is a Chose in Action:
Moore: 241:

Note if he reverse the Outlary ~~in the case~~ pced by Error he 61
shall have a Scire fac: to remove the Queens incombt: yet
if one that hath an Advowson be outlawed & the Church is
void & the Queene presents & then the Outlary is reversed yt
incombt shall not be removed: for in the first the Presentation
comes to the Queene as the pfitt of the Advowson, but if the
Church be void att the time of the Outlawry the presentation
is forfeited as a Chattell principally & distinctly: Moore 270:

A writt of Rec Land upon the Exigent was retorned by the 62
Sheriffe dut off Office att the time & because this appeared to

the Court the Outlary was reversed without suing Error
Dyer 41: pl: 9:

03: One was outlawed after Judgment in det & afterwards came
in gratis & rendered himself in bank where he was condempned
& committed to the Fleete ut oportet (tamen it is not practice)
& there sued a Certiorari directed to the Lord Ch: Justice B: R:
to remove the record & to certify the truth of his being in Prison
which was omitting whether the Pltf was satisfyed or not
& had his prison Ita quod stat rectas in Curia where it should be
quod satisf: quod recti: & upon two nichilli retorned it was
allowed: qu: what remedy: v: Exp: 3: l: 3: c: 12: q: where the
one is outlawed for fine to the King in Trespass he shall
not have a Pardon till the Chancellor be assured y: [illegible] is
satisfyed: After the [illegible] the Pltf sued a Scire fac: & had
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] q: Deft shall avoid q: Outlary by Plea without
writt of Error: pe: Dyer: 192: pl:

04: [illegible] Cap: [illegible] in det retorned against him non
est inventus came in gratis & sidard have pleaded he was
not abeding att that place alledged the day of y: purchase of y:
Originall nor ever after &c: he shall not have this plea for y: Pltf
is out of Court & it is not known whether he be the Deft if he
came not in custody by y: retorne of y: Capi Corpus: Dyer 192: pl: 22

05: In an Action of the Case or turning a water Course no process of
outlary lyes q: Deft gratis rendered himself to the Marshallsea
& without any writt of Error made a gll suggestion of Errors &
had a Scire fac: retornable two termes after & the Court [illegible]

4 [illegible] & in the interim he sued a writt of Error tam in Judicio quam promulgatione: ye writt abated to such Errors as were ye fault of the Court because the Court may not correct their owne Judgment: Eyer: 195: pl: 37.

Outlawry was reversed without a writt of Error upon ye 6: H. 8: c: 4: because the usuall words put in the writt of proclam. viz: facias tribz sepall diebz etc: were omitted so ye writt insensible: Eyer 206: pl. 10: 66:

Menvile was upon an Outlary attainted of treason the heires the heires of Menvile reverse the outlary by Error, Moore 639: 3: Instit 215: 67:

Plume was indicted of murder in Com. of Essex & outlawed upon it & ye Outlary certifyed in B: R: & as it was certified it was erronious for it was exactus ad Comitatum omitting meum the Attorney Gll shewed yt ye King had seized the Lands & to prevent Injudice to the King prayed a Certiorari to the Coron. to certifye where Exactus fuit, & yt upon the retorne it might be amended a Certiorari granted: Latch: 210: 68:

Vt what Interest the King hath & what the party in body & goods of an outlawed person, if a man be taken upon a Cap. Vtlagatum after Judgment, he is in Execution for the party & if he escape Action lyes for the party against the Sheriffe Yelverton: 20: 69:

How Vtlary shall be said to be the Kings suite & how the subjects Interest is therein: Latch: 19: Cro: El: 909: 70:

& comes in upon the Cap. Vtlagatum & pleads yt att the tyme of the writt purchased he was dwelling att Arm. Com. M: & nunc Proclam: made there resolved upon 6: H. 8: c: 4: that 71:

&: & the Queen must be att Issue & yt first tryed & yt this Outlawry is not remedyed by yt Statute: Benlow: 26:

72: One is not outlawed till the writt of Exigt be retorned or record in the Court: Benlow: 27:

73: Ollary reverst for want of Addition Benl: 27:

74: One retorned ollawed notwithstanding he had pchased a Supsed: on Record, yt deft appeared not att the retorne of the Exigent, but att another tyme he came & pleaded this matter & it was reverst by plea without writt of Error: Benl: 27:

75: Utlary reverst by Plea for defaut of a writt of Exigent: Benl: 34:

76: Utlary cannot be reverst by such a Plea as to say yt he is another pson, & not the same pson but he is put to his Idemptitate nominis: Benl: 95:

77: The Court would not reverse an Outlawry for Fellony for want of the words probi & legles homines &c. aliter in Trespasse Benl: 130:

78 Three were Outlawed & it was retorned Uterq. 204 Utlagat. for quilibt 204, & it appeared on the Exigent, yt one County Court was 8: Marty & the next 8: Aprill which is 29 days Utlary reverst: Benl: ~~[illegible]~~: 140:

79: Trover yt deft after Imparlance pleaded outlawry in the Pltf pcome a good Barr, & therefore pleadable after Imparlance as in det upon a specialty but not in debt upon a Contract Trespasse outlawry Imprisonment for such matter the King shall not have by Utlary 3: Leon: 205:

80: The Indictmt was taken in Middx & the Exigent upon it was in London whereas it ought to Issue out of Midx & but yt Proclaim: issued in the County whereof he was name

nuy: Vtlary reverst 3 Leon: 229:

A Feme Executrix takes a husband they recover & have Judgment in barr of this the Vtlary of the husband is pleaded pr Curiam the husband forfiets nothing of the goods the wife hath as Executrix Judgm.t for ye Pltf — 3 Bulstr: 216: 81:

Vtlary of Baron & Feme (1) because the wife cannot be vtlagatn but named (2) it was compruit for compruerunt this may be avoided upon motion in the same terme but not in another terme but by Error: 3 Bulstr: 213: 82:

Upon the Principall Judgm.t reversed ye Judgm.t is ipso facto reverst Poph: 185: 83

Voucher

If a Comon Recovery be to passe all ye barr & ye Ten.t is ready all ye barr & vouche the warranty A: for whom one is ready all the barr to appear for the vouchee by his warr.t of Attorney this appearance is void for where noe Somons issueth the vouchee ought to appear in person or by his Attorney all Election: 1 Leon: pl: 104: vide Lower 30: 8 4 5 9 pr sheir or vouchee (where the vouchee is of 4 husbands & their wifes the Pltf in the writt of Error must intitle himselfe as heir to ye wife 1: Leon: pl: 398: 1: 2

Formedon the Tenant vouches the heir of G: within Age pr: the Deft counter pleads yt neither Genor any of his Ancestors 3:

ever had any thing in Tenem.tis predictis yet was found yt
G: was Joyntly seized in fee with another who invest yt
Father of the Dem.t a good Counter plea 3: Cro: 689:
Vouchers lyes not in partitione facienda: Moore 22:

4 It is a good Plea that the Vouchee nor any of his Ancestors
had any thing after the guift see yt he could not enfeoffe him
yt vouched without saying gttly Viz.t see yt he could make
a feoffm.t Moore 66 —

Waife

1 What shall be said a waife when forfeited Heat: 64.
2 Of comon right an estray belongs to ye King no comon
person may have it but by grant or prescription Owen 14.
3 An estray cannot be wrought more than a distresse for the
party hath not any interest but a custody: he that seizes it
may detain it till he be satisfyed for his feeding Noy 119.
4 The party ought to demand ye amends for ye feeding at
his pill yt ye reasonablenesse may be judged by ye Court: ye
Bayly cannot delegate his authority to another or deliver
ye estray to be kept by another but it ought to be kept
within ye demeasnes of ye Mannor in loco apto obvious
if search be made for it Noy 114.

4294

where one may fetter an estray: when ye Lord seiseth 5
he stands chargeable ag^t all for ye trespasse by him: if
he estray & be seised by another Lord ye first Lord hath
lost all his possibility: and ye other Lord must proclaim it
de novo: if he suffer it to estray so yt it cannot be found
again Lu: if Trover will lye ag^t him: ye Lord may detain
him till he have sufficient recompence: he cannot work
him Hutt: 67.
The possession of an estray is in regard of ye Mannor and 6
not of ye person of ye Lord & therefore he shall not answer
for ye wrong that he doth in ye Lands of others Winch 68.
If I will justifye ye vsing of a horse waived by a felon 7
in my Mannor I must traverse ye fresh suit whereof ye
plt declares for by it he preserves his property 2: Leon: pl: 242.
In trover ye deft justifyes by Comand of ye sherriffe because 8
ye plt stole them & were bona waviata, no plea, because he
ought to alledge a felony committed & yt ye goods were
waived by ye felon 3: Cro: 611.
In justifying as taking them for waife it ought to be alledged 9
yt ye felon fled for yt he was in fear to be apprehended for
that cause waived them & ye reason of ye forfeiture is because
there was a default in ye party robbed yt he did not pursue them
to have taken ye goods from him: if a felon carryes away goods
which he stole in a Mannor & leaves them there & at another
time goes away ye goods are not waved: where goods are waved
upon fresh suit they are not forfeited if ye theife be attainted
at ye suite of ye Owner 3: Cro: 694.

10 A waife in Law is where ye felon being pursued waives ye goods, or for fear of being apprehended ye goods being in his possession flyes & waives them 5: Co: 109: 6.

Way

1 In pleading ye laying out of a way instead of a former high way it is insufficient it not appearing by what authority he did it: and ye pleading ad quod damnum is nothing in not pleading he obtained license for that is but to enable him to it 1: Cro: 194.

2 A indicted for inclosing his land so yt he straitned ye way Res: yt where before ye County were bound to make it good he now is bound at his owne charge 1: Cro: 264.

3 For an occupier of such a close within a parish to have a way yt such a Custome is not good but he ought to prescribe in him who hath ye inheritance 1: Cro: 302.

4 One sells land & ye vendees by reason thereof claims a way over part of ye pts land there being no other convenient way to it: resolved ye way remained & yt he might justify ye useing of it because it is of necessity: and there is no extinguishment of a way by having both lands 2: Cro: 170: 189.

5 A by Indenture in roll's bargains & sells to B: land in fee with a way over his land that is not good, for nothing but ye use passed by ye deed & there cannot be use of a thing that is not in esse as a way common which is newly created & untill they be created no use can be raised by bargain & sale.

Act: upon ye Case where a way is prescribed for & ye deft 6
makes a gate crosse it 2: Cro: 677.
Where trespasse or an Assise of nusance lyeth for stopping of 7
a way & how to plead it: & every way ought to be appendant or
in grosse 1: Bul: 47.
If a parson be hindred his way for carrying home his tithes 8
he may sue in ye spirituall Court, but if it be concerning ye
right of ye way at Comon Law 1: Bul: 68: 108.
Trespasse ye deft had a close adjoining to ye high way, being 9
ye wast of ye Lord & for trespasse of his Cattle ye action brought
but not held good by ye Court 1: Bul: 157.
A Certiorari to remove an order ag. a parosh for not 10
mending ye high way & ye Exceptions to it because ye fine was
set without processe ag. ye parosh Sty: 130.
A Hamlett within a parosh cannot be charged to repair 11
a high way but by prescription for of comon right ye whole
parosh is a vill may be charged Sty: 163.
How to prescribe for a way where one is tent to another 12
that hath right to ye way Sty: 300.
Indictment quashet for not repairing a way because it shews 13
not for what place, to what place Sty: 356.
High ways by comon right to be repaired by the parish wherein 14
they lye but if any will inclose any part of a way or wast
adjoyning he thereby takes that upon him selfe Sty: 364.
Take a distringas of 20lt. to levy a fine for not repairing ye 15
way Sty: 366.
Ve exceptions to an order for committing surveyor of a high way 16
untill he should pay ye arrearages collected by him on 2: & 5
P: & M: c: 8: Sty: 399: 400.

17 One may be guilty of continuing a purpresture which another did erect Sty: 448: Indictm.

18 Trespasse quare clausum ye deft justifies & prescribes, yt ye parishioners had a way &c for perambulacon: judgd none may prescribe but those that have perpetuall continuance tent for years or for life cannot prescribe but must be aided by Customs: P Owen in things of interest as comon parishioners cannot but in things of easemt as a wast they may prescribe Ow: 72.

19 Unity of possession doth not extinguish a way: A: seised of Messuage called Style had a way appendant to it in ye land of Js: in a close & after purchased ye close & enfeoft ye plt & ye feoffee sued ye feoffor for using ye way: (quaerens nil capiat) a way of ease or pleasure shall be extinguisht if a man had 3 fields adjoyning & makes a feoffmt of the middle field ye feoffee shall have a way to this through ye other close Ow 122.

20 If I bargain & sell an acre of land that is in ye middle of my lands: ye vendee shall have a way to it over my lands: Qu: if a stranger hath lands adjoyning to it Noy 14.

21 In declaring for stopping such a way which ye plt had from such a place over blackacre unto such a field by name he need not shew what interest he had in that field for it shall be intended to be a comon field but otherwise if it had been usqz ad talem clausum Noy 86.

22 A: is indicted for stopping ye Kings high way in K: but doth not all edge unys ~~way~~ butt all of ye ~~King~~ way vizt. leading

from such a village to such a village it needs not being on
ye K: high way which is intended to goe thorough all the
Realme but aliter of another comon way Noy 90.
The plt prescribes ye Inhabitants of C: have used to 23
have a comon crosse way & yt he is an Inhabitant he need
not say is antiqua villa for he makes no title in ye crosse
way but only seeks for easement but because shewed not
yt he suffers a particular losse by it he shall have no
judgemt Noy: 120: Latch 110.
A: had an acre of land which was in ye middle of his 24
lands & enfeoffs B: of that Acre: B: shall have a
convenient way over ye Lands of ye feoffee Noy 123.
T: hath a way over ye Close of K: sowes ye Close & leaves 24
a way in another part of that Close T: may justify ye to
goe where ye antient way is Noy 128.
How to plead prescripcon in a way & if ye issue be upon ye 25
prescripcon & found what defect shall not arrest ye judgmt
viz: no place in which ye Comon lyes ~~[illegible]~~ to which &c Hutt: 10.
In pleading prescripcon of a way there ought to be sett 26
downe terminus a quo & terminus ad quem and vide a good
rule to plead where ye terminus ad quem is uncertaine
as usqs ad Rectoriam which is incertaine for it consists
of diverse things as Glebe Tithes &c 2: Leon: pl: 13.
The soile of a path way belongs to him who had ye land 27
on both sides & may be conveyed by expresse ~~[illegible]~~ grant to
another 2: Leon: 182.
An Indictmt ag: M: was reverst because it was of a nusance 28
to a horse way whereas it ought to be ye Queens high or the
high way 3: Cro: 63.

29 A: hath a close and a wood adjoyning to it & time out of mind a way had been used to carry ye wood over ye close A: sells ye close to one & ye wood to ye other ye Grantee of ye wood shall not have ye way for 'tis not saved to ye Grantor 3: Cro: 300.

30 If ye prescripcon be traversed ye venire shall be from every vill where ye land is over which ye way lyes, but when not guilty is pleaded ye venire shall be from ye vill where ye stopping is Cro: El: 427.

31 In prescribeing for a way from his house to a feild & he saith not it's an antient house 2d. yt he said not where ye high way to which this lead did goe & so uncertaine there is a difference between a prescripcon that is personall & a Custome which is locall & therefore it is sufficient in prescripcon to say yt time out of mind he had such a way, which implyeth ye house is antient, & it shall be intended yt ye high way is in ye same ~~way~~ vill where ye towne is Latch: 110.

32 Assignavit viam & sheweth not to whom good: for quod commune est omnibus cannot be assigned to any particular person Yelver: 142.

33 The plt in declaring in an Action upon ye Case for disturbing him of his way shall never count yt ye way is appendant or appurtenant for it is only an ease & not an interest, aliter of a Comon, nay to claime it as appurtent is error, for he claimes it in another manner, & nature then the Law allowes it Yelver: 159.

Though a way may be in grosse, yet it must be bounded & 34
circumscribed to some certain place, & to be in loco certo, and
not here hodie & cras there, & in prescribeing it should be
a quo ad quem locum, & whether a foot way, horse ways
or Carte way vide Yelver: 163.

If a man have a way over a feild in which himselfe hath 35
land, he cannot prescribe to have a way over ye feild
generally, but a quo ad quem Boul: 130.

In ~~[illegible]~~ trespasse ye deft justified yt Dower was assigned her & 36
a way granted & assigned to her in ye 2: other parts, this
assignment of a way is good Boul: 141.

For stopping of a way leading from a house of ye plt 37
over ye Close of ye deft, if ye freeholde of ye house be in
ye plt & ye freeholde of ye way be in ye deft & ye disturbance
be locall or reall, assize lyeth & not an Action of ye case
3: Leon: 13.

Warranty

Warranty being descended & attached before ye entry of ye feme 1
the shebe free & not bound by ye warranty yet he in ye remaind
being bound that estops ye remitter this is a Collaterall warranty,
vide ye Case at large 1: Cro: 103.

Tenent in taile to him & ye heires males of his body reversion in fee 2
to Jn his brother A: Leases for 3 lives with warranty afterwards
levyes a fine of those lands with gll warranty & dyeth having
issue El: after J: dyeth without Issue, ye Lease for lives

expires: ~~[illegible]~~ Poynts enters as heire to Eliz: the Lessee of ye Counsee ousts him: Adjudyes this fine makes a discontinuance in fee & is a barr to Eliz: & ye warranty was not determined by ye death of A: for by ye estate for life it was discontinued & a new fee in A: & then when he by fine grants ye reversion with warranty ye warranty is annexed to ye fee & binds him that hath ye right for ye reversion being divested ye fine & warranty invres there upon 1: Cro: 111: vide Contract 1: 6: warranty of chattells as sheep to be sold.

3 He that comes to land in ye post (as Lord by escheat or of a villain) shall never have advantage of a warranty which was not attached at ye time of his entry 1: Cro: 269.

Where one makes a feofmt with warranty & afterwards takes again by feofmt ye warranty is determined because he hath as great an estate as he gave ibid: Remainder 4: discont: d'terr 11: vide Release 29: warrantia chartae.

4. Formed: in Rem: H: W: was seised of soccage land & devised it to St: W: in taile remainder to Anne ye sister of Steph: &c & dyed

2 Steph: entred & levyed a fyne with warranty & dyed without issue ye sd Anne & Eliz: his sisters being heires Resolved ye whole & not ye moiety is ~~found~~ bound by this warranty for Anne had all ye right of ye remaind & it is a collateral warranty Pr Coke

reall descends only upon ye heir at ye Comon Law but personall binds all as heires in Gavelkind 2: Cro: 210: Baron & feme 96. ~~[illegible]~~

5 A gt warranty implyed by ye word Dedi but dedi pro me & haeredibus meis a speciall warranty 1: Bul: 3.

A warranty doth alwayes follow ye estate unto which it is 6
annexed be determined ye warranty also is determined 1: Bul: 163.
a Collaterall warranty shall bind ye right but gives no estate
163: if one comes in by estate he shall not have benefit of
ye warranty because he is by title, but if he come in by way
of estate otherwise & so if one comes in in ye per or in ye post: 164.
where ye remainder is removed at ye time of ye warranty how a
discontinuance shall be vide plus discont in: 164: ibid: a man shall
not have any benefit of warranty if he be not under ye same
estate to which it is annexed ibid: a diference where a warranty
is confined to an estate & where it is of a higher nature & where
a warranty ought to be pleaded (165) The nature of a
warranty is to bind ye possession of him or them from whom
this doth come, but not to bind those which have ye possession
ye possession of others it shall not bind but ye right only: & touching
ye pleading of warranty in a reall accon it may be lost by Laches
because it is pleadable but in a Personall action where it is
not pleadable by way of barre he shall give it in evidence to
ye jury 166.
Where ye Lessor covenants with ye Lessee to warrant ye tenements 7
during ye terme to ye Lessor his heires & Assignes this warranty
shall be good against titles but not ag. wrong doers & so ye Lessor
assumes quod pacifice, quiete habeat & sine interruptione of
any one wrong doer enters action of ye Case lyes upon the
promise 2: Bul: 95.
If 2: joyntenants with warranty make a partition the 8
warranty is gone because they are parties to ye act which made
ye extinguishment but if one makes a feofment of his part ye warranty
is to ye other remains Ow: 104.

9 This word grant in ye case of grant d'hard beniga Chattell
reall in itself imports a warranty But concessi or demisi in
case of freehold or inheritances makes no warranty 5: Co: 18: a.
10 Where a gen warranty & warrantia chartae lyes though it say not
contra omnes gentes Noy 164.
11 In warrantia chartae upon warranty his Ancestor, ye deft
pleaded riens ye discent: That judgemt shall be entred for ye pl
without tryall if he will for ye warranty is confest pro loco et
tempore for ye tryall may be long & chargeable Noy 119.
12 Father tent in taile hath issue 2 sons, ye father with ye eldest
makes a feoffmt with warranty ye eldest son dyes & after the
father dyes This is a lineall warranty & without assets binds
not ye younger who by possibility might have been heir to his
brother.
13 warranties doe bind only rights & actions which are in esse at ye
time of ye warranty made when one binds him & his heires to
warranty they are not bound to warrant new titles of any
actions accrewed since ye warranty: A collateral warranty
doth not extinguish ye right of him who is bound by ye warranty
but only doe binde his right for ye time that ye warranty remains
undefeated: vide plus Bridgm: 77: how a warranty may be determined
& executed ibid:
14 If tent in taile of an Advowson in grosse grant ye same in fee
& an Ancestor collateral releaseth with warranty & dyeth it is a
perpetuall barre 1 Leon: pl: 156.
15 If tent in taile being in by disseisin & suffers a Comon Recovery
& ye collateral ancestor of tent in taile release with warranty
to ye recoverer & afterwards ye recoverer makes a feoffment

to vses which are executed by 27: H: 8: and afterwards the
Collaterall Ancestor dyes in this case altho' ye estate of the
Land be transfeld in ye Post before ye warranty did discend
yet this warranty shall bind & ye terretents may take advantage
thereof by way of rebutter 2: Leon: pl: 82: 3: Co: 62: a.
where ye entry before ye warranty hath attached ye possession 16
that part passed shall avoid ye warranty 2: Leon: pl: 82.
Warranties are favourd in Law being pt of a mans assurance 17
but Estoppells are odious 1: Inst: 365: b.
By warranting of ye land all rents &c issuing out of ye land 18
that are suspended or discharged at ye time of ye warranty created
are warranted also 1: Inst: 366: b.
It is called a warranty that commenceth by disseisin because 19
regularly ye Convey: whereunto it is annexed doth work a
disseisin ibid:
Where one shall not have ye bene fit of a warranty to vouch 20
yet they shall make use of it to rebutt 2: Leon: pl: 275.
In many ~~cases a warranty shall bar~~ owns right tho' it 21
was not in his power to defeat it by any industry 3: Cro: 453:
ve good cases put.
Tenant in tail makes a Lease for 3: lives, ye Lessor dyes 22
without issue ye warranty is determined 3: Cro: 602.
Qu: if ye word grant containe an expresse warranty agt. 23
a forraigne title 3: Cro: 809.
Upon a warranty agt. feoffor & his heires or Is: & his heires 24
or ye grandfather of ye feoffor & his heires no warranti a
charter lyes unlesse ye dedi be within ye Deed 3: Cro: 861.
Dedi et Concessi in the Deed & in ye Deed appears a speciall warranty 25
this shall not controule or expound ye gtt one 3: Cro: 864.

26 Two enter into warranty ye one dyes ye survivor and ye heir of him that is dead or ye survivor alone shall be vouchet or sued in a warr: charte at ye election of ye party for every one warranty ye intier Moore 20.

27 Warranty annext to partition is void and if a parcener makes a forfeit & warrants yt ye feoffee that ~~[illegible]~~ hold without partition it is void Moore 25.

28 A warranty in Law shall not be a barr to ye issue in tuile tho assets in other lands descend to him from ye same Ancestor Moore 54.

29 Where a warranty shall be destroyed by taking back an estate Moo: 71.

30 One seised of Land had issue 2 sons & devised it to his youngest son in taile & dyed ye eldest son having issue a son, ye younger son aliens in fee with warranty dyes without issue his nephew being within age: this is a coll, & all warranty & shall bind notwithstanding ye nonage because his entry was tolde Moore 96.

31 Possession settled before ye warranty discends avoids the warranty Moore 104.

32 One was bound by obligation to warrant & ~~[illegible]~~ defend the Land, this is to be entered ag: title & not trespassers Moo: 175.

33 The nature of a warranty is not to remove one out of possession but to rebut one that he shall not come into possession, & must be to one that is in possession Moo: 256.

warranty collateral made by coni to barre ye remd 34
shall be accounted as a warranty that com enteth by disseisin
Moore 469.
When ye heri comes in as vouchee he shall not have warr: 35
Chur: for none shall have it but ye tent in demesne Moo: 498.
See good Cases concerning warranty of Charters & who 36
shall have them & at what time, & ye difference betwixt
vouchee & warranty of Charters, and that Cesty q' use after
27: Ju: 8: shall [illegible] Charte or may vouch as an
Assignee Moo: 859.
Dedi, concessi, demisi & ad firmam tradidi, these words 37
have a double warranty, dedi, for ye frankteneme, demisi
against an Eviction for years Yelver: 139.
If there be father & 3: sons & land is given to ye father 38
for life remd to ye middle son in taile, remd to ye eldest,
& ye youngest son in taile remainder in fee to ye middle
& ye middle son releaseth to ye father & his heiries &
Assignes with warranty agt him & his heiries for ever,
& afterwards ye father devisseth ye land to an estranger
in taile & dyes, ye middle son dyes without issue, & the
youngest son dyes without issue in ye life of ye devisee, ye
eldest son may enter, for ye warranty is not collateral
to him for his remd was never discontinued Bohl: 28.
E: after 32: Jl: 8: c: seised in fee enfeoffeth Q: to ye 39
use of A: feme of E: & to ye heiries of ye feoffor to be
begott of ye body of A: & for want of such issue to ye right
heiries of A:, & they had issue & then E: made a feoffment

with warranty & dyes afterwards A. enters & dyes
Judge a Collateral warranty to ye same issue because
it descended upon him in ye life of ye husband Quære
Penl: 33.

40 Ag.t a warranty collateral one cannot be remitted
for it binds ye right & how a warranty may be suspended
& determined to one, and in being to another 3: Leon: 10.

41 A man warrants Land for himself & his heires to
another & his heires this is a gtt warranty 1: Co: 1: a.

42 Warranty as to voucher requires ye privity of estate
to which it was annexed & so does uses 1: Co: 122: b: and
note a diversity between an use & a warranty & like
things annexed to ye estate of ye Land in privity, and
Comons, Advowzons &c annexed to ye possession of the
Land 1: Co: 122: b.

43. A Collateral warranty descends upon an Infant
it shall not barr him if there be not discent after he
comes to age 1: Co: 140: a.

Warrant

1 Qu if the warrant made by ye vendors Serfe out of the County
made be said to be his warrant: Style: 18:

2: In some Cases a man may be arrested & imprisoned without
a warrant: Style 24:

A Spetial Bayliffe is bound to shew his Warrant to whom he is to Arrest otherwise the party is not tyed to obey him; but a known bayliffe is not bound to shew his Warrant to any: Style 405: 3:

When a Sheriffe makes a Warrant to 4: 92: execute it this being prevoice publico (good) Hatt: 127: 4:

W: was authorized by A to sell Counterfeit Jewells. he cannot authorize another to sell them & therefore if W: authorise B: to sell them & B: comes to damage by it B: shall not have remedy against A: for it was done without Warranty from A: Bridgm: ~~128~~ 128: 5:

A Bayliffe of a franchise may arrest upon a Warrant to a Sheriffe the Writt being directed to the Sheriff: Lane (ys) 6:

The Stewardship of ~~any~~ a manner is granted to one A: to execute the same per se not per legittim: deputat: & A makes a letter of deputation to B: to take una sursu redditionem & B: takes 2 surrenders: & a remaind. to be granted by the same deputation was to be absolute & it was granted by him Conditionall: judged this is well Warranted by ye deputation s: Leon: pl: 395: 7:

When the Sheriffs Warrant is pleaded to Arrest one it needs not to be pleaded yt it was sub sigillo: s: Co: 53: 8:

What precise shall be sufficient Warrant to the Sheriffe to execute them 3 Co: 647: 655: ac: & what course to take against ye Sheriffe ibid: 9:

A Warrant to 4 et Cuilibet to arrest the arrest by 2 Judgd good & not like an authority to make levyry 3 Co: 913: 10:

11: [illegible] in ancient demesne upon a Writt de executione Judicij out of B: R: may execute it & be noe disseisors tho the Land be Frank fee: Moore 451:

12: Where the Warrant need not be pleaded in an arrest it being by other words intendible yt ye Officer had one 2: Cro: 473:

13: One Censured in Starr Chamber for incerting the name of a Spetiall Bayliffe in a Warrant made with a blank by ye Sheriffe Starr Chamb: 21: Moore 770:

14 Where a Man hath a Warrant to doe a thing, & he doth it ~~not~~ & more yet it is good for yt pte which is warranted & void for ye rest: 3 Leon: 29:

Process ~~directed to one~~ to arrest one directed to 3 or any one of them 2 of them did execute the same (good) for it is for ye Kings Service: 3 Bulst: 210: –

Ward

1 Where two purchase to them & ye heiries of one of them & he who hath ye Inheritance dyeth ye heir shall be in ward vide ye case 2: Cro: 40.

2 Where ye King hath a ward & grants it over & after during nonage ye King makes ye ward a Knight it is a discharge of his wardship but vide ye Case 2: Cro: 156: 2: Cro: 389:

3 W: L: makes a Lease for 100 for ye payment of his debts & performance of his last Will & after conveyes ye Inheritance to Strangers & dyeth his heir within age ye Lands held by Knight service in Capite ye K: shall have ye wardship or Livery

as ye case requires 2: Cro: 157: tho' ye heir hath nothing in
this yet ye King shall not prejudict in what is due to him 2: Cro:
157:
Vt 2: Cro: 295: where ye heir shall not be in ward ye baron 4
being not sole seized &c:
The husband alone brought a ravishmt of ward but 5
otherwise in right of a ward & if they joyne & recover & the
husband dye before execucon his Exects shall have execut:
& not ye wife Ow: 83: Bar: fem: 67: 68.
The brother of ye halfe blood shall have ye wardship before 6
ye uncle Ow: 128.
If tent in tail of Lands in capite grants his estate to A: 7
& his heires & A: dyes his heire within age yt he shall
not be in ward: but if he had bargaind & sold them Noy 46.
If tent of ye King in capite makes a gift in taile & ye Donee 8
dyes ye issue within age ye King shall have ye ward, otherwise
of a tenure in Chivalry only Noy 109.
A ward may maintain an Indictmt for forcible entry for 6
tho' ye King at full age shall award ye Livery yet he hath not
ye possession of ye Land but a certain power & interest to make
livery Noy 122.
E: was seized of lands in fee holden of ye King in chiefe & took 7
a wife seised of other Lands held in socage they have issue & ye
husband dyeth & afterwards ye wife dyeth Quare if ye Queen
shall have ye wardship of ye land of ye wife or ye primier
seisin of it: and if ye husband had survived ye wife being —

tent by Curtesy quere if ye Queen should have primer
seisin of it after his decease 1: Leon: pl: 341.

8 W: seised of Lands held by Kn^ts service in Capite makes
a feoffm^t in fee to ye use of her who should be his wife
for life & afterwards to ye use of himselfe & of his issue
of ye body of such wife ye remainder over: he married,
had issue & dyed Quare if living ye wife ye issue shall
be in ward: agreed it was a Remainder & not a reversion
& yt at ye Comon Law a discent of a remainder during the
estate for life doth not entitle to wardship 2: Leon: pl: 18.

9 Tent in taile remainder over discontinue & dyed without
issue he in ye rem^d being dead his heir within age recovers
in formedon he shall not be in ward for a right of rem^d
only discended & not a rem^d in possession Moore 36.

10 Vide a judgent sur nihil dicit pro captu & valore maritagij
conditionall if they be married Moore 48.

11 Forfeiture of marriage lies not without tender of marriage
& this must be surmised in ye Count & is traversable Moo: 65.

12 The father gives land to his son & his wife rem^d to ye
right heires of ye father ye son dyes having issue, ye father
dyes ye Grandchild shall not be in ward by 32: H: 8: c: 1:

13 A wardship being sold by ye Master & Counsell of the
Court to an intestate a bill was assigned to ye Administrator:
Qu: if it be according to ye statute: If ye King grants a

wardship without sale first made by ye Master & Counsel
if ~~an~~ a non obstante in ye Grant dispense with ye Statute
of acceptance of part of ye money & agreement for ye residue
may be said to have ye effect of ye marriage Moo: 244.
Where ye heir or Executors shall have ye wardship of lands 14
held in Capite in case of a subject as long as ye reversion
remains in ye Donor or his heir ye issue in taile shall not
be in ward to ye Lord Paramount Moore 607.
Though ye grantee of ye body & lands from ye King commit 15
wast it is no forfeiture of ye marriage Benl: 17.
Where ye fee simple comes by ~~ye~~ survivorship & not by 16
discent livery needs not be sued Benlow 29.
The heir shall not be in ward but where his Ancestor 17
dyes in ye homage or fee of ye Lord Benl: 108.
When ye Donee hath an estate taile by discent from 18
his father & ye reversion as heir to his grandfather
& so 2 distinct estates descended to him from two
severall Ancestors, ye Lord shall not have ye lands
in ye wardship for ye father holds ye estate taile from
ye Grandfather & ye grandfather his reversion from
ye Lord: but if tent in taile be with a reversion expectant
to him & his heirs of lands held by Knights service of a
common person & he dyes his ~~age~~ heir within age he shall
be a custody for his body but not for his land, for the
reversion is held immediately from him but not ye estate taile
2: Co: 92: a.

Wreck

1 One justifies of wreck being goods cast upon ye land without Custome paid or agreed for contrary to ye statute of 1: Ed: 6: c 1 Qu: if it be a good justification Moo: 224.

2 Wreck is goods shipwrackt & cast or left on ye land by ye sea: ffloton which float, Jetson cast into ye sea to save ye ship which yet perisheth: Lagan which are thrown into ye sea with a ~~[illegible]~~ boy tyed to them: any of these thrown upon ye shore are wreck 5: R: c: 3: denies ye Admirall jurisdiction of wreck, not of these: The soyle betwixt high & low water mark may be ye subjects, when covered with water, ye Admiralls jurisdiction: ffloton, Jetson and Lagan are ye Kings where ye ship perisheth & nothing alive escapes W: 1: c: 4: of wreck is but affirmance of the Comon Law 5: Co: 106: a: b.

Abbreviation

Franciscus in ye venire & francus in ye distringas adjudges abbrevi- 1
tion 2: Cro: 534:
An outlary reverst instead of proxim: there was px. with a dash 2
instead of infra. sic it was infra sc Sty: 18:
An outlary reverst because in ye exigent it was vtlest being 3
abbreviated for vtlagatus est Sty: 227.
Exception to a scire facias because it was scire fac: with a 4
dash Sty: 290.
The writt was returnable die Lunae quarta septimana 5
quadragesima proxim futur hoc proxim futur may be so construed
to relate to any & therefore to preserve ye recovery it shall be
construed benigniori sensu 3: Cro: 389.
Raphael Hunt queritur versus H: F: de placito &c. unde 6
idem quer: ye M: Attur: suum quod cum placitus defendens
&c: this is bad for omitting dicit, and quer: that is abbreviated
being intended quaerens shall not be intended queritur except
it had been idem Raphael quer: for idem is incertain to be
inferred to ye plt or deft Latch 103.
Note for abbreviations & incongruous writings in grants 7
thes rules falsa ortographia non vitiat concessionem
falsa Grammatica non vitiat Concessionem: Ille numerus
et sensus abbreviationum accipiendus est vt Concession non
sit inanis: if ye King grant tot' ill' Maner de D: et C: if
there be but one Manner to' ill' Maner: shall be in the
singular number, if two Manners in ye plurall: abbreviation
in a writt allowed (because vsed so) 9: Co: 48: b.

Abbeyance

1 A remainder in Abeyance limited seniori puero shall not be destroyed by a subsequent fine for it is in consideration of ye Law & therefore [illegible] of ye Vacation of an Abbot shall not bind ye successor, so a remainder limited to ye right heires of Js: & where ye King [illegible] by reason of wardance during such seisin of ye King a distent is cast, it shall not bind him who hath ye right for he could not enter upon the King 2: Leon: pl: 275.

2 Abeyances are not allowed but where ye originall creation of Estates requires it, or where ye Conveyances of estates & cases incongruity require them: as in case of single Corporations which must dye & leave a vacuum of freehold, or a remainder to ye heires of Js: yet living, with provision for ye present freehold: (in Congruity) as if a man leave gwin warranty & dye without heires, his heires may be vouched in utero matris, but if there be an heir in esse he shall be vouched Hob: 338.

3 Tent in fee of a Comon Lord is attainted of felony, or tent of ye King after either of their death, ye Lands are in ye Lord before entry or in ye King before office to prevent abeyances 2: Leon: pl: 169.

4 A gtt grant of ye King shall not put ye estate tache in abeyance 1: Co: 46: a.

5 Future uses how they shall be in abeyance 1: Co: 134: If a feofmt in fee be made to ye use of one for life & after to ye

use of ye right heirs of Js: ye fee simple shall be in
abeyance before 27: H: 8: c: 10: If one had made a
feoffmt to ye use of [illegible] to ye use of ye
right heirs of Js: this limitation is good for ye feoffee es-
remain tenants of ye freehold but such a limitation after
ye estate is void, for [illegible] freehold must be in abeyance
for nothing can remain in ye feoffee 1: Co: 135: a:
In diverse cases things in abeyance may be barred and 6
destroyed as if tent in taile be disseised & releaseth to ye
disseisor ye estate taile is in abeyance yet it may be
barred in a common recovery in which tent in taile is
vouched 1: Co: 135: b:

Accord

In pleading an accord ye surest way is to plead it in 1
satisfaction &c of &c for otherwise you must plead
precisely 9: R: [illegible] Roll 128 4: H: 7: 9: 13.

Action

After Elegit & the Gefts Lands extended & from hand to hand 5:
Assigned over ye Pltf in the Action releaseth all Judgment
& execution: ye Gefts bring audita querela against the
first Pltf. Et bene & not against the Assigne of the Extent
for he being party to the Judgmt by his release discharge the
Judgmt. 1: Cro: [illegible]:

2: Tenant for Life sans impeachm.t: Reversion sels the Timber to the Pltf Tenant for Life cuts downe the Timber & sels to the Deft. qui if bargaine of the Trees shall have Trover against the Vendee of the Tenant for Life (who is living) Hill he shall not 1: Co: 199:

3: Baron & Feme seised to them & the heires of the husband lets the house to the Deft with Coven.t of Reparation: Baron & Feme conveyed to the Pltf who is Assigne to the Baron & not worring the Feme to be read brings the Action of Coven.t Per Curiam well brought for he was Assigne to him who had the Inheritance 1 Co: 209:

4 Qu: if an Action of the Case may be brought by an Executor against a Sheriffe for suffring an Escape on mean process in the time of the Testator at his suit 1: Co: 216:

5: When the Action is brought upon a penall Statute where pte is given to the King & parte to the pty prosecuted & there upon joyning joyning the Issue & venire facias it is qui tm pro dno Rege but when the thing is only named as an Offence against the King & the pty & ye King is not to have any pte of ye same recovered but only to have a Fine it is otherwise 1: Co: 244:

6: Upon the Statute of Winton the Serv.t was robd & the master brings the Action good 1 Co: 26:

7: Action grounded on promise by words may be discharged by words 1: Co: 279:

8: Where a writing is alledged in a declaration only as Conveyance to an Action Certainly by implication is sufficient 2 Co: 46:

The Bayliffe of seiseth a herriot where there is none due & 9:
A converteth it in Trespass upon the Case sur Grosser Resolved
that the Pltfs had election to bring this Action or his Action
of Trespass because A agreed to it trespasse layer. Cro: 50:
One hath the Tythes by 2 Leases the 2 parts of that belongs to ye 10
Rectory by ye one & ye 3d part that belongs to ye vicarage by
another he need not bring severall actions in re[illegible] hath both
titles in him & is to receive ye intire tithes. 2: Cro: 168.
Where a statute prohibits a thing & does not [illegible] an action 11
lyes for doeing a thing ag^t ye prohibition of that statute but
that ought to be by action tam pro Rege quam pro seipso 2: Cro: 134
vide parcell 1: Title 2:
One may have an Action of wast upon severall Leases and upon 12
severall grants of a reversion & a formedon upon severall gifts
& an assigne one writt of Covent tho' he have one reversion in fee
another for years granted by severall Deeds & at severall times —
2: Cro: 330.
If Lessee for years will assigne all his interest in part of ye Land 13
ye Lessor shall have a joint action ag^t ye Lessee & assignee, for the
act of ye Lessees shall not divide ye action of ye Lessor 2: Cro: 411.
Where severall actions are brought ag^t two for ye same battery 14
& a recovery is had ag^t ye one & action is brought ag^t ye other &
that found alsoe ye Court will never intend that to be ye same
battery, & if he will take advantage of ye first recovery he
must shew it in pleading Heat: 20.
A difference of Personall actions upon a statute or matter of record 15
as debt upon a judgment or ye like & meer Personall actions as debt
& detinue Heat: 168.

16 If a mans dog runs at sheep & kills them without ye Masters consent there will no action lye Heat: 171.

17 Where ye promise is made to one which promise is to be performed to another which of them shall have ye action Hutton there is a difference when the promise is to performe to one who is not interested in ye cause & when he hath interest: he who hath ye interest shall have the action Heat: 177.

18 If one exhibit a bill of forgery ag^t a Nobleman & faile in ye proofe of it this is no cause for an action to be brought ag^t him 1: Buls: 15.

19 What accons a feoffee or ye feoffee of a feoffee may have & for what though done before his time A: seised of land in two Countyes acknowledgeth a statute & makes a feoffm^t thereof to M: & L: ~~[illegible]~~ Extent sued ag^t L: who afterwards enfeofs E: who brings audit: quæ: ag^t M: for contribution: pr mat: opni: it lyes not for he takes ye Land with ye charge unlesse ye 1 Extent had been sued ag^t him 2: Bul: 15: 16: and therefore Vtlary is no plea in aud: qu: 17.

20 That which enables a man to his accon must be shewed & not helpt by intendm^t 2: Cro: 246.

21 Two Accons were brought ag^t a Carrier one of trespasse ye other of trover for ye same goods: the rule of ye Court was he should proceed in one of ye Accons 2: Bul: 290.

22 One shall never have an action of trespasse vi et armis where ye party comes lawfull to ye possession but an action of trespasse upon his case he may have 2: Bul: 311.

where ye sewt may have an action of ye Case & ye master of 23
ye sewant for ye same thing I send my sewant in a message
of Importance one digs a pit he falls in & can goe noe
further he is hurt ye masters businesse neglected 2: Bul: 334.
He which hath ye trust hath no remedy by way of action — 24
agt ye other who hath ye interest for a trust is not assets nor
forfeitable by attainder 2: Bul: 337.
Two severall wrongs done to ye plt which doe depend upon 25
one another ye plt must bring two severall accons for them;
because ye damages must be severall: in this case ye plt —
brought first an action of trespasse for breakeing open his
shop upon a Comission of Bankrupt: and 2d brought
an action of ye case for his discredit thereby style 3.
Lands in ye County of Som: least for years upon a Lease 24
made at London & ye rent payable at London: ye assigne
of ye reversion of ye land for rent brings his action of debt
in London it was error because ye privity of Contract is —
gone by ye assignemt of ye reversion & attournemt ye plt being
only intitled by privity in Law by reason of his land —
therefore ye action ought to be brought in ye County where
ye land lyeth Car: Cro: 132: 101.
Where an accon lyeth with vi et armis & without it as quare 25
fregit suu Mill = dam: good both wayes: one cannot have
an accon of trespasse for ye breaking of his fence but if he
be dampnifyed by it he may have his action ~~of trespasse~~ sur
case agt him that broke it style 131.
For surcharging a Comon & treading downe his grasse one 26
may have an assise or action of ye Case tho' there be a —

disturbance of ye pltts freehold Style 165: though ye old
bookes are contrary.

27 One & ye same thing may give severall causes of action:
A: breakes ye house of B: as a Bankrupt he may
maintain trespasse for breakeing ye house & action of ye case
for his scandall v.e Sty: 201.

28 An Act: upon ye statute of Ilue & Ery may be comenct by
bill as well as by origniall Sty: 215.

29 An Action may be brought where it cannot be tryed because
ye origniall is ~~not~~ good 255.

30 A transitory accon may be tryed out of ye County but a
locall action otherwise: but a transitory accon may be
made reall by pleading Sty: 331: tho' ye plt may fix a
transitory accon in ordinary matters where he pleaseth yet
he cannot doe it where ye matter arisseth in a speciall
jurisdiccon Sty: 332.

39 The deft hath been endicted & found guilty for takeing away
250: from ye plt & burnt in ye hand. ye plt may after this maintain
an accon of trespasse ag.t Ami, for since he could not have his
remedy before conviction he shall not now loose it Sty: 347.

40 A penall accon may be by bill, but not a popular accon
an Accon shall be said to begin from ye fileing of ye bailie
& not before: An origniall accon may be by bill v.e Style 381.

41 One may be lyable to diverse accons of trespasse for one
trespasse in diverse respects & ye causa causans is vi et armis
which is but an inducem.t to ye action yet ye causa causata
quod servitium amisit is an accon upon ye Case: ye daughter

was barrie by ye Act of Limitacons to bring her action agt
him for getting her with Child yet ye father may maintain
this accon pr quod servitium amisit Sty: 399.
Lessors at first may be entitled to severall accons yet by 42
matter ex post facto ye accons may be united vide ye Case
in Coparceners 2: Owen 11:
If one hath judgemt in debt upon an oblig: & no Execution yet 43
he may comence another Accon upon ye same obligacon but
otherwise of a Contract Ow: 37.
If I covenant to build yor 20 houses ye covenante shall 44
have a severall accon for each default Owen 42.
I promist in consideracon &c to give 700li & to pay 100li every 45
year untill ye 700li were pd: judge a severall action may be
brought upon every 100li but because ye Accon was brought
for ye 700li before ye 7 years was out judgemt agt him Ow: 42.
An Accon always descends according to ye right of ye land 46
ye heir in burrough English shall have Error or attaint &
not ye heir at Comon Law Ow: 68: In all Cases where a
recovery is had agt one by Erroneous processe or false verdict
he which is greived shall have redresse by it though he be
not party or privy to ye first judgemt: vide cases to this
purpose Owen 68.
he that hath Comon of Estovers shall have an accon upon 46
ye Case agt ye Owner of ye Land for ye destroying of ye trees Noy 14.
When an Accon is brought for a thing Certain as debt ye deft 47
may confesse ye accon without ye assent of ye plt, but if it be of
a thing incertain as trespasse or battery otherwise Noy 31.

48 The plt counts of an Imprisonmt in ye County of B: & County of W: & not good for he cannot joyne in ye tryall, for it is a locall trespasse, ye plt ought to have had severall writts, but a man may justifye battery by an assault of ye plt himselfe in two Countyes for it is transitory Noy 54: Eccles: Pson: 8:

49 The Accon being transitory may be laid in what County ye plt will it being averd by ye record to be one & ye same trespasse & not diverse Car: Cro: 320.

50 Where ye Accon is founded upon Contract in Law it ought to be brought where ye Land lyes this was in debt upon a Lease agt ye Executor Hutt: 69: but ye Lessor hath liberty to bring ye accon where he pleaseth in regard of ye privity of estate & contract Winch 69.

51 W: against B: in debt for 40th in ye debet & detinet & for 2 shirts in ye detinet & judgd he may bring his accon so by severall præcipes in one writt Winch 75.

52 Accon on case agt ye sherriffe for not delivering lands extended which he had returned he had deliver them ye return is in Middlesex where ye accon was brought but ye lands are in Oxfordshire where ye seisin of ought to be deliverd this being a Personall thing he may bring it in either Countyes.

53 If Informacon be brought agt 2 upon ye statute of usury & one only is found guilty yet no judgemt shall be given in ye Case Lane 19.

54 Where tythes are to be paid out of a Rectory & part is kept in ye Lords hands & part is in a farmers hand ye libel must be agt both 1: Leon: pl: 13.

One brings trespasse of assault & battery recovers & hath — 55
execucon & after brings an appeale of Mayhem ag^t. the
same person Recovery & execucon is a good barr 1: Leon: pl: 24
An accon may not lye upon ye ground or mistake of ye defts 56
Clamie or title: as heir of a Copyholder brings accompt ag^t.
B: who clamieth ye takeing of ye profits by custome & grant
of ye Lord & not in right of ye heir: soe if one entreth into lands
clamieing by devise where in truth ye land devised is intailed
he shall not be charged in accot. 1: Leon: pl: 357.
Where a man cannot have ye effect of his suit it is vain to 57
bring his accon 1: Leon: pl: 402: where ye interest may be
determined & yet ye accon not gone ibid:
Accons may be diverse in their nature & in many circumstances 58
yet as to ye recovery of damages ye one shall bind ye other
a recovery upon one of them being formerly had 1: Leon: pl:
447: v^e good cases 2^d Leon: pl: 50.
One brought debt & inter cetera declared ye deft bought of 59
him certain goods ye deft upon ley gager Nihil cap: ffr breve
was ordered & ye pl^t afterwards brings trover & declares upon
ye same goods & ye deft pleading all ye matter in barre —
demanded judgem^t. &c & it was judged no barre 2: Leon: pl: 50.
One declares he was seised of land in free hold & by reason 60
of it had Comon in another place: he may have an assize
or accon on ye Case for disturbance in his Comon 3: Cro: 198.
The Queen grants a debt to A: due to her by ye attainder 61
of Js: Qu: if A: can sue in ye Queens name without speciall
words in ye grant 3: Cro: 325.

62 Where severall accons shall be for rent issuing out of lands ye title whereunto came by severall Conveyances 3: Cro: 607.

63 Where one recovers in trespasse or other accon wherein he recovers nothing certain but damages only: if he hath judgemt in such accon there when that judgemt is in force he cannot have a new accon, but where ye thing which is demanded is certain as debt &c it is otherwise 3: Cro: 608.

64 Vt how to plead it is one & ye same Accon one & ye same Psons &c and what shall be a sufficient barre that he may not bring a new accon: where a title is pleaded in barr to a thing demanded & by reason thereof ye plt is barred upon Demurrer or verdict, ye interest thereby is bound & ye plt shall be barred from bringing a new Accon 3: Cro: 668.

65 The writt in an accon popular where ye Accon is not founded upon a contempt to ye Queen but upon a forfeiture of a duty shall not be ad respondend: tam Domine Regine quam Is: Moo: 63.

66 Information upon ye statute of tanning of leather lyes not before Just: of peace nor in ye Corporacon Courts but only in ye Courts of Westminster notwithstanding ye gtt words of ye statute vizt in all ye Queens Courts of Record Moo: 421.

67 One brings accompt & after for ye same debt brings assumpsit & good Moo: 458: (barre 63)

68 In accompt for Malt ye debt pleaded yt ye plt at another time had brought Grover for this malt & other

malt & found guilty in part & not guilty for another part & damages assest (judgem^t si actio) no barr: for it may well be y^t he did not convert ye malt as ye first action supposeth & yet he may accom^d as this action supposeth. Moo: 463.

Where no action is given for exhibitting a bill, no action will lye ag^t him that exhibited it to say his bill is true. Moore 706. 69

Where ye Indictm^t shall not take away ye action of ye party Latch: 145. 70

A: makes a Lease of land lyeing in Surry at London rendring rent & deviseth ye reversion & dyeth, ye devisor if he will bring debt for rent it must be in Surrey for ye diversity is where ye action is only maintainable upon ye reall ~~contract, & not upon ye~~ of son all Latch 271. 71

There is no Act of Parliam^t which prohibits any thing but ye party greived may for his remedy have his action grounded upon ye same statute 3: Bul: 115. 72

Agreement

See a case adjudged upon an assumpsit grounded upon an Agreement where there is a varying from the agreem^t 2: Cro: 7: Qu: imped: 33: Agreement of all persons to a Lease necessary: 5

2: Whatsoever agreem.t the Father makes is nothing to charge the heir altho he had Assets either by Law or Equity And an Agreement being in writeing without Seale is but an Hea: 107:

3: If a Prohibit: be granted upon matter att Comon Law as upon a Personall Agreem.t between Parson & Paroch for his Tythes & not upon matter which in the Stat: of 2: E: 6: c: 13: the Suggestion shall not be proved within the 6 months as ye Stat: limits Het: 145

4: The Husband & Wife might by Action of the Case have received Damages but to recover the Land the prosecute in Chancery ordered that they pay a 100: and to have the Land: the Husband pays ye 100: a feoffment is made to the Wife: this is an Agreement of the Husbands to barr him 1: Bul: 88:

5: Action of debt is brought in Coventry where the debt was due by bond it was agreed to try it in London & that the Deft should plead payment att London this assent shall barr this to be assigned for Error though by rules of Law this could not be soe pleaded 1 Bul: 256:

6: A Parol Agreem.t before a breach of it may be discharged by Parol & soe pleaded: after a breach it cannot be pleaded in discharge without Satisfaction also pleaded: but as discharge may be pleaded by deed by ye Coven.t by Parol or by deed after a breach & without Satisfaction: Style: 8:

7 A freehold cannot be gained where he comes in by ye agreement of ye party Owen 27.

In assumpsit yt ye deft upon a consideracon moveing from ye 8
plt did assume to ye plt to pay 10li. cuidā ffountaine & omitts ye
name of baptisme: but ye assūpsit being grounded upon a
consideracon past ye plt may not know ye christian name the
both plt & deft know ye person Sty: 153.

~~Where~~
Where a continued paymt & acceptance of rent shall be judged 8
a sufficient agreemt to ye grant: a reversion granted to a
Corporacon by deed tho they cannot accept of this but by
an Attorney yet if they bring a waste this is sufficient
agreemt to vest it in them Ow: 143.
Agreemts which dee lead uses of fines will qualify them 9
aqt ye nature of ye fine Winch 111.
There may be a good surrender of ye first patent & yet 10
nothing vest in ye Queen before her agreemt. if a man
pleads surrender by Lessee to him in reversion he ought to
plead an agreemt. to this surrender Lane 4: vide plus.
Modus & conventio vincunt legem 1: Leon: pl: 318. 11
A freehold cannot be waived by an agreemt in pais but only 12
by matter of record & if ye party disagree in a Court of record
ye freehold is devested ab initio & if he once agree he shall
not disagree afterwards 2: Leon: pl: 97: If A: disseise B:
to ye use of C: nothing in C: before an expresse agreemt. ibid.
A Concord executory in part can be no plea in an indebitatus 13
assumpsit for a Concord is always intirely to be executed 3: Cro: 305:
Cobligat: 104: ad idem.
How to plead Concord executed, & executory (good
6: Il: 7: 11: 10: Il: 7: 4.

15 Ve good cases yt modus & Conventio vnicunt Legem Moo: 590.

16 Covenant for a breach in not repairing, the deft pleaded yt concordatum et agnotum, yt if ye deft would quietly leave ye house to ye plt in consideracone inde he would discharge him, agreed if ye plea of ye deft had been certain as to ye time when he would leave ye house & it had been executed accordingly ye plea had been good, for though ye accon had been founded on ye deed that it is but to recover damage Yelver: 124.

17 In wast ag. Lessee for years he pleaded an accord and good Benlow 4.

18 A subsequent agreemt in many cases shall relate ab initio Benlow 132.

19 Assumpsit on a promise to be performed before a certain day, ye deft pleads ye plt releast this promise, not good, but it must be pleaded by way of agreemt, & this must be before ye day Benlow 147.

20 Where agreemt cannot be executed but by release or acquittance tit: wager of Law 3: Leon: 212.

21 By special agreemt of ye partyes ye recovery is soe directed yt ye rent is not touchd by ye gtt entring into warranty modus et Conventio vnicunt Legem 2: Co: 73: b.

22 Accord with satisfaction is a good plea in personall accons where damages is only to be recovered but not in reall accons 4: Co: 1: b.

23 Accord with satisfaction is a good barr in a writt of covent for ye duty accrews not meerly by ye deed but by att

subsequent with it: soe in attaint, which is not only
founded vpon ye record but vpon ye pjury alsoe, & 4
generally in all accons where damages are only to be
recovered arbitrmt or accord with satisfaccon is good
plea: in wast in ye tenuit where damages are only
recoverable good: but in wast ag^t Lessee for years in the
tenet not good 6: Co: 46: a: plus

Aide

Where ye title of him in ye reversion is not disclosed in 1
pleading nor cometh in question Aide shall not be granted
Owen 43.
Tent for life ye reversion in ye Lessor a formedon is brought 2
ag^t tent for life who prays in aide of him in ye remainder
for life without him in ye reversion: he shall not have
it: for ye tent for life hath as high an estate as he in ye
remd Ow: 137.
An Annity brought ag^t a Parson & he prayed in aide 3
of ye King as Patron & he should have prayed also in
aid of ye Ordinary Noy 11:
In partitione facienda ye deft prays in aide & ye plt 4
counterpleads they are at issue & it is found for ye plt it is
Demptory 2: Leon: pl: 69.
Accon vpon Trover ye deft pleads yt a person vnknowne 5
stole his goods & brought them to a Mannor of ye Q: & there
waived them, & he seised them to ye Q: vse & prays in aide of ye
Q: ye plt demurrs: no Aid: for it appears not they were waived
out of fear of pursuit: ye Demurrer is not Demptory 5: Co: 109: a: b:

Bailiffe

1 A Bailiffe hath authority wth but no interest in ye Land, is determinable at ye Lords pleasure, he cannot tyle where it was thatched, he cannot give seisin of rent or exchange his Lords land 1: Cro: 178.

2 Bailiffe cannot give licence to doe a trespasse as to cut downe trees nor can accept amends for trespasse yet as he may make a Lease at will reserving rent because it is for his Masters profit so he may give licence to goe over his masters ground for recompence 3: Cro: 377.

3 vt an Accon brought by ye Exec of her husband agt a bailiffe of her husbands pro eo quod le deft fuit bailiffe to her husband ex quacunqz causa et contractu ad comunem utilitatem of ye sd husband & one A: M: et le matters concernmt ceo 2: Cro: 410.

4 A servt of a bailiffe of a ffranchise levies a sume by processe of a greater value than it is warranted by ye processe ye bailiffe is chargeable Heat: 12: Accompt 80:

5 The bailiffe when ye Lessor had refused a lawfull tender cannot without comand distraine for that rent: tender of amends to a bailiffe amounts to nothing Heat: 16: plus.

6 The bailiffe cannot execute a precept out of ye hundred whereof he is bailiffe Style 18.

7 The pltt declares yt ye deft retained him as bailiffe & saith yt ye deft in surplusagijs Pmansit whereas ye pltt was not in surplusage to ye deft: & he ought to alledge he was in service and neither day nor place is alledged where ye Auditors were assigned Owen 23.

8 If a bailiffe cuts trees & repaires an ancient pale & if he pay quit rents good Ow: 38.

Qu: if ye bailiffe by vertue of his Office without warrt. 9
may distraine for lawfull Amercemts 3: Cro: 698.
The purchaser of a Mannor may discharge ye former 10
bailiffe although he had ye office for life but if he
were to have a fee or profit certaine for executing of
it aliter 3: Cro: 859: ac: case lyes for such disturbance ibid:
A bailiffe by his office cannot enter for a condicon broken
for there is an election in his Master which appertaines not
to him to make Moo: 53.

Certificate

What Certificate for conformity shall serve Bishops — 1
being taken away Style 26.
The Court would not discharge ye plea of not taking the 2
engagemt upon a Certificate under ye hand & seale of an
Officer in ye Army under whose com and he was that he had
taken it nor upon a Certificate under my L: genlls Cromwells
hand yt he beleived ye Certificate was true Style 368.
A Certificate cannot be supplyed by a subsequent record 3
Noy 90.
Upon variance assigned for Error & diminution alledg'd the 4
plt procures one Certificate to prove ye variance, ye deft
procures another that warrants ye pleadings ye defts shall
be accepted ~~[illegible]~~
~~[illegible]~~
& ye other intended fictions 1: Cro: 64: 2: Cro: 630.

5 The Record by Error being removed out of C: B: into B: R: upon ye venire where one Gregory was returned ye Clerke of ye Assize returned one George & it was entred upon ye Roll & Certified in ye Record into B: R: Per Curiam if ye variance had been materiall it should not have been amended for we will not make a new Certificate for so we submit our judgemts to ye Censure of another Court for they may credit which they will: Winch 66.

6 The Certificate of ye Bishop mentioned 26: H: 8: c: 3: is not Peremtory for he doth it only as an officers as Collector of the tenths & not as a judge as in ye case of bastardy & therefore may be traverst 1: Cro: 80.

7 Upon a mistryall ye Postea shall not be certifyed for so ye deft might exemplify ye verdict as duely tryed & it would be an evidence agt ye Queen 3: Cro: 305.

8 Upon a Certiorari to certifye a recovery in Bristow it was certifyed under ye seale of Bristow & good 3: Cro: 821.

9 Tho' ye Bishop certifye ye refusall of ye Clerke to pay tenths after demand duely made, yet ye judges are to relye on ye verdict not on ye Certificate Moore 541.

10 If upon Error ye record be certified a Certificate afterward yt there is a fault in it will not be received Moo: 760.

11 In excommunicacon ye Certificate of ye Bishop not mentioning by what bishop he was excommunicated not allowd Excommunicat: 5.

12 No Certificate agt a Record once ~~[illegible]~~ certified to be good to falsifye it Record 6.

niall

A Recusant indicted came into ye Court & brought a testimo- 13
of his submission Latch 16.
If ye Certificate be yt it is ye same originall & it appears 14
by ye Law it cannot be certificate is idle Latch 260.
Certificate of Clerke of Assize sd warrants ye Roll 15
that variances shall be rules by it Yelverton 214.

Miscellanea

335

Feesmiple — Fee is divided into 3 parts, simple, conditionall, qualifyed or base fee: and a man may have a feesmiple in three kind of Inheritances, vizt Reall, Personall and mixt.

Annuity — Annuity granted to a man & his heires is a feesmiple Personall C: L: 2: a.

Feesmiple — A disseisor, abator have a feesmiple, but it is not a lawfull fee C: L: 2: a: so that every feesmiple is by right or wrong, if by right by purchase or dissent.

Alien — If an Alien purchase lands to him & his heires ye Kinge upon office found shall have it by his prerogative; for he can have no heires C: L: 2: b: but if made Denizen & dye without issue ye Lord of ye fee shall have ye Escheat.

Damages — Ne sont le gard ni le Chancery 43: ass: p: 32: Damages B: 195

Dures: fine Infant — Et fuit dit q̄ celui q̄ leua la fine ne dicra jamēs q̄ al tēps fuit de non saue memoire ou en prison car le reversion de ceo appiert p fine &c: 17: ass: p: 17: If an Infant levy a fyne he may avoid it during his nonage, mez apres age nemy: ibid:

Aidle Roy — Tho' ye writt mention wrong done to ye pl̄t & yt ye wrong extends not to ye King whose ye reversion is, but to ye pl̄t tent for life yet loquendū est cum Rege 1: ass: p:

Appeale — In an appeale a q^t 2: it was found false a q^t one, ye Appellor was sent to prison 1: ass: p: 9: B: appeale 49: Imprisi^t 29.

Accepsance — I grant an Annuity vntill B: is advanct to a convenable benefice: if B accept ye benefice of whatsoever value it is, ye Annuity is extinct 10: ass: p: 4.

Attaint — If a man committ felony & purchase lands & is attainted ye Lord of ye fee shall have ye escheat 49: ass: p: 2: C: L: p: [illegible] 2: b: but if

he be attainted of felony & purchase ye King shall have ye Lands by his prerogative ibid:

Annuity granted religioso vel alio & is not mortm ani because it chargeth ye person C: L: 2: b. — Annuity

How a feme covert may purchase, & what may be upon the agreem^t of her husband or disagreem^t, as to herselfe, or heires after decease of husband C: L: 32: a: †. — Coverture

Guardian in Chivalry takes feofm^t of an Infant in his ward ye feofm^t is void & yet by his acceptance his interest of guardian was surrendred C: L: 218: b: — Acceptance

An office wherein Comodu Regis et populi is concerned, being granted in experto is void, nor aliquis is capable of a judiciall office in reversion C: L: 3: b: †: Sec: 37. — Office

It legally includeth castles houses &c: so as passing ye land ye structure passeth C L: 4: a: cujus est solu ejus est usq ad Coelu ibid: — Terre

Fee simple is sometimes moveable & incertain to place & person as 13: acres of 80: to be yearly allotted in hoc aut illo loco, and so Coparceners alternis vicibus C: L: 4: a: — Fee simple

By what names Land shall passe C: L: 4: b: †: — Terre

Livery made secundu formam Chartae shall not inlarge the Grant ibid: — Livery

If ye feoffor is bound to warranty he shall have the Deeds comprehend warranty, but evidences which concerne ye possion ye feoffee shall have C: L: 6: a: †: — Charter

See diversity of challenge in witnesses & Jurors &c a negative cannot be testifyed: More than one witnesse to be joind to the Inquest C: L: 6: b: he that challengeth a right in ye thing demanded cannot be a witnesse: C: L: 7: a: †: — Witnesses

Hæres Is he to whom Lands &c by ye act of God & right of blood descend of some estate of Inheritance: hæredem legitimum justæ nuptiæ demonstrant C:L:7:b: see of of an alien & ye heires of a person attainted C:L:8:a: A man by ye Law cannot be heir to goods &c nor can he have action of debt upon a bond to his Ancestor.

Fee=simple How in sundry cases it may be created without ye words hæredibus suis C:L:9: verba relata hoc maximè operantur per referentiam ut in esse videntur ibid:

Marri=age There is no consideration so much respected in Law as marriage ibid:

Hæres Heires are inheritable by descent ~~[illegible]~~ and capable of land also of land by purchase & then ye course of descent is sometimes altered C:L:10:a:+:

Hæres Wheresoever ye father if he had lived should have inherited his lineal heire by right representation shall inherit before any other: Jus represen: Jus propinquit: C:L:11: next of blood inheritable by descent next of blood capable by purchase ibid:

Statute Such interpretation must be made of all statutes as that ye innocent may not be dampnified C:L:11:b:+:

Hæres He that claimeth as heire in feesimple by descent must make himselfe heir to him that was last actually seised of ye Inheritance: heire absolute, & upon

Warranty shall not goe with Tenements where unto it is annexed to any speciall heir or ye heir at Common Law C:L:12:+:a.

Descent & purchase A great diversity where a son purchaseth lands in feesimple & where he cometh to them by descent on ye part of ye father or mother: None shall inherit lands as heir but ye blood of ye

first purchaser C L: 12: a: t: Multa transeunt cum universitate quae per se non transeunt C L: 12: b:

There must be a feoffmt or Lease by force whereof joynten: is is created C: L: 180: b: t: and there be joynten: by other Conveyances as by fine recovery &c ibid: Notwithstanding severall limitations they may be joyntents ibid: Jointen.

They must joyntly plead & jointly be impleaded ibid:

There be Counsellors & Commanders in a joint disseisin &c ibid: Disseisin

Tho' survivorship be proper to joints yet it is not omni soli et semper ibid: Survivorship

Two or more may have a trust or authority jointly & yet it shall not survive: but there is a naked authority & one joyned to an interest, an authority created by ye party for private uses and created by law for execution of justice C L: 181: b: t: vo. examples thereof. Authority

Naturall or civil death enureth to survivorship &c ibid: Survivorship

Regularly it holds place between jont of goods & chattells in possession or in right as jointents of inheritance C L: 182: a: t: & so of bonds, duties &c:

Jus accrescendi inter mercatores pro beneficio commercij locum non habet ibid:

Where ye inheritances are severall ye reversion sare soe C: L: 183: a: Severall

A diversity where ye estate of Inheritance is limited by one being no severall estates to drowne one another in, & when ye estates are divided in severall Conveyances & consequently one drownes ye other C: L: 182: b: t: Conveyance.

Vide case for joynten ancy in ye reversion on et nemy C L: 182: 183: Joynten ancy

Regula Quaelibet Concessio fortissima contra Donatorem interpretanda est C L: 183: a:

Habendum It doth qualify ye gtt intendmt of ye premisses ibid:

Grant & interpretation Where ye grant is impossible to take effect according to ye letter there ye Law shall make such construccon as ye gift by possibility may take effect Benigne faciende sunt interpretationes cartarum propter simplicitatem Laicorum ut res magis valeat quam pereat C: L: 183: b: +.

Possibility The Law will never intend a possibility upon a possibility 184: C L: a.

Regula L: 185: a. Jus accrescendi praefertur oneribus: Alienatio rei praefertur juri accrescendi:

Joyntenancy Tho' joynt are seised pr my et pr tout yet to diverse purposes each of them ~~shall~~ hath but a right to a moiety: as to enfeoffe give, et C: L: 186: a: +.

And where all joynt joyn in a feofmt every one in judgement of Law doth give but his part Co: L: 186: a:

Discontinuance A joyntent where one of them aliens in fee shall have ye whole right by survivor notwithstanding ye discontinuance for he claims not under it C L: 188: a.

Grant To grant ye profits of ye land is to grant ye land 45: E: 3: 50.

Regula Talis interpretatio semper fienda est ut evitetur absurdum inconveniens et ne judicium sit C R: lib: 1: f: 52: a.

Demurr Tho' a replicacon be vitious ye Demurrer may make it good pl: Co: 50: a (51: a)

Verdict Issue Issue bad made good by verdict ibid.

Estates gtt. Where ye statute speakes generally, generall averment may suffice p: C: Statute que est generale a party generall respons: pl: Co: 51: a.

See excellent good reasons why & when the shewing or declaring of a thing in Certainties is needlesse pl: Com: 51: b. Certain

Issues may be joyned upon incertainties & yet good pl: C: 52: b. Issue joined

Pleas where notwithstanding their incertainty to all intents yet good ibid: Pleas

It needs not be pleaded certainly because all people are to take notice of it p: C: 55: a. Stat gen

Use in terre out terre in use vid: boon exposition Stat: 11: h: 7: p: C: 53. Use

A good rule to interpret a Statute fro ye same mischief pl: Com: 53: b. Interpretation

Statutes which restrain ye liberty ye Comon Law gives to the prejudice of others are extended by equitable ~~[illegible]~~ interpretation pl: Com: 53: b.

Covin is a secret intent in ye heart of some or more to the prejudice of another p: C: 54: b. Covin

Covin may be where ye title is good as well as where it is bad p: C: 54: b:

Mixture of evill with good makes all evill ibid: Mixture

It is not ye order of ye Law to trye ye title of a man amongst strangers where he that hath ye title is not made party p: C: 54: b. Title

Craft where unto an Infant is privy may prejudice his remitter where it works by a disseisin or wrong: but he may be privy to a Craft which works not by wrong or disseisin & yet enjoy his remitter: as if ye discontinue make a Lease for life, & the Lessor at ye request of ye Infant in taile grants his estate to H: that he may by formedon recover agt him & he doth soe ye heir is remitted; because ye Craft was not to doe a tortious thing: ye same if he had been of full age. Covin

Coy Inft. A diversity where ye Infant comes to possession by his owne act, & when ye Law casts it upon him by discent of another Ancestor: for in ye first an Infant may prejudice himselfe ibid:

Intencon The intent of a thing done may occasion a diversity in the matter &c ibid:

Covin Diversity perenter Covin apparent et covin nient apparant — car d'auter ceo qu'est apparant est vaine chose pl: Com: 59: b. Covin ought to be ascertaine, where a recovery hath been by verdict, otherwise where by confession or default ibid:

Super=sedeas None in attaint for ye credency ye Law gives to ye verdict but otherwise for error in fait or record because ye Law hath an — indifferent judgment of them ibid.

Executed executory Where an estate is executed there ye monstrans de faits, or ye particularising ye title not necessary regularly, but where executory it is otherwise pl: E: 52: a.

Jointen: If ye deft pleads yt ye plt holds jointly with another he shall not be forct to shew de quo feofmt. otherwise if he pleads — jointenancy with himselfe.

Covin Where a speciall cause of ye Covin may be shewn generall avoint of it is not good 9: l. E: 41: tit: faux de rec: 5.

Certainty Some breifes & declaracons are generall others are speciall, but titles alway's ought to be certaine for he that makes title is — thereby become an Actor, and an Actor must alway's plead — certainly.

Testam: Est diversitie de voil' q̄ se extend' en natre de frankt et volunt q̄ en natre de terme in ye latter possession fratris holds & contra in ye forma 5: E: 4: 7: b.

There is a diversity betwixt things anext in privity to the ~~[illegible]~~ estate of lands & things annext to ye possession of lands without any privity C R: 1: 122. annext in privity

These words saving such right &c to tent in taile is to be understood to tent in taile in possession & not to tent in taile in use for Cesty qu use in taile had no right. 24 [illegible] feof: [illegible] uses [illegible] 40

Chattells reals & Chattells Psonalls vide good diversity thereof in ye one Coverture makes no severance of joynture in ye other ye Law devests ye propty & makes a severance so yt ye title of such that dieth first goeth to ye Executors

A diversity to traverse a feofmt & a Lease for ye ars, where a former Lease is vrid for it confesseth & avoideth C: R: 6: f: 24: 25: Heylars Case: Lease feofmt

A good diversity where ye discharge is only to my disadvantage & not to ye disadvantage of another 18: E: 4: 9. Discharge

A diversity in counting jointly upon a decies tantum or manicomance which is matter of record & a writt upon ye statute of Liveries &c which is matter of fact: 8: E: 4 22. Decies tantum

No election given of 2 severall things, but where 2 remedyes are given for one thing ye election is in ye remedee C L: 145: a. Election

A diversity in election when a man may have severall remedies for a thing that is meerly Psonall, or meerly reall from the beginning of a thing that ~~[illegible]~~ ye grant may make it reall or Psonall C L: 146: a.

In Apportionmt between a grant of a rent & a reservation of a rent C L: 148: a. Apportionmt of rent

A diversity betwixt apport: a rent in grosse & a rent incident C: L: 14: a.

Ret vit. j. Averm. The sheriffe returned ye goods were avoid ye contrary & had a sicut alias. ye pt

Rules for Conveyances

CL 125: b. To entaile Lands to ye heires males & females of his body: To prevent an Occupant. 41: b.
Lands where by Deed & without Deed vide Corporations bishop CL: 94: b. By will relatenig to feofmts 111: b.

Purchase

Executor is a good name of purchase as he is: when a man takes by purchase he must be named by an apt name of purchase by which he may be known as if there be tent for life rem^d to ye right heires Males of Js: & he hath 2 sons & ye eldest hath issue a daughter & Js: dyes this daughter shall never take any estate for she hath noe name of purchase Ow: 125.
Very good cases & learning upon ye stat: 39: E: c: 18: of Conveyances made to deceive purchasors Shep: touchstone pag: 63.

Concealment

A Concealmt is not but where Lands are in ye Queen 1
by [illegible] attainder or other title & there is not any
record to enforme her what lands they are nothing shall
be said injust detent from ye Queen but that whereof
ye Queen had but a right only & never had any ~~possee~~
possession 3: Co: 508.

Construccion of Law

The Letter of ye Condicon is if R: shall pay to A: ye Law 1
will construe yt his heires or Executors may pay it: a thing
supplyed by Law is as well as exprest: vo plus Winch 107.
The Law respecteth not forme of words but ye substance 2
of ye matter: 2: dayes & 2 halfe dayes is no variance from
3 dayes: and eight bushells of Corne reserved is ye same
with a quarter Bridgm: 20.
When ye Law implyes any act out of ye act of ye party 3
ye act of ye party ought to be such as doth necessarily such
a thing to be implyed by ye Law & yt to be soe necessary
as ye act of ye party cannot be unless ye act to be implyed
be alsoe done Bridgm: 83: but when ye act of ye party
may be without any such implicacon & ye matter to be
implyed rests indifferent it is otherwise ibid:
The Law will not construe it to be a discontinuance 4
whereby ye tent in taile shall doe wrong when ye Advowson
may well passe by Deed which is no wrong Bridgm: 96.

5 When 2 Clauses are contained in a deed ye one contradicting ye other ye first shall be good & ye last void: but otherwise in Wills for ye last part shall controule ye first Bridg: 101.

6 The Judges prove ye first intent by secondary acts subsequent & therefore there is legalis intentio as well as actualis Lane 47.

7 The words in a Patent are ye words of ye King and Patentee in judgemt of Law Lane 78.

8 Dedi et concessi ye Law rejects Gramar & interprets them in ye present tense 1: Leon: pl: 30.

9 Where there seemes to be a confusion in a fine ye Law will marshall it 1: Leon: pl: 343.

10 The King's Patent shall be soe construed as one part may stand with another Lane 7.

11 The Law shall never make construccon agt maintenance of Religion advancemt of learning releife of ye poore 11: Co: 70: b.

12 The Law is ye rule of reason & equity to doe right to all & to save men from wrong & mischeife & therefore ye Law will never make construccon agt Law, Equity & right 11: Co: 72: b.

13 When a Will by matter ex post facto cannot take place ye Comon Law shall take place & regulate it 2: Leon: pl: 171.

14 Where in one bill ye Law shall construe it to be severall bills 3: Cro: 729.

where one fine by construccon of Law shall enure as seveall 15
fines 3: Cro: 729.
The Law will continue clauses seemingly repugnant 16
for preservacon of an estate & if they are not reconciliable
will rather rejett that clause which destroyes ye estate
3: Cro: 744.
H: seised in fee of 3 Acres held in capite makes a 17
joynture to his wife of 2: acres & a feofmt to ye use of
his last Will of ye third which he devisseth to A: by
construccon in Law ye Will shall not be altogether void
but that it shall be a limitacon of ye use upon the
feofmt & ye devisee shall take by ye feofmt 3: Cro: 878.
The Condicon of an Obligation upon a sale yt he should 18
not nor had done any thing to disturbe ye vendees possession
but yt ye vendee should enjoy it without ye disturbance of
him or any other Person Judge yt this shall only refer to
acts done by himselfe for ye Law will construe it viz. yt
he shall enjoy it without ye disturbance of any Person or
Persons by any act by him done Moore 58.
If one covenant to make a Lease of all his Lands in 19
S: & he hath Copyhold lands there & others: he is not
bound by this to Lease ye Copyh: lands for it is a forfeiture
& this by construccon of Law which intends only devisable
Lands Moore 175.
The Law favours acts of necessity Moore 447. 20
where ye Law intends ye meaning of ye parties it dispenseth 21
with a pt words Moore 611:

22 Vide what construction Law will make vt res magis valeat 2: Co: 72: b.

23 Such construcions are to be made yt all words may be retained without refusing any 1: Co: 95: b.

24 Construcions of Law vt magis valeat quam pereat 2: Co: 72: b.

25 The Law judgeth vpon ye nitier act, where ye acts are executed at severall times 5: Co: 99: b.

26 Such was ye gravity of ye antient sages of ye Law to construe ye Kings grants beneficially, for his honour & ye advantage of ye subject, and not to make a strict or literall construction in subversion of such grants 6: Co: 6: a.

Construction of words

C: L: 70: b: If ye end be effected ye Law will construe not ye letter.

Co: 2: inst: 4: Concessimus liberis hominibus yet villaines within these words (de nobis) makes no tenure there &c

Ne deficiat Curia Domini Regis &c

If ye sheriffe returne Clericus beneficiatus &c no Capias but if Clericus only Capias issued because it appeareth not he might be warned by his Diocesan: Co: 2: inst: 4: et 25: bon case.

Seisure

By ye statute 33 H: 8: c: 20: in Cases of high Treason ye Lands of him that is attainted are in ye Kings by & without office.

Quære if ye person attainted for felony or petit treason if ye Law be so without office.

Authority of Com^ts must not be gen^ll 5: Co: 52: b.

Things transitory, Advowson or guard may seise without office 20: E: 4: 11: a.

By=Laws

By all such means by which a people may be incorporated they may have power to make by=Laws & therefore may doe it by p^rscripcion or charter & see ye reason thereof & very good learning ab^t them Moore 583. 1

None should exercise ye trade of a waver except he had been an Apprentice within ye terme of 7 years; not good Moore 869. 2

vide of by=laws 3: Leon: 38: ff to tu rasu.

A Corporacion may make a by=law for ye better executing a law established, but new Lawes they cannot make, and Customs strengthen them 3: Leon: 264. 3

Chamberlain of London in debt counts That is ordained in L: y^t every man shall bring his broad Cloath to B: to be markt paying for every broad cloath a penny on pain to forfeit for every broad=cloath 6^d. recoverable by the 4

Chamberlain in debt: judged good: vide ye power of Corporations to make by-lawes by Customs, & then to be warranted by it, & without it for ye weale publique. 5: Co: 63: a: b.

5 A man cannot be imprisoned by a Corporations by-law they may inflict another reasonable penalty, the Pty assenting to such a by-law helps not, for it cannot defeat ye great Charter which orders it otherwise 5: Co: 64: a.

6 Church wardens with ye greater number of ye parish may assesse a Taxe to repaire a Church 5: Co: 66: b.

Præmunire

1 The Queens Attorney prosecuted a præmunire for ye Queen & Parrott a gt. Dr. Matthew because he procured P: to be sued before ye Comissary in Oxford by Libell in trespasse. Pleading son frank-tenement ye Queens Attorney withdrew ye suit for ye Queen: Judged yt ye Pty greived cannot maintain his suit 1: Leon: pl: 399.

2 If ye party sueth for tythes severed from ye 9 parts & that appeareth within ye Exc it is within ye statute of præmunire: If one libelleth in ye Court of Admiralty for a thing done on ye land & yt it appeareth so in ye Libell, & notwithstanding they hold plea of it a præmunire lieth 2: Leon: pl: 225.

A premunire prosecuted by ye Queens Attorney and 3
P: ag: M: for procuring him to be sued in ye City of
Oxford in trespasse by Libell & P: pleaded his ~~[illegible]~~
freehold & to ye jurisdiction & was condemned, ye Queens attorney
withdrew his suit, ruled in this case ye party greiveed
cannot maintain his suit for ye principall matter in the
premunire is ye Conviction & ye damages are but accessory
& ye principall being released ye damages are gone 3: Leon:
139:

Duresse and Manasse

Duresse & manasse wheat it is & very good diversities 1
concerning it & cases thereupon Shep: touch st: of assur:
pag: 60: 61:
Is: by deed inrolled in Chancery bargained & sold a house 2
& goods & after tooke ye goods again & would avoid the
bargaine inrolled by duresse of imprisonment: videtur on
such a nude surmise it shall not be defeated 1: Cro: 88.
If one menace an Attorney for prosecuting a suit 3
ag: him he may be fined & imprisoned by ye Court
Latch 220.
The tent by fealty & rent, told his Landlord if he 4
distrained for ye rent he would breake his head, ye
Lord upon this menace brought a size of novell disseisin
& recovered Benl: 34.
A feme Covert by duresse ~~[illegible]~~ joynes in a Lease with 5
her husband it shall bind her 3: Leon: 72.

6 Duresse of Imprisonment is not intended but where ye party is wrong fully imprisoned ~~[illegible]~~ untill he maketh ye bond & not where a man is lawfully imprisoned for another Cause & for his delivery he makes a bond & if duresse in such a case be pleaded ye other may say of his owne accord sine duratione Imprisonamenti without saying a ksqs hoc it was ~~[illegible]~~ durat: &c: 3: Leon: 239.

Formidon.

1 Vide Assets 19: a warranty with Assets pleaded in barr 1: Leon: pl: 440.

2 The plt brought a formidon by bill & declared there according to ye Custome & for that ye Land was freehold which is not recoverable but by writt in any Court it was erroneous: In any Court where ye land is to be recovered he shall have a writt close or any other writt & shall declare according to his case 1: Cro: 101.

3 Formidon of 3 Messnages & certain acres of Land plt of the acres found for ye demand: & for ye residue ye tent vouched: and for ye Messnage they were at issue upon a nontenure pleaded: and ye Jury found he was tent of one of ye Messnages & not of ye other: but sheweth not of which in certain: for what is found ye plt may have judgment & at his bill he is to shew ye certainty ~~[illegible]~~ intended by ye Jury to ye Sherrisse for ye jury is not tied to set bounds to it: and he need not stay for his judgment till ye voucher be determined 3: Cro: 265.

ye barre in formedon Moore 55: 4
Lands were given to D: in tail ye remainder to ye right 5
heires of Js: who had issue two daughters and dyed: ye Donee
dyed without issue, ye heires of ye 2 daughters brought a
formedon in remainder but abated, for it must be brought by
ye heir of ye survivor of ye 2: daughters, for they have that
remainder as purchasers 3: Leon: 14.
Formedon in descender lay at ye Comon Law before West: 6
2: 3: Co: 9: a.

Acquittance

A late acquittance is a Peremtory barre to a cognisance 1
made for rent arrear Moore 87.
Paymt of a lesse summe than ye Condition of ye bond testified 2
by acquittance is a good barr in debt upon ye same obligation
5: Co: 117: b.
C: brings debt agt N: upon single bill ye deft pleads 3
paymt without acquittance, this is no plea, for if he have
paid ye summe without acquittance yet ye single bill
remains in force 5: Co: 43: a.
If he that hath a rent service or a rent charge accept the 4
rent & make an acquittance of it all ye arrearages due
before are discharged 3: Co: 65: b.
In an Indenture severall Covents & one wherein he obliges 5
himselfe in a 100lb to performe all ye Covents in ye Indenture
Qu: if in debt brought for ye 100lb paymt of ye 100lb without
acquittance is good plea Dy: 6: pl: 3: but p Montague it is

no good plea for this Indenture is like a single obligaton it which it is no plea aliter if ye obligaton had a Condition Dy: 25: pl: 160:

6 One pleaded in debt upon a single bill paymt without acquittance & yt ye plt delivered him ye bill in ye name of ye acquittance & tooke it back with force &c no plea in demurrer, ye bill can be no acquittance, for it is not made in ye name of ye obligee for a deed that was once good cannot have two deliveryes Dy: 51: pl: 15:

7 Infant Executor may make an acquittance having proved ye will & it shall barre him 5: Co: 27: a.

Severall Tenancy

1 In a writt of Entry in ye per agt A: & B: & A: pleaded severall tenancy it was held no plead: In no action founded upon disseisin is this good: for tho ye demandant by policy will bring his writt agt ye tent of ye land & another whom he will name in his writt in trust yt he will not agree with ye tent of ye land in Dilatories yet in that case severall tenan: no plea 2: Leon: pl: 9.

Wales

1 Vide good learning concerning ye Conquest of Wales, and ye franchises claimed by yet ord of ye Marches & how to plead them Moore 669

Examination

A Justice of peace cannot detenie a man in prison in his house no more than a convenient time to examine him which by ye Law is 3 dayes 3: Cro: 829. 1

The venire fac: & and distringas Jo: Westot & in ye nomina Juratorum who were sworne at Nisi prius he was named Phill ip Westott error & not examinable whether he were one & ye same Person it being a misprision of ye Christian name 3: Cro: 866. 2

The Attorney gll informes ore tenus agt C: in ye Starr-Chamber who was ye Master of R: censured formerly C: confest ye takeing of moneys to release ye provisions charges for ye King but to know not ye certain sume: resolved yt ye examination of R: taken formerly shall be read for ye explanation of ye quantity & for aggravation of ye offence: But in things denyed by C: nothing can be read but his owne confession to accuse him ore tenus Moore 770. 3

A Sherriffe discharges may be examined upon a variance in ye venire & distringas if he be ye same Person 2: Cro: 457. 4

How to proceed to examine witnesses in Plum rei Mein ona compleat Attorney pag: 359. 5

Reparation

If there be no great timber on ye land, ye Lessor shall find great timber for reparation Moore 7. 1

Hosteler

1 The Hosteler is not discharged by giving ye Key of the chamber to his Guests: may not take issue ye goods were not stolen by his negligence Moore 78: Cro: Jac: 188: pl: 12: et 224: pl: 4: 2: Cro: 32.

2 The hosteler & his guest agreeed yt ye Inkeeper should not be charged with more than what ye guest delivered to him or his wife this is a good agreem^t & discharge for the Inkeeper ag^t other goods stolen: Moo: 158: Brown l: 254 Moo: 78: Moore: 158: Shep: Epit: 1055.

3 If ye serv^t be robbed of his Masters goods in an Inne ye Master may bring ye action: If one comes to an Inne & leaves his horse there & goes ab^t his business & his horse is stolen in ye interim, Altho' he will not lodge there he shall have an action: he need not alledge he is transiens for ye Chance he is at his journeyes end Latch 127.

4 An hostler is bound to take horses to livery, If one hires a chamber in an Inne for all ye Terme together & goods be stolen out of it, ye Inkeeper is not chargeable for ye party is quasi a Lessee: one leaves his goods in an Inne & in ye meane time goes about his business ye Inkeeper shall answer for ye goods if stolne if he returne within 3 or 4 dayes, but if one leaves his horse & returns not within 20 dayes ye hostler shall answer for him for he hath profit by it, ye hosteler may detaine ye horse for his meate & yet may have an action of ye case for ye meate Moo: 876.

If a passenger lodge 3 dayes in an Inne together the 5
hostler is not answerable for his goods if they be stolne:
ye first night he is a traveller ye 2d night is a ~~[illegible]~~ kegen kinde
ye 3d night he is a menicall servant & by ye antient Antiques
ye Inkeeper was to answer for him as for his servt in the
Leet Latch: 88.
An hostler may detain ye horse till he be pd & sell 6
him by reasonable appraisement when he hath eat up
his worth, but if I promise to pay him 6d a night &
he eat out 20 times his price, he cannot sell him for
he hath relyed on my promise Yelverton 64.
If I come to an Inne with a horse loaden, & ye hostler 7
saith he hath no roome & yet I will put in my horse
& pack & by sufferance of a stranger lodge with him
& ye pack be robbed ye hostler may plead not guilty
& give this in evidence & good Benlow 18:
If in an action of ye Case agt hostler for hiring any 8
horse agt my will whereby he becomes lame, & I loose
my ousmesse I shall recover damages & my horse, aliter
in trover Benl: 141.
A stranger brings another mans horse into a common Inn 9
& there sets him for some time & afterwards goes away
leaving ye horse a pledge for his meat, ye Inkeeper may
detain ye horse till ye right owner satisfye for ye meat
3. Bul: 269: et 289: al:

10 If a servt carryes his masters horse to an Inne & there leaves him & he is stolen away an accon lyeth for ye master as well as ye servt agt ye Inkeeper: 3: Bul: 271.

11 A ffeiryman, hostler or Carryer that takes hire shall answer for ye goods bailed to him if they be stolne — 4: Co: 84: a.

Dutchy Lands

1 She for Dutchy lands cannot enter without demand of rent acceptance by proper officers of ye Dutchy of rent after ye day limited Qu: if shall conclude the Queen of a Condicon of reentry & if ye Queen upon demand may enter without office videtur quod bene & vide many other things of Dutchy possessions Moo: 149.

2 All possessions acts concerning ye possession of ye Dutchy of ye Queen shall doe as ye Duke of Lancaster, but personall acts she shall doe as ye Queen Moo: 162.

3 A Case was removed out of ye County Palatine of Lancaster by letters of ye Councell board, Moo: 486.

Monopolie

1 One pleading a sale in his shop prescribed modo unus Contractentium sit liber homo Civitatis (not good) for it is a monopoly Moore 625.

2 Ve excellent cases concerning ye Kings grants: his power is executed in imperando honesta, prohibendo injusta, permittendo media, puniendo delicta, muerando beneficia Moore 671.

Pluralities

If a Countesse retaine 3 Chaplaines & he that is last retained obtains a qualification first qu: if he shall be preferred in holding 2 benefices before ye other. There need no deed to maintaine a Chaplaine within 21: H: 8: 1: cap: 13: Moore 279. 1

The qualification & dispensation which comes after institution & before induction to ye second benefice is not sufficient by ye provisoe in 20: H: 8: c: 13: to retaine both benefices &c many points to induction institution &c well debated & ye 21: H: 8: 25: H: 8: especially expounded abt pluralities Moore 448. 2

Upon ye takeing of a 2d benefice ye first benefice is void at Comon Law without deprivation Moo: 542. 3

The Chaplain first retained is to be preferred & not the Chaplain who first obtains a dispensation or who first takes a 2d benefice Moo: 561. 4

A barronesse vidua retains 2 Chaplains & they purchase a dispensation & ye barronesse married before her Chaplains accepted a double benefice yet they may take them for ye marriage is not a discharge of the ~~[illegible]~~ service but if ye Master be attainted that discharges ye service & ye power to qualify Moo: 678. 5

A Countesse widdow retains 5 Chaplains ye last retained is not capable of a dispensation, for ye statute is executed by ye retaining 4: Co: 90: a. 6

M: a noble woman widdow retains a Chaplain who purchaseth a dispensation, she marryes he is preferred 7

to another benefice, ye first is not void 4: Co: 117: b.

8 If ye Parson be with in ye parish, & there be a parsonage house if he abide any where else he is punishable for nonresidency: Imprisonment or removing without Corni to take physick are good excuses 6: Co: 21: b.

Monasteries

1 A widdows estate in a Copyhold is sufficient estate in being to make a release in reversion made by an Abbot void Moo: 60: et 128: ac:

2 The founder of an Alme-house appoints ye poor to be elected by ye Chantry priest & by ye gardian of ye new Colledge in Oxford: ye Chantry is dissolved Qu: if ye Queen shall joyne in ye election or whether it be lost or who shall elect Moo: 286.

3 Qu: if ye King have ye dissolved lands of &c by 1: E: 6: c: 14: & he shall hold them discharged of tithes by 31: H: 8: c: 13: because ye latter statute gives not the Tythes Moo: 420.

4 Where good uses are coupled with an obit, light &c ye land is preserved for ye good uses & no more given to ye Crown than what was imployed on superstitious uses: aliter where goods uses are coupled with finding a priest, there ye land is given to ye Crowne & that which was reserved for good uses shall be pd by ye Kings officers: vide excellent learning upon Chanteries & superstitious uses Moo: 654: 627: 694.

Ve. how lands of Monasteries shall be discharge of 5
Tythes Moore 913.
What lands shall be discharge of Tythes by 31: H. 8: 6
c: 13: which were discharge quamdiu proprijs manibus
tuis excolu erunt, et vide ye nature of those orders of
Templers, & Hospitallers that they were Ecclesiasticall
as well as religious Hatch 89.
The translation of prior & Coven into a Deane and 7
Chapter by ye King is no prejudice to ye founder, for
he is founder still: all Chapters were monks and
notwithstanding their translacon into prebends and
Canons & change of their habitt ye Advowson remains
as it was 3: Co: 74: a.

Chee. Farme

If ye King grants lands in fee farme & sayes no more 1
ye grantee shall answer him for ye annual value
& ye grantee in that case shall pay no releife, & so
if ye yearly value be exprest, but if ye yearly value
be abridge by an expresse rendu he shall pay releife
Moore 68.

Exchequer

1 The Treasurer alone cannot increase fees or allowances to ye Kings Officers & tho' he hath ye guard & custody of the Treasure yet he cannot dispose of it ex officio without a warrant.

2 Vide proceedings for Tythes on 2: E: 6: c: 13: in ye Exchequer titulo Tythes 3: Leon: 204.

3 See who shall have Exchequer priviledge: tit: Priviledge 3: Leon: 250.

4 Noe Comon pleas should be held in ye Exchequer pp artic: supp Chartas c: 4: 4: 5: Co:

Acts

1 Though an Act be proper to one person, yet it may not be exclusive to another Latch 20:

2 An Act that begins in an improper effect must be exprest, as if one be to make an entry into lands a casuall entry by hunting operates nothing Latch 25:

3. When a man is doing a lawfull Act, & by necessity another thing happens, which he cannot prevent, he shall not be a trespasser Latch 119.

4 Acts misfect at ye first may be made effect afterwards Latch 165.

5 Loyall acts shall hold good though they want full authority 2: Co: 64: a.

What acts done by me shall bind others 2: Co: 67: a. 6
A single act may enure to 2 intents to grant & confirm 7
5: Co: 15: a.
Continued acts of pertenants cannot bind ye reversion — 8
5: Co: 99: b.
If ye first act viz: to cut ye trees be lawfull: ye sale — 9
being a subsequent act cannot be unlawfull Godb: 28.
A man shall not take advantage of that matter which 10
by his owne act he hath destroyed Plowd: 358: b.

Grammar

Mistake of ye sense vitiates ye plea, Juratores — 1
dixerunt pro dicunt preceptum est quod coperit pro
capiat, quærens dixit pro dicit Latch 194.
Ideo consideratum est quod quærens recuperaret (reversit) 2
for it should be recuperet Latch 211.
Indictmt of forcible entry it was expulsatus for — 3
expulsus, fortiori modo for forti modo, party discharged
Noy 155.
The Judgemt was entred in concessum per Curiam if — 4
concessum had been good (in) had made it void, and not
(in) void and ye Judgemt good by Concessum Yelv: 130.
Indictmt quod exercuit diversas malas & diabolicas artes 5
anglice whitchcraft inchantmt & forgery Exception yt
ye Indictmt should be in latine & these gll words agree
not with ye aglice Benl: 185.

6 In latores assiduerunt, pro assiderunt. Recuparet for recusset: Error: Boul: 193.

7 In particon ye writt was mille acras, Exception taken yt it should be mille acrarum, good both ways upon advice with gramarians 3: Leon: 94.

8 If I grant my Manor of Dale Manerium de Dale anglice my Close in Dale ye Manor passeth, & soe if I grant warrennam meam anglice my game of Conyes ye warren & soyle passeth 3: Bul: 82.

9 ffalse Lattin shall not quash an Endictmt or abate a Count, tho' it shall abate an origniall writt, judiciall writts or a fine shall not be abated by it 5: Co: 121: a. but if ye word be not latin or all owed for latin but insensible in a materiall point it quasheth ye Indictmt. ibid (b)

Treason

1 Words may be treason as to say ye King is a bastard or yt another hath better title to ye Crowne &c: ordinarily to report treasonable words is not safe Jcelver: 107.

2 Rebellion of subjects agt ye Queen hath been alwayes high Treason at ye Comon Law for 25: E: 3: c: 1: that levying of warr within ye Realme agt ye King is treason, and rebellion is all ye warr which a subject can make agt ye King If Persons associate to pull downe Inclosures to set price upon victuals or to use force agt ye Magistrate for executing his office of justice it is treason Poph: 122.

Estovers

If one have estovers he shall not take that in ye following year which he might have taken in the former for lathes shall not give a man double Estovers Latch 255.

When ye alteracon of ye qualitys or name of part of ye house infers no prejudice to ye ter=tenant ye Estovers & services remaine 4: Co: 88: a.

A C

Abbreviation — 314
Abbeyance — 315
Accord — 316
Action — 317
Agreement — 326
Aid — 330
Acquittance — 352
Acts — 361

B I

Bailiffs — 331
By Laws — 348

C

Certificate — 332
Concealment — 344
Construction of Law — 344
Construction of Words — 347

D

Page

Duresse & Manasse — 350

Dutchy Lands — 357

E

Examination — 354

Exchequer — 361

Estovers — 364

F

Forfeiture — 1

Franchise — 5

Freehold — 6.

Forrest — 8

Forgery — 9

Falsify Recovery — 10

Formedon — 351

Fee Farm — 360

G

Page
Grammar — — — — — — — — — 362

H

Habendum — — — — — — — — — 13
Heriot — — — — — — — — — 19
Heresie — — — — — — — — — 20
Hue & Cry — — — — — — — — 20
Hors de Son Fee — — — — — — 22
Hosteler — — — — — — — — 355

I

Idemtitate nominis — — — — — — 22
Imports Customs — — — — — — 23
Inducement — — — — — — — 23
Ingrosing — — — — — — — 25
Instructions — — — — — — — 25
Interpretation — — — — — — 26
Issue — — — — — — — — 27
Jurisdiction — — — — — — — 29

L

Page

Laches — 47
Livery & Seisin — 48
Licence — 56
Lieu & County — 128

M

Manor — 58
Market — 68
Minerie Literatus — 69
Motion — 70
Monies — 71
Miscellanea — 33
Monasteries — 35

N

Non Compos &c — 131
Nobility — 73
Nomine Pœnæ — 75
Nosmer & Misnomer — 76
Nolle Prosequi — 82
Non User — 82
Nontenure — 82
Novel alsignment — 83
Non Obstante — 84

O

Oaths — 86
Occupant — 88
Office Excheator — 90
Oyer — 94

P

Parock — 95
Parson Patron — 97
Part Parcel — 99
Partition — 101
Peremptory — 103
Petition — 104
Pledges — 105
Pope — 106
Prescription — 107
Principal — 117
Priority — 117
Prison — 119
Precedents — 121
Privity — 122
Process — 124
Protection — 127
Purchase — 343

P- continued

Page

Premunire — — — — — — 349
Pluralities — — — — — — 358

Q

Quare impedit — — — — — — 132
Que Estate — — — — — — 142
Quid Deforceat — — — — — 142
Quo Warranto — — — — — — 144
Quid Juris clamat — — — — — 146

R

Recital — — — — — — 147
Record — — — — — — 152
Recovery — — — — — — 155
Recusancy — — — — — — 166
Release — — — — — — 168
Relief — — — — — — 170

carried over

Repleader — 179
Replication — 182
Rescous — 184
Receipt — 185
Respondeas ouster — 188
Restitution — 190
Retraxit — 195
Riot — 196
Reviver — 197
Right — 199

S

Satisfaction — 200
Seisin — 202
Seales — 204
Severance — 206
Simony — 207
Seisure — 209 — 348

carried over

S continued

Page

Star Chamber — 210
Statutes — 214
Suggestion — 237
Subsidie — 237
Several Tenancy — 239

T

Tenant at Sufferance — 239
Tenant for Life — 240
Leet — 243
Tenant pr. le Curtesie — 244
Title — 245
Toll — 249
Tithes — 250
Treason — 363

V

Page
Value and Valuation - - - - 275
View - - - - - - - 276
Voucher - - - - - - - 292

U

Upper Bench - - - - - 277
Uttary - - - - - - - 279

W

Waife - - - - - - - 293
Way - - - - - - - 295
Warranty - - - - - - 300
Warrant - - - - - - 307
Ward - - - - - - - 309
Wreck - - - - - - 313
Wales - - - - - - - 343

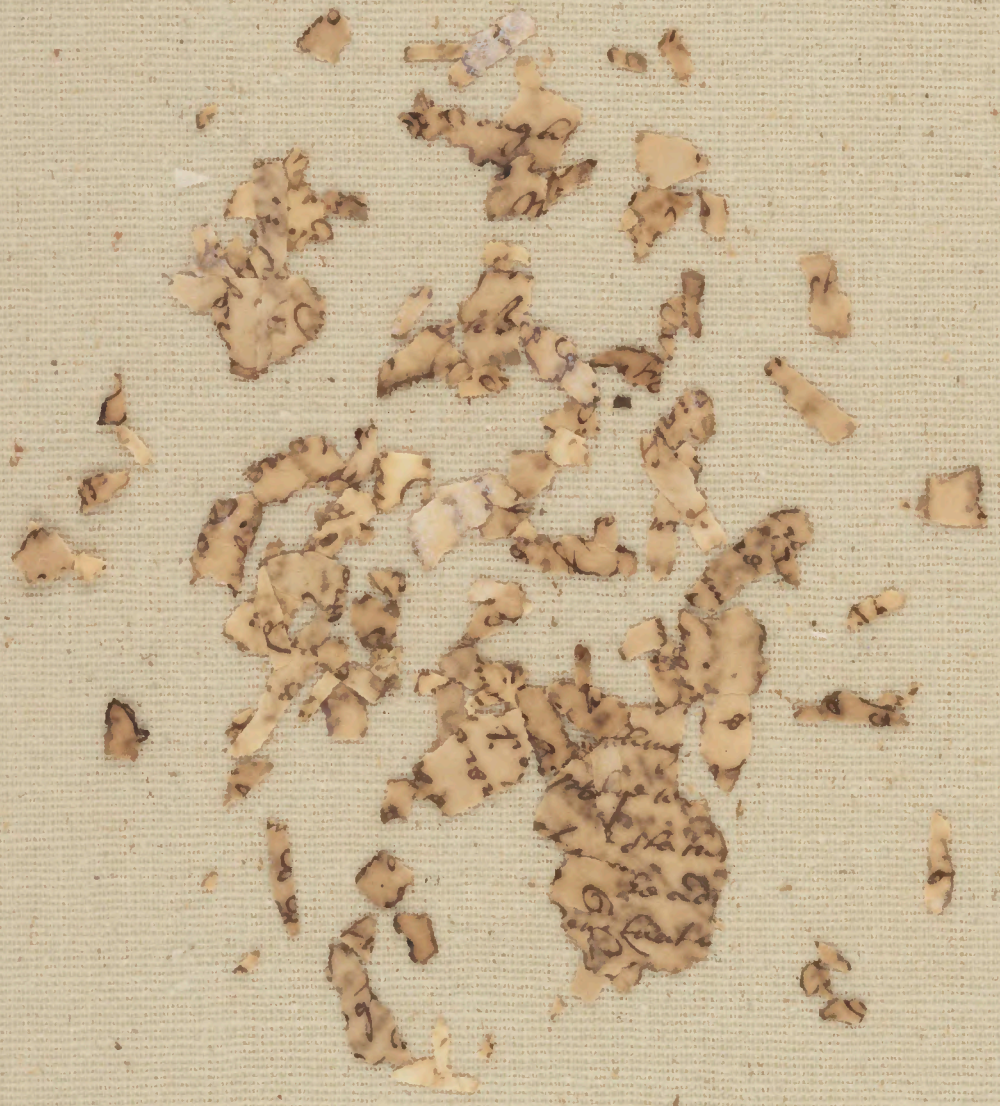
Finis

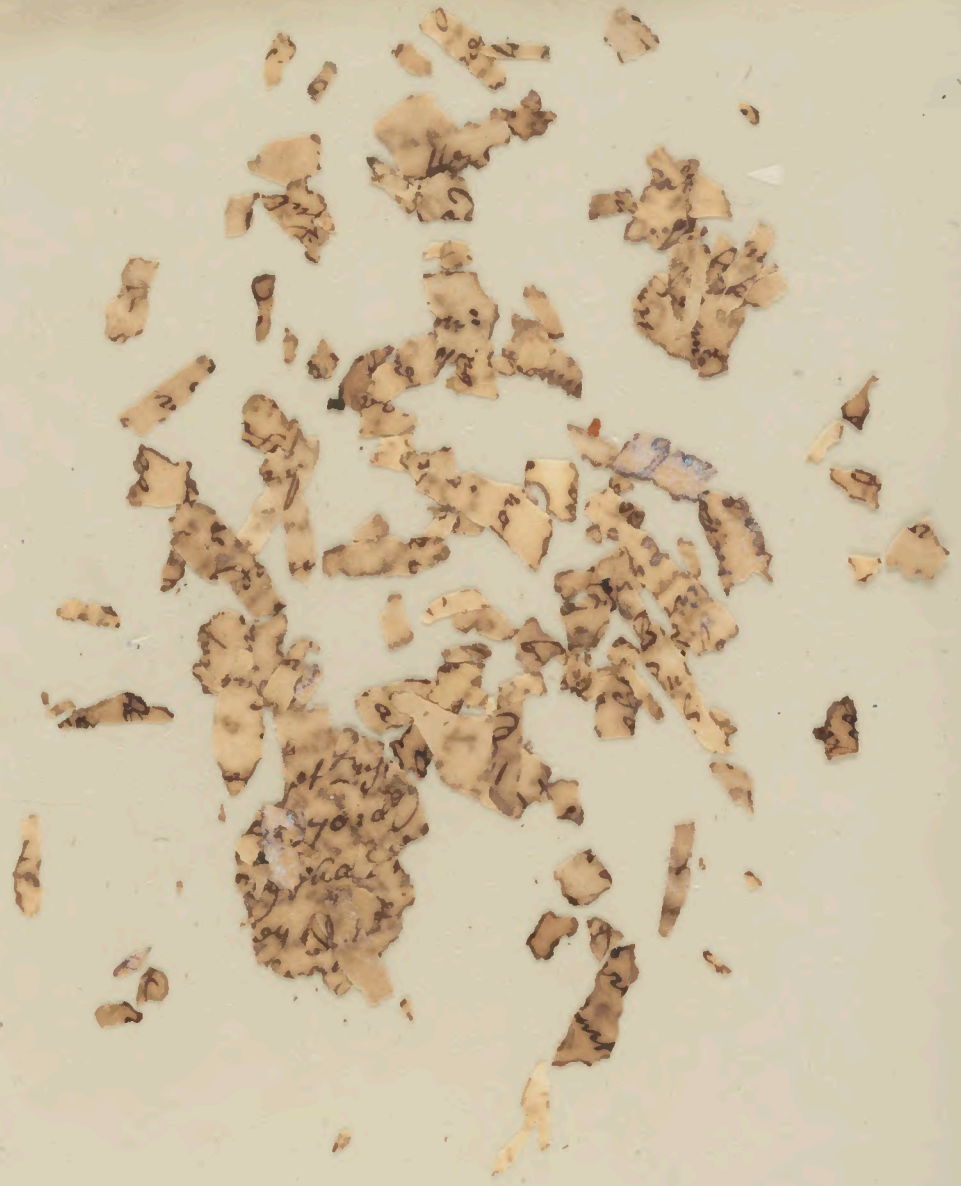
I

II

III

by 1795
script 14
1.2
py!
SCD





Sowerby 1795
Manuscript 14
vol. 2
Copy 1
RBSCD