

Great Britain. Courts.

# MODERN REPORTS;

OR,

# SELECT CASES

ADJUDGED IN

THE COURTS

OF

KING'S BENCH,

CHANCERY, COMMON PLEAS,

AND

EXCHEQUER,

FROM

THE RESTORATION OF CHARLES THE SECOND,

TO

THE TWENTY-EIGHTH YEAR OF GEORGE THE SECOND.

*Vol 1*

1660-1670

IN TWELVE VOLUMES.

THE FIFTH EDITION,

CORRECTED;

WITH THE ADDITION OF MARGINAL REFERENCES AND NOTES,  
AND THREE HUNDRED AND EIGHTY-ONE CASES,

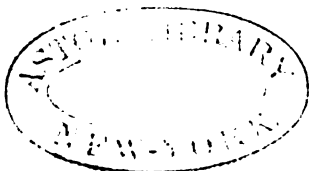
By THOMAS LEACH, Esq.

OF THE MIDDLE TEMPLE, BARRISTER AT LAW.

L O N D O N :

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L. WHITE, DUBLIN.



1796.

84

107

Easter Term, 26. Car. 2. In B. R.

Jacob Aboab's Case.

Case 2.

**D**EBT UPON A BOND was brought against him by the name of *Jacob*; and he pleaded, that he was called and known by the name of *Jaacob*, and not *Jacob*.—But it was over-ruled.

The name of *Jacob* instead of *Jaacob* an immaterial mis-

nomer—S. C. 3. Keb. 278. 284. 2. Roll. Abr. 137. Co. Lit. 3. Cro. Eliz. 50. 176. Cro. Jac. 175. 1. Saund. 135.

Sir John Thorowgood's Case.

Case 3.

**O**FFLEY moved to quash an indictment of nuisance for stopping a water-course in *Kensington*, because it ran "*in detrimentum omnium inhabitantium*," &c.—*WYLDE, Justice*. I have known it ruled naught for that cause.—So quashed.

Indictment for nuisance, "to the detriment of the inhabitants," is bad.—S. C. 3. Keb. 284. 2. Roll. 83. pl. 11. Cro. Eliz. 90. 414. Cro. Jac. 382. 2. Leon. 183. 9. Co. 113. 1. Vent. 208. 1. Saund. 135. 6. M. d. 453. 2. Wilf. 57. 1. Burr. 259.

183. 9. Co. 113. 1. Vent. 208. 1. Saund. 135. 6. M. d. 453. 2. Wilf. 57. 1. Burr. 259.

\* [ 108 ]

\* *Benson against Hodson*.

Case 4.

Hilary Term, 25. & 26. Car. 2. Roll 696.

**A** WRIT OF ERROR of a judgment in the county palatine of *Lancaster* in replevin: the defendant makes conusance as bailiff to *Anne Moseley*.

A covenants to levy a fine to the use of himself and the heirs male of his body; remainder in tail to several others; remainder to his own right heirs; PROVIDED, that if there be a failure of issue male of his body, and B. his daughter be married or of age, then she

The lands were the lands of *Rowland Moseley*, and he covenanted to levy a fine of them to the use of himself, and the heirs males of his body, the remainder in tail to several others, the remainder to his own right heirs; PROVIDED, That if there shall be a failure of issue male of his body, and *Dame Elizabeth* be dead, and *Anne Moseley* be married or of the age of twenty-one years, then she shall have two hundred pounds *per annum* for ten years; then *Rowland Moseley* dies leaving issue *Sir Edward Moseley*: *Sir Edward* makes a lease for one thousand years, then levies a fine and suffers a recovery, then dies without issue male; and the contingents did all happen.

shall have 200l. a year for ten years. A. dies leaving issue male, who enters, makes a lease for one

The question is, Whether this rent-charge of two hundred pounds a-year be barred by the fine and recovery, and shall not operate upon the lease?

**LEVINZ**. I conceive the fine is not well pleaded; for nothing is said of the *king's silver*, and if that be not paid it is void (a): then

thousand years, levies a fine and suffers a recovery, and dies without issue; his sister B. being married AND of age.—The annuity to B. is barred by this recovery; for the remainder is barred out of which it issued, and it cannot be charged on the lease; for that was derived out of an estate tail preceding the commencement of the rent.—S. C. Ray. 236. S. C. 2. Lev. 28. S. C. 3. Keb. 274. 287. 292. S. C. 1. Freem. 362. S. C. 4. Bac. Abr. 330. 1. Sid. 102. Cro. Eliz. 769. Gilb. Eq. Rep. 16. 9. Mod. 178. 11. Mod. 181. 196. 210. 214. 12. Mod. 32. 513. Prec. Chan. 435. 1. Peer. Wms. 104. 509. 525. 536. 3. Peer. Wms. 171. 230. 235. Salk. 570. 1 Bl. Rep. 227. 612. Amtler, 382. Pigot on Recov. 21. 138. Cruise on Recov. 232. 2. Bac. Abr. 549. 552. Sanders on Uses and Trusts, 193.

(a) This exception was over-ruled. S. C. 2. Lev. 31.

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