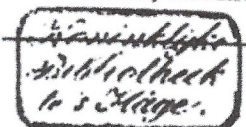


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A
COLLECTION
OF
STATUTES
OF
PRACTICAL UTILITY
WITH
NOTES
THEREON;
INTENDED AS A
CIRCUIT AND COURT COMPANION.

BY J. CHITTY, ESQ.,
OF THE MIDDLE TEMPLE, BARRISTER AT LAW.



VOL. I.—PART II.

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NULLUM TEMPUS ACT, 1769 — PUBLICK ACT GEORGE III, 9

C A P. XVI.

An Act to amend and render more effectual an Act made in the Twenty first Year of the Reign of King *James* the First, intituled, *An Act for the general quiet of the Subjects against all Pretences of Concealment whatsoever.*

'WHEREAS an Act of Parliament was made and passed in the Twenty first Year of the Reign of King *James* the First, intituled, *An Act for the general Quiet of the Subjects against all Pretences of Concealment whatsoever*, and thereby the Right and Title of the King, His Heirs and Successors, in and to all Manors, Lands, Tenements, Tythes and Hereditaments (except Liberties¹ and Franchises²) were limited to Sixty Years next

¹ **LIBERTY** – A franchise, being a royal privilege, or a branch of the Crown's prerogative, subsisting in the hands of a subject, as a liberty to hold pleas in a court of one's own.

Also, generally, a state of freedom, as contradistinguished from slavery. It is of various kinds.

1. Natural liberty – a state of exemption from the control of others, and from positive laws and institutions of social life.

2. Civil liberty – the security from the arbitrary will of others, which is afforded by the laws.

3. Political liberty – a more extended civil liberty, being the freedom of a nation or a state from all unjust abridgment of its rights and independence by another nation.

4. Religious liberty, or liberty of conscience – the free right of adopting and enjoying opinions on religious subjects, and of being allowed to worship the Supreme Being according to the dictates of conscience, unfretted by external control.

5. Liberty of the press – the free power of publishing everything, subject, however, to punishment for publishing what is mischievous to the public morals, or injurious to individuals. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 378

² **FRANCHISE** – An incorporeal hereditament or right, such as a ferry, or a market, entitling the owner of the franchise to take certain tolls or pecuniary payments. Sometimes, also, it denotes an exemption from the ordinary jurisdiction, coupled with the right of exercising a jurisdiction of one's own; and in this last signification it is a royal privilege or branch of the king's prerogative, subsisting in the hands of the subject; e.g., to be a county palatine, to have right to hold Court leet, to have waifs, wrecks, estrays, treasure-trove, royal fish, forfeitures, and deodands. (3Cru. 278). A New Law Dictionary and Institute of the Whole Law For the Use of Students, the Legal Profession and the Public. By: Archibald Brown, of the Middle Temple, Barrister-at-Law, M.A. Edin. and Oxon., and B.C.L. Oxon; Author of 'The Law

before the Beginning of the said Session of Parliament; and other Provisions and Regulations were therein made for securing to all His Majesty's Subjects the free and quiet Enjoyment of all Manors, Lands and Hereditaments which they, or those under whom they claimed, respectively had, held or enjoyed, or whereof they had taken the Rents, Revenues, Issues or Profits, for the Space of Sixty Years next before the Beginning of the said Session of Parliament: And whereas the said Act is now, by Efflux of Time, become ineffectual to answer the good End and Purpose of securing the general Quiet of the Subject against all Pretences of Concealment whatsoever:' Wherefore be it enacted by the King's most Excellent Majesty, by and with the Assent and Consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the Authority of the same, That the King's Majesty, his Heirs or Successors, shall not at any time hereafter sue, impeach, question or implead any Person or Persons, Bodies Politick or Corporate, for or in any wise concerning any Manors, Lands, Tenements, Rents, Tythes³ or Hereditaments⁴ whatsoever (other than

of Fixtures;' 'An Epitome and Analysis of Savigny's Treatise on Obligations in Roman Law;' and Editor of 'Snell's Principles of Equity, with an Epitome of the Equity Practice.' Second Edition, - 1880, p. 236

FRANCHISE – An incorporeal hereditament, synonymous to liberty. A royal privilege or branch of the Crown's prerogative, subsisting in the hands of a subject. It arises either from royal grants, or from prescription, which presupposes a grant. The kinds are almost infinite, but the principal are bodies corporate, the right to hold court-leets, fairs, markets, ferries, forests, chases, parks, warrens, fisheries. The remedy for disturbance is an action on the case. Also the right of voting in an election for a member of Parliament. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 264

³ TYTHE – tithe, or tenth part. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 676

⁴ HEREDITAMENTS - Every kind of property that can be inherited; i.e. not only property which a person has by descent from his ancestors, but also what he has by purchase, because his heir can inherit it from him. The two kinds of hereditaments are corporeal, which are tangible (in fact, they mean the same thing as land), and incorporeal, which are not tangible, and are the rights and profits annexed to, or issuing out of, land.

The enumeration of incorporeal hereditaments in Hale's Analysis (p. 48) is the following: -- rents, services, tithes, commons, and other profits *in alieno solo*, pensions, offices, franchises, liberties, villeins, dignities. But Blackstone enumerates ten principal kinds: -- advowsons, tithes, commons, ways, offices, dignities, franchises, corodies or pensions, annuities, and rents.

Although the word "hereditament" applies both to realty and personalty, yet it is in a different mode of relation. When applied to realty it generally denotes the *subject* of property, apart from its nature and extent;

Liberties or Franchises), or for or in any wise concerning the Revenues, Issues, or Profits thereof, or make any Title, Claim, Challenge⁵ or Demand⁶ of, in or to the same or

but when applied to *personalty*, it does not then denote the *subject*, but signifies some inheritable right, of which the subject is susceptible.

There is a third application of this word – it is used to denote inheritable *rights* relating to land, or something issuing therefrom or exercisable therein, or having the same local connection or relation *distinct* from the enjoyment of the land itself. In this view of the description, hereditaments divide themselves into real, personal and mixed, and, therefore, as was said before, they are applicable to all the kinds of property.

Solus Deus facit haeredem, non homo. Co. Lit. 5. – (God alone makes the heir, not man.) Dictionary of Jurisprudence, 1847, p. 290 (305) – p. 291 (306).

⁵ CHALLENGE – An exception taken either against things or jurors.

Is civil actions, when a full jury cause, as well the talesmen as the jurors originally returned. Challenges are of two kinds: (1) to the array, (2) to the polls, and each of these is again subdivided into principal challenges, and challenges to the favour.

(1) A challenge to the array is an objection to all the jurors returned by the sheriff, collectively, not for any defect in them, but for some partiality or default in the sheriff or his under-officer who arrayed the panel: this is either (a) a principal challenge, as that the sheriff or other returning officer is of kindred or affinity continue; that one or more of the jury are returned at the nomination of the plaintiff or defendant; that an action of battery is pending at the suite of the plaintiff or defendant against the sheriff, or at the suit of the sheriff against the plaintiff or defendant; that an action of debt is pending at the suit of the plaintiff or defendant against the sheriff, but not if by the sheriff against the plaintiff or defendant; that the sheriff or returning officer holds land depending upon the same title with that in litigation between the parties; that the sheriff, &c., in under the distress of the plaintiff or defendant; that the sheriff, &c., is counsel, attorney, officer, servant, or gossip of either party, or is an arbitrator in the same matter, and has treated thereof. (b) A challenge for favour, being such as implies at least a probability of bias or partiality in the sheriff, but does not amount to a principal challenge, as that the plaintiff or defendant is tenant to the sheriff, or that the parties are connected by marriage, &c. It seems very doubtful if the array in special jury cases can be challenged. Challenges to the array are however, seldom resorted to, since, for the causes above-named, the jury-processes may be directed to the coroner, or they would be grounds for a new trial.

any of them, by reason of any Right⁷ or Title⁸ which hath not first accrued and grown, or which shall not hereafter first accrue or grow, within the Space of Sixty Years next

(2) A challenge to the polls, which is an exception to one or more of the jurors who have appeared individually, either (a) a principal challenge, which may be subdivided into (a) challenge *propter honoris respectum*, as if a lord of Parliament be called, he may challenge himself, or he may have his writ of privilege, but it is doubtful if either party can challenge him, 6 Geo. IV., c. 50, ss. 2; (b) challenge *propter defectum*, that the juror is not qualified, or if a woman be impanelled she may be challenged *propter defectum sexus*, unless it be on a writ *de ventre inspiciendo*; (c) challenge *propter affectum*, by reason of some supposed bias or partiality; (d) challenge *propter delictum*, when, for some act of the juror, he has ceased to be, in consideration of law, *probus et legalis homo*. (B) A challenge to the polls for favour is of the same nature with the principal challenge *propter affectum*, but of an inferior degree.

No challenge can be made before a full jury have appeared; a challenge to the polls is made *ore tenus*, that to the array is writing.

The trial of challenges to the array is entirely in the discretion of the court, sometimes they are tried by two of the coroners, sometimes by two of the jury, sometimes by the court itself. Challenges to the polls, if to the favour, are tried by two jurors, who have been sworn; if none sworn, the court appoints two indifferent persons to try them, thence called triers, who are superseded as soon as two jurors are sworn; a principal challenge to the polls is tried by the court itself. *Chit. Arch. Prac.* 305.

In criminal cases, challenges may be made, either on the part of the crown, or on that of the prisoner, and either to the whole array, or to the separate polls, for the very same reasons that they may be made in civil causes. In capital cases, the prisoner, *in favorem vitae*, is allowed an arbitrary and capricious species of challenge, without showing any cause at all, limited, in cases of treason, to thirty-five, and in felonies to twenty. 22 Hen. VIII., c. 14; 7 & 8 Geo. IV., c. 28, ss3. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 97 - 98

⁶ **DEMAND** – A claim, a challenging, the asking of anything with authority, a calling upon a person for anything due. It is either *in deed*, written or verbal, as a demand for rent, or an application for payment of a debt, or *in law*, as an entry on land, distraining for rent, bringing an action. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 172

⁷ **RIGHT** (Black's Law Dictionary, 9th Edition, 2009, p. 1436) – 1. That which is proper under law, morality, or ethics. 2. Something that is due to a person by just claim, legal guarantee, or moral principle. 3. A law <the right to dispose of one's estate>. 4. A legally enforceable claim that another will do or will not do a given act; a recognized and protected

before the filing, issuing or commencing of every such Action⁹, Bill¹⁰, Plaint¹¹, Information¹², Commission¹³ or other Suit¹⁴ or Proceeding¹⁵, as shall at any time or

interest the violation of which is a wrong. 5. The interest, claim, or ownership that one has in tangible or intangible property.

RIGHT – [*recht*, Germ. and Tent., *ritto*, Ital., *rectus*, Lat. The application of the same word to denote a straight line and moral rectitude of conduct, has obtained in every language I know. *Dugald Stewart*], in its primitive sense, that which the law directs: in popular acceptation, that which is so directed for the protection and advantage of an individual, is said to be his right. 1 *Stark. Evid. 1, n. (b)*. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 593-594

⁸ **TITLE** – Black's Law Dictionary, 9th Edition, 2009, p. 1622 – 1. The union of all elements (as ownership, possession, and custody) constituting the legal right to control and dispose of property; the legal link between a person who owns property and the property itself. 2. Legal evidence of a person's ownership rights in property; an instrument (such as a deed) that constitutes such evidence.

⁹ **ACTION** – The form prescribed by law for the recovery of one's due, or it is a lawful demand of a person's right. The learned *Bracton* thus defines it:-- "*Actio nihil aliud est quam jus prosequendi in judicio quod alieni debetur* (an action is nothing else than the right of prosecuting to judgment that which is due to any one), *Celsus Dig. 44, tit. 7, ss. 51*. Actions are divided into criminal and civil; criminal actions are more properly called prosecutions, and perhaps, actions penal, to recover some penalty under statute, are properly criminal actions. Actions civil are divided into three clauses:-- 1. *Real*, which concern real property only – they are three, action of dower, down *unde nihil habet*, and *quare impedit*; 2. *Personal*, such as concern contracts, both sealed and unsealed, and offenses or trespass; the former are called *ex contractu* – they are debt, promises, covenant, account, annuity, and *seire facias*; the latter are *ex delicto*, as case, trover, detinue, replevin, and trespass *vi et armis*; 3. *Mixed*, which lie as well for the recovery of the thing as for damages for the wrong sustained, as ejectment. See 3 *bl. Com.*; *Stephens on Pleading*; and *Archbold's Criminal Pleading*. For the classical learning on the subject, consult *Smith's Dict. Of Antiq., titl "Action."* Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 12-13

¹⁰ **BILL** – A document submitted to Parliament, in which are contained certain propositions for its consideration, which, being approved of, is passed, and becomes law in the shape of a Statute. To bring a bill into either House of Parliament, if the relief sought by it be of a *private* nature, a petition, setting forth the grievance desired to be remedied, is presented by a member, the necessary documents having been first deposited, as provided for by 7 Wm. IV. And 1 Vict., c. 83. The petition is then referred to

a committee of members, and in the House of Lords to two of the Judges, who examine the matter alleged in it, and make their report to the House, upon which leave is given to bring in the bill, or otherwise. If it relate to a *public* matter, the bill is brought in upon motion, without petition, but in pursuance of several standing orders, as shewn in *Lumley's Parliamentary Practice*. The bill, drawn out and printed, is then presented to the House; it is then read a first time, and at a convenient distance, a second time, after which it is committed, i.e. referred to a committee, composed of a few members, or the whole House, the Speaker quitting the chair, and another member being appointed chairman; the bill is then debated clause by clause, amendments made, the blanks filled up, and sometimes it is entirely new modelled; after this, the chairman reports it to the House, which re-considers the whole bill, and the question is repeatedly put upon every clause and amendment. It is then ordered to be engrossed and read a third time; if a new clause be afterwards added, it is done by tacking a separate piece of parchment on the bill, called a rider. The bill may be opposed at any of these stages, and if successfully, it must be dropped for that session, but if it pass the third reading, the title of it is settled, and it is carried by several members of the bar of the House of Peers, and delivered to the Speaker, for their concurrence; if there passes through the same forms, and if rejected, the matter passes *sub silentio*. If it be agreed upon, the Lords send a message to the Commons, by two Masters in Chancery, or upon matters of high importance, by two of the Judges, that they have agreed to the same, and that it remains with the Lords; but if any amendments have been made, they are sent down with the bill to receive the concurrence of the Commons. If the Commons disagree to the amendments, a conference usually follows between members deputed from each House, who try to settle the difference, and if they cannot, the bill is dropped; if the Commons agree, a message is sent to the Lords to that effect. Precisely the same forms are observed, when a bill originates in the House of Lords. *An act of grace or pardon* is first signed by the Sovereign, and then read once only in each House, without any new engrossment or amendment. *A bill of supply*, after receiving the concurrence of the Lords, is sent back to the House of Commons, instead of being deposited in the House of Peers to await the Royal Assent, which is given in two ways, either by person or by commission, and then, and not before, it becomes a Statute or Act of Parliament; it is then printed at the Queen's press, for the information of the people. *Stephens Com.*, vol 2, p. 405. *Dictionary of Jurisprudence*, J.J.S. Wharton, Esq., 1847-48, pg. 61

¹¹ **PLAINT** - The exhibition of an action is writing. It is the first process in an inferior court, in the nature of an original writ, because therein is briefly set forth the plaintiff's cause of action; and the Judge is bound, of common

right, to administer justice therein without a special mandate from the Crown. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 522

¹² **INFORMATION** - An accusation or complaint; also, communicated knowledge. Information in *Chancery*. Where a suit is instituted on behalf of the Crown or Government, or of those who partake of its prerogative (such as idiots and lunatics), or whose rights are under its particular protection (such as the objects of a public charity), the matter of complaint is offered to the court by way of information by the attorney or solicitor-general, and not by way of petition. When a suit immediately concerns the Crown or Government alone, the proceeding is purely by way of information, but where it does not so immediately, a relator is appointed, who is answerable for costs, &c.,; and if he be interested in the matter, in connection with the Crown or Government, the proceeding is then by information and bill. Informations differ from bills in little more than name and form; and the same rules are, therefore, applicable to each. *Story's Eq. Plead.* 5. Crown information filed in the Court of Exchequer. A method of suit for obtaining satisfaction, is damages, for any personal wrong committed in the lands or other possession of the Crown. This is instituted to redress *private* wrongs, while criminal informations are resorted to to punish *public* wrongs, or heinous misdemeanours. See EX OFFICIO INFORMATION. The most usual exchequer information are in cases of *intrusion*, for trespasses on Crown lands; *debt*, for Crown monies due upon breaches of penal statutes; and, *in rem*, when any goods are supposed to become the property of the Crown, no one claiming them, as treasure-trove, wrecks, waifs, and estrays. 4 *Step. Com.* 48. Information of *quo warranto*. See QUO WARRANTO. Information, in Scotch law, is a written pleading, ordered by the lord ordinary when he takes a cause to report to the lower house. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 318

¹³ **COMMISSION** - The warrant or letters-patent which all persons exercising jurisdiction, either ordinary or extraordinary, have, to authorize them to hear or determine any cause or action, or do other lawful things, as the commission of the Judges, &c., There was formerly a High Commission Court founded on 1 *Eliz., c. 1*, but it was abolished in the reign of Charles II., though an impotent attempt was made to re-establish it during the succeeding reign. In commerce, the order by which any one traffics or negotiates for another; also the per centage given to factors or agents for transacting the business of others. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 119

¹⁴ **SUIT** - A following. It is used in divers senses: (1) An action in law, or proceeding by bill in Chancery; a prosecution. (2) Suit of Court, an attendance which a tenant owes to his lord's court. (3) *Suit Covenant*, when one has covenanted to do suit and service in his lord's court. (4) *Suit Custom*, where service is owed time out of mind. (5) The following one in

times hereafter be filed, issued or commenced for recovering the same, or in respect thereof; unless His Majesty, or some of his Progenitors¹⁶, Predecessors¹⁷ or Ancestors, Heirs or Successors, or some other Person or Persons, Bodies Politick or Corporate, under whom His Majesty, his Heirs or Successors, any thing hath or lawfully claimeth,

chase on fresh suit. (6) A petition to a court, &c. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 635.

¹⁵ **PROCEEDING** - *A lawsuit; all or some part of a cause heard and determined by a court, an Administrative Agency, or other judicial authority. Any legal step or action taken at the direction of, or by the authority of, a court or agency; any measures necessary to prosecute or defend an action.* The word *proceeding* may be used for all actions or it may be used for something other than the usual type of lawsuit. For example, a special proceeding may be a particular procedure for handling a certain type of dispute. Special proceedings may be commenced by a petition or motion even when no full-fledged lawsuit is pending. They usually are confined to disputes that were not recognized under the Common Law or in Equity. For example, a proceeding to challenge decisions made by administrative agencies may be a special proceeding. A summary proceeding is governed by accelerated methods that produce a quick decision. This is done by elimination of a jury, a presentment, or indictment, or other elements that are allowed in regular proceedings. Summary proceedings are available only for certain types of cases, such as small claims, or in certain courts, such as a conciliation or Small Claims Court. Supplementary proceedings are separate from the original action. They help a successful party collect what is owed on a judgment by summoning the defendant-debtor, requiring that individual to disclose what he or she owns, and ordering that it be delivered in order to satisfy the judgment. <http://legal-dictionary.thefreedictionary.com/proceeding>

¹⁶ **PROGENITORS** - 1. A direct ancestor. See Synonyms at ancestor. 2. An originator of a line of descent; a precursor. 3. An originator; a founder: progenitors of the new music. <http://www.thefreedictionary.com/progenitor>

¹⁷ **PREDECESSORS** - Under the Succession Duty Act, 1853 (16 & 17 Vict., c. 51), which came into operation on and from the 19th of May, 1853, and which applies to all persons becoming entitled to lands or to personal estates (other than legacies) in possession after the date of commencement of the Act by death, a tax is imposed called Succession Duty, and the rate at which the tax is estimated varies with the relationship or absence of relationship of the successor to the person called his *predecessor*; and the term predecessor is declared by the Act (s. 2) to be "the settlor [disponer], testator, obligor, ancestor, or other person from whom the interest of the successor is or shall be derived." See *title* SUCCESSION DUTY. The New Law Dictionary and Institute of the Whole Law, Archibald Brown, Barrister-at-Law, M.A., Edin, and Oxon., and B.C.L. Oxon....1880, p. 417

or shall have or lawfully claim, have or shall have been answered by force¹⁸ and virtue any such Right or Title to the same, the Rents¹⁹, Revenues²⁰, Issues²¹ or Profits²²

¹⁸ **Force** - Any unlawful violence offered to things or persons: it is either *simple*, as entering into another's possession, without doing any other unlawful act; *compound*, when some other violence is committed, which of itself alone is criminal; or *implied*, as in every trespass, recous, or disseisin. All force is contrary to law, it is, therefore, lawful to repel force by force; *quod alias bonum et justum est, si per vim vel fraudem petatur, malum et injustum est.* -(That which is otherwise good and just, if it be obtained by force or fraud, is bad and unjust.) 3Rep. 78. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 261

¹⁹ **RENTS** - A certain profit issuing yearly out of lands and tenements corporeal, and may be regarded as of a twofold nature: -- first, as something issuing out of the land, and a compensation for the possession during the term; and, secondly, as an acknowledgement made by the tenant to the lord of his fealty or tenure. It must always be a profit, yet there is no occasion for it to be, as it usually is, a sum of money; for spurs, capons, horses, corn, and other matter, may be, and occasionally are, rendered by way or rent: it may also consist in services or manual operations, as to plough so many acres of ground, and the like; which services, in the eye of the law, are profits. The profit must be certain, or that which may be reduced to a certainty by either party; it must issue yearly, though it may be reserved every second, third, or fourth year; it must issue out of the thing granted, and not be part of the land or thing itself, which must be either lands or tenements corporeal. There are several kinds of rent, viz.: -- 1. *Rent-service*, so called because it has some corporeal service incident to it, as, at the least, fealty. 2. *Rent-charge*, where the owner of the rent has no future interest or reversion in the land. 3. *Fee-farm rent*, issuing out of an estate in fee, of at least one-fourth of the value of the lands, at the time of its reservation. 4. *Rent-sec*, a barren rent, which is in effect nothing more than a rent reserved by deed, but *without* any clause of distress. 5. *Rents of assize*, the certain established rents of the freeholders and ancient copyholders of a manor, and which cannot be departed from; those of the freeholders are frequently called. 6. *Chief rents*, and both sorts are indifferently denominated. 7. *Quit Rents*, because thereby the tenant goes quit and free of all services. 8. *Rack rent*, a rent of the full value of the tenement, or near it. 9. *Fore-hand-rent*, otherwise called a fore-gift or income, but more commonly a fine; it is a premium by the lessee at the time of taking his lease, and has been considered as an improved rent. All kinds of rents are now recoverable by distress. 4 Geo. II., c. 28, ss 5. Rent is not due till midnight of the day upon which it is reserved, although sunset is the time appointed by law to make a proper demand of it, to take advantage of a condition of re-entry or to tender, in order to save a forfeiture; but more

thereof, or the Rents, Issues or Profits of any Honour²³, Manor or other Hereditament, whereof the Premises²⁴ in question shall be Part or Parcel, within the said Space of

property speaking, the demand should be made before sunset, so as to allow sufficient light to count the money; and the person making the demand or tender must remain on the land till the sun has set. Where rent is reserved generally, and no mention is made, as is usual, of half-yearly or quarterly payments, nothing is due until the end of the year. Rent is considered as of a higher nature than even a debt due on an instrument under seal, as between the parties themselves; but in the case of the death of the tenant, rent is arrear, whether it be by deed or parol, is held to be of equal degree with specialty debts; and therefore in the distribution of the deceased's estate, it is to be paid with debts of the degree. Receipts or discharges given for the payment of rent require to be stamped if the sum received amount to 5*l.*, and upward. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 580

²⁰ **REVENUE** – Income, annual profit received from land or other funds; also, the profits of the Crown. 2 *Step. Com.* 544. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 591

²¹ **ISSUE** – Used in several senses: -- 1. The legitimate offspring of parents. 2. The profits arising from lands or tenements, amerciaments or fines. 3. Event, consequence, evacuation, sending forth. 4. The point in question, at the conclusion of the pleadings between contending parties in a suit or action, when one side affirms and the other denies. The cause is then fit for trial, in order that a decision may be made in the matter. The issue must be material, single, and certain in its quality. An issue is either *in fact*, and tried by a jury, either common or special, or *in law*, and then determined by the court *in banco*. A transcript of all the pleadings is called, in an issue in law, the *demurrer-book*, in an issue in fact, simply *the issue*; it is delivered to the defendant's attorney, who, if it vary from the pleadings, is entitled to make application to the court to have it set right. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 335.

²² **PROFITS** - That which land yields in the shape of rent, issues, or other advantages: also, gain, pecuniary advantage. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 549

²³ **HONOR (HONOUR)** - A seigniority of several manors held under one baron or lord paramount; also, those dignities or privileges, degrees of nobility, knighthood, and other titles which flow from the Crown – the fountain of honour. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 297

²⁴ **PREMISES** – Propositions antecedently supposed or proved; also, houses or lands; also, that part in the beginning of a deed, which sets forth the grantor or grantee, and the land or thing granted or conveyed. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 541

Sixty Years; or that the same have or shall have been duly in charge to His Majesty, or some of his Progenitors, Predecessors or Ancestors, Heirs or Successors, or have or shall have stood *insuper*²⁵ of Record within the said Space of Sixty Years: And that all and every Person or Persons, Bodies Politick and Corporate, their Heirs and Successors, and all claiming by, from or under them, or any of them, for and according to their and every of their several Estates²⁶ and Interests which they have or claim to have, or shall or may have or claim to have, in the same respectively, shall at all times hereafter quietly and freely have, hold and enjoy against His Majesty, his Heirs and Successors, claiming by any Title which hath not first accrued or grown, or which shall not hereafter first accrue or grow, within the said Space of Sixty Years, all and singular Manors, Lands, Tenements, Rents, Tythes and Hereditaments whatsoever (except Liberties and Franchises), which he or they, or his or their, or any of their Ancestors or

²⁵ **INSUPER** – Debiting or charging a person in an account. *Exchequer Term.* Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 327

²⁶ **ESTATE** – The condition and circumstance in which an owner stands with regard to his property. It is either legal, customary, or equitable. Blackstone considers legal estates in a threefold view, thus: -- 1. The quantity of interest or duration, divided into a) freeholds or inheritance, which are subdivided into: -- A) absolute, or fee-simple, B) limited fees; which are a) qualified or base fees, and b) fees conditional at common law afterwards called fee-tails in consequence of the Statute *de Donis*, which may be (i) general or special, (ii) male or female, (iii) given in frank-marriage. B) Freeholds not of inheritance, subdivided into:-- a) Conventional, or created by the act of the parties; they are a) estates for one's own life, b) estates *pur auter vie*, c) general grant, without expressing any term at all. (b) Legal, or created by operation of law: they are (a) tenancy in tail after possibility of issue extinct, b) tenancy by courtesy of England, c) tenancy in dower. (C) Estates less than freehold, subdivided into: -- a) Estates for years. b) Estates at will. c) Estates at sufferance. (D) Estates upon condition, subdivided into: -- a) Estates upon condition implied, b) Estates upon condition expressed, and these are either precedent or subsequent: a) precedent, which must be performed before an estate can vest or be enlarged; b) subsequent, which by failure or non-performance of which defeats an estate already vested; such are (i) estates held *in vadio*, gage, or pledge, which are of two kinds *vivum vadium*, or living pledge, and *mortuum vadium*, dead pledge or mortgage; (ii) estates by statute merchant or statute staple; (iii) estates by *elegit*. (2) The time of enjoyment, either (A) in possession, or (B) in expectancy, subdivided into: -- a) remainders created by convention of parties, and are (a) vested, (b) contingent or executory, (c) cross. b) Reversions arising by operation of law, 3. The number and connection of the tenants: either (A) severalty, (B) joint-tenancy, (C) coparcenary, (D) common. 2 Bl. Com., c. vii-xii. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 230

Predecessors, or these from, by or under whom they do or shall claim, have or shall have held or enjoyed or taken the Rents, Revenues, Issues or Profits thereof, by the Space of Sixty Years next before the filing, issuing or commencing of every such Action, Bill, Plaint, Information, Commission or other Suit or Proceeding as shall at any time of or times hereafter be filed, issued or commenced for recovering the same, or in respect thereof; unless His Majesty, or some of his Progenitors, Predecessors or Ancestors, Heirs or Successors, or some other Person or Persons, Bodies Politicks or Corporate, by, from or under whom His Majesty, his Heirs or Successors, any Thing hath or lawfully claimeth, or shall have or lawfully claim, in the said Manors, Lands, Tenements, Rents, Tythes or Hereditaments, by force of any Right or Title, have been or shall have been answered, by virtue of any such Right or Title, the Rents, Revenues, Issues or other Profits thereof, within the said Space of Sixty Years; or that the same have or shall have been duly in charge, or stood *insuper* of Record as aforesaid, within the said Space of Sixty Years: And furthermore, that all and every Person and Persons, Bodies Politick and Corporate, their Heirs and Successors, and all claiming or to claim by, from or under them, or any of them, for and according to their and every of their several Estates and Interests which they have or claim, or shall or may have or claim, respectively, shall, for ever hereafter, quietly and freely have, hold and enjoy (a) all such Manors, Lands, Tenements, Rents, Tythes and Hereditaments (except Liberties and Franchises) as they now have, claim or enjoy, or hereafter shall or may have, claim or enjoy, whereof His Majesty, his Progenitors, Predecessors or Ancestors, or whereof His Majesty, his Heirs or Successors, or he or they by, from or under whom His Majesty, his Heirs or Successors, any Thing hath or lawfully claimeth, or shall have or lawfully claim, or some of them, by force of some Right or Title to the same, have not or shall not have been answered, by virtue of such Right or Title, the Rents, Revenues, Issues or Profits thereof, within the Space of Sixty Years next before the filing, issuing or commencing of every such Action, Bill, Plaint, Information, Commission or other Suit or Proceeding as shall at any time or times hereafter be filed, issued or commenced for recovering the same, or in respect thereof, nor the same have been nor shall have been duly in charge, or stood *insuper* of Record as aforesaid, within the said Space of Sixty Years, against all and every Person and Persons, their Heirs and Assigns, having, claiming or pretending to have, or who shall or may have, claim or present to have any Estate, Right, Title, Interest, Claim or Demand whatsoever, of, in or to the same, by force or colour of any Letters Patent or Grants, upon Suggestion of Concealment or wrongful detaining²⁷, or not being in charge, or defective Titles, or by, from or under any

²⁷ **DETAINDER** - *Forcible*. See FORCIBLE ENTRY. DETAINDER - Unlawful, depriving another person of possession of his goods, although the original taking was lawful. as if I distrain another's cattle, *damage feasant*, and before they are impounded he tenders me sufficient amends; now, though the original taking was lawful, my subsequent detainment of them after tender of amends, is not lawful, and he shall have an action of replevin against me to recover them, in which he shall recover damages for the *detention*, and not for the *caption*, because the original taking was lawful. 3 *Step. Com.* 524.

Patentees or Grantees, or any Letters Patents or Grants, upon Suggestion of Concealment or wrongful detaining, or not being in Charge, or defective Titles, of or for which said Manors, Lands, Tenements, Rents, Tythes and Hereditaments, or any of them, no Verdict, Judgment, Decree, Judicial Order upon Hearing, or Sentence of any Court now standing in force, hath been had or given, or any such Verdict, Judgment, Decree, Judicial Order upon Hearing, or Sentence of Court, shall hereafter be had or given, in any Action, Bill, Plaint or Information, in any of His Majesty's Courts at *Westminster*, for or in the Name of the King's Majesty, or any of his Ancestors, Progenitors, Predecessors, Heirs or Successors, or of any the said Patentees or Grantees, or for their or any of their Heirs or Assigns, within the Space of Sixty Years next before the filing, issuing or commencing of every such Action, Bill, Plaint, Information, Commission or other Suit or Proceeding as shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof as aforesaid.

IN WHAT CASES RENTS AND PROFITS DEEMED TO BE DULY IN CHARGE.

II. Provided always, and be it enacted, That where the Rents, Revenues, Issues or Profits of any Manors, Lands, Tenements, Tythes or Hereditaments, are or shall be in Charge, by, to or with any Auditor or Auditors, or other proper Officer or Officers of the Revenue, such Rents, Revenues, Issues and Profits, shall be held, deemed and taken to be duly in Charge within the Meaning and Intent of this Act; any Usage or Custom to the contrary notwithstanding.

PROVISO FOR REVERSIONS, &C., IN THE CROWN

III. Provided always, That this Act, or any Thing therein contained, shall not extend to bar, impeach or hinder His Majesty, his Heirs or Successors, of, for or from any Manors, Tenements, Rents, Tythes or Hereditaments, whereof any Reversion or Remainder now is in His Majesty, for or concerning the said Reversion or Remainder; nor of, for or from any Reversion or Remainder, or Possibility of Reversion or Remainder, in any of His Majesty's Progenitors, or Predecessors, or Ancestors, which, by the Expiration, End, or other Determination of any limited Estate of Fee-simple, or of any Fee-tail or other particular Estate, hath or ought to have first fallen or become in Possession²⁸, or which

DETAINDER – Writ of, one of the five forms of process prescribed by the 2 Wm., IV., c. 39, ss 1, for the commencement of a personal action against a person already in the prison of one of the courts. Superseded by 1 & 2 Vict., c. 110, ss 1 & 2. A process lodged with the sheriff against a person in his custody is called a detainer; the officer, therefore, always searches the sheriff's office to see if there be any detainer lodged there against the person in his custody, before he discharges him. *Cit. Arch. Prac.* 534. Dictionary of Jurisprudence, J.J.S. Wharton, Esq., 1847-48, pg. 179

²⁸ **POSSESSION** - Black's Law Dictionary 9th Ed. 2009, p. 1281. 1. The fact of having or holding property in one's power; the exercise of dominion

shall or may, or ought hereafter first to fall or come in Possession, within the Space of Sixty Years next before the filing, issuing or commencing of any such Action, Bill, Plaint, Information, Commission or other Suit or Proceeding, as shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof; nor of, for or from any Right or Title first accrued or grown to His Majesty, or any of his Progenitors, Predecessors or Ancestors, of which shall first accrue or grown to His Majesty, or any of his Heirs or Successors, of, in or to any Manors, Lands, Tenements, Rents, Tythes or Hereditaments, at any time or times within the Space of Sixty Years next before the filing, issuing or commencing of any such Action, Bill, Plaint, Information, Commission or other Suit of Proceeding as shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof, and not before.

LIMITATION AS TO GRANTS FROM THE CROWN OF LIMITED ESTATES, &C.,

IV. Provided also, and be it enacted by Authority of this present Parliament, That this Act, or any Thing therein contained, shall not extend to any Manor, Lands, Tenements, Rents, Tythes or Hereditaments, mentioned to be granted or conveyed by any of His Majesty's Progenitors, Predecessors or Ancestors, or by any other under whom His Majesty claimeth, to any Person or Persons, of any limited Estate in Fee-simple, or of any Estate in Tail, or other particular Estate, which several Estates (if the same had been good and effectual in Law) have or ought to have first fallen or become in Possession, or will or ought first to fall or come in Possession, within the Space of Sixty Years next before the filing, issuing or commencing, of any such Action, Bill, Plaint, Information, Commission, or other Suit or Proceeding as shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof as aforesaid; nor to any Manors, Lands, Tenements, Rents, Tythes or Hereditaments, mentioned to be granted or conveyed by any of His Majesty's Progenitors, Predecessors or Ancestors, or by any other under whom His Majesty claimeth, to any Person or Persons in Fee-tail, or other particular Estate, whereof the Reversion or Inheritance²⁹ (if such Estate Tail, or other particular Estate, had been good and effectual in Law) should have been and continued in His Majesty, or any of his Progenitors, Predecessors or Ancestors, or should or ought hereafter to be and continue in His Majesty, his Heirs and Successors, at any Time within the Space of Sixty Years next before filing, issuing or commencing of any such Action, Bill, Plaint, Information,

over property. 2. The right under which one may exercise control over something to the exclusion of all others; the continuing exercise of a claim to the exclusive use of a material object. 3. Civil Law. The detention or use of a physical thing with the intent to hold it as one's own. 4. Something that a person owns or controls.

²⁹ **INHERITANCE** - Dictionary of Jurisprudence, 1847, p. 319. A perpetual or continuing right to an estate, invested in a person and his heirs.

Commission, or other Suit or Proceeding as shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof as aforesaid.

MANORS, &C., HOLDEN OF THE CROWN UPON THE USUAL TENURE, &C.,

V. Provided also, and be it enacted by the Authority of this present Parliament, That all and singular the said Manors, Lands, Tenements and Hereditaments, shall at all Times hereafter be holden of His Majesty, his Heirs and Successors, and of other Person and Persons, Bodies Politicks and Corporate, their Heirs and Successors respectively, by the same Tenure, Services, Fee-farms, Chief Rents, Heriots and other Duties, to all Intents and Purposes, as the same should or ought of Right to have been holden in the Estates, Rights and Interests, established and made sure by this present Act, had been, before the making of this Act, firm, good and effectual in Law.

GENERAL SAVING

VI. Saving to every Person and Persons, Bodies Politick and Corporate, their Heirs and Successors, (other than His most Excellent Majesty, his Heirs and Successors, and other than all Patentees or Grantees of Concealments, or defective Titles, and all and every Person and Persons claiming from, by or under then, or any of them, for or in respect or by reason of any such Patents or Grants of Concealments, or defective Titles), all such Rights, Title, Interest, Estate, Rents, Commons, Customs, Duties, Profits and other Claims and Demands whatsoever, in, to or out of the said Manors, Lands, Tenements, Tythes or Hereditaments, as they or any of them had or ought to have had before the making of this Act; any Thing in this Act to the contrary notwithstanding.

PROVISO FOR FEE FARM RENTS, &C., AS HAVE BEEN PAID WITHIN A LIMITED TIME

VII. Provided also, and be it enacted, That where any Fee-farm Rent, or other Rent or Rents, have been or shall be answered and fully paid to the King's Majesty, or to any his Predecessors, Heirs or Successors, within the Space of Sixty Years next before any Action, Bill, Plaint, Information, Commission, or other Suit or Proceeding, shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof, out of any Manors, Lands Tenements or Hereditaments, the Estates, Rights or Interests being defective, are established, and made sure by this present Act, that the King's Majesty, his Heirs and Successors, shall, from henceforth for ever, have, hold and enjoy the said Rents, and Arrearages thereof, in such Manner and Form, and as fully and amply, as the same are or were enjoyed at any Time within the said Space of Sixty Years.

PROVISIO FOR GRANT FROM THE CROWN

VIII. Provided always, and be it enacted, That nothing in this Act contained shall extend or be prejudicial to the Right, Title or Claim, of any Person or Persons in or to any

Manor, Lands, Tenements or Hereditaments, by virtue of or under any Grant or Grants, Letters Patent or Letters Patents, from any of His Majesty's Progenitors, Ancestors or Predecessors, or by virtue of or under any Grant or Grants, Letters Patent or Letters Patents, from His Majesty, made or passed before the First Day of *January* One thousand seven hundred and sixty nine; so as such Right, Title or Claim, be prosecuted with effect, by Bill, Plaint, Information or other Suit or Proceeding, in some of His Majesty's Courts of Record at *Westminster*, within the Space of One Year from the First Day of *January* One thousand seven hundred and sixty nine.

PROVISO FOR RIGHT OF THE CROWN TO LANDS, &C., IN EAST GREENWICK OR SAVOY.

IX. Provided always, and be enacted, That nothing in this Act contained shall extend or be prejudicial to any Right, Title or Claim, which His Majesty now hath to any Lands, Tenements or Hereditaments, within the Manor of *East Greenwich*, in the County of *Kent*; or to any Messuages, Lands, Tenements or Hereditaments, within the Precinct, District of Liberty, commonly called *The Savoy*, in the County of *Middlesex*; or to any Manors, Messuages, Advowsons, Buildings, Lands, Tenements, Hereditaments and Appurtenances, being the Estate and Possession of the late Hospital of *The Savoy*, or of the Master and Chaplains of the said Hospital; so as such Right, Title or Claim, be prosecuted with effect, in some of His Majesty's Courts of Record at *Westminster*, within the Space of Two Years from the First Day of *January* One thousand seven hundred and sixty nine.

WHAT SHALL AND SHALL NOT BE DEEMED A PUTTING IN CHARGE, STANDING *INSUPER*, &C.,

X. Provided always, and be it enacted by the Authority of this present Parliament, That no putting in Charge, nor standing *insuper*, nor taking or answering the Farm Rents, Revenues or Profits of any of the said Manors, Lands, Tenements or Hereditaments, by Force, Colour or Pretext of any Letters Patent or Grants of Concealments, or defective Titles, or of Manors, Lands, Tenements or Hereditaments, out of Charge, or by Force, Colour or Pretext, of any Inquisitions, Presentments, by or by reason of any Commission or other Authority to find out Concealments defective Titles, or Lands, Tenements or Hereditaments out of Charge, shall be deemed, construed or taken to be putting in Charge, standing *insuper*, or taking or answering the Farm Rents, Revenues or Profits by or to His Majesty, or any of his Progenitors or Predecessors, Heirs or Successors; unless thereupon such Manors, Lands, Tenements or Hereditaments, have been or shall be, upon some Information or Suit, on the Behalf of His Majesty, or some of his Progenitors or Predecessors, Heirs or Successors, upon a lawful Verdict given or to be given, or Demurrer in Law adjudged, or upon a Hearing, ordered or decreed for His Majesty, or some of his Progenitors or Predecessors, Heirs or Successors, or some of them, within the Space of Sixty Years next before the filing, issuing or commencing of every such Action, Bill, Plaint, Information, Commission or other Suit or Proceedings as

shall at any time or times hereafter be filed, issued or commenced, for recovering the same, or in respect thereof as aforesaid.³⁰

³⁰ A COLLECTION STATUTES PRACTICAL UTILITY WITH NOTES THEREON; INTENDED AS A CIRCUIT AND COURT COMPANION, BY J. CHITTY, ESQ., OF THE MIDDLE TEMPLE, BARRISTER AT LAW. LONDON: WILLIAM BENNING, LAW BOOKSELLER AND PUBLISHER, 52, FLEET-STREET. 1829, p. 706.