

MODERN REPORTS;
OR,
SELECT CASES

ADJUDGED IN
THE COURTS
OF
KING'S BENCH,
CHANCERY, COMMON PLEAS,
AND
EXCHEQUER.

VOLUME THE SEVENTH,

CONTAINING,

A COLLECTION OF CASES argued and adjudged in THE COURT OF KING'S BENCH, at Westminster, in the Reign of QUEEN ANNE, during the time Sir JOHN HOLT, *Knight*, was Chief Justice of the Court.— Taken by THOMAS FARRESLEY, *of the Middle-Temple, Esq.*

TO WHICH IS NOW ADDED,

A COLLECTION OF CASES argued and determined in THE COURTS OF KING'S BENCH, COMMON PLEAS, and CHANCERY, from Easter Term in the Sixth Year of GEORGE THE SECOND to Michaelmas Term the Eighteenth of GEORGE THE SECOND.

THE FIFTH EDITION,

CORRECTED:

WITH THE ADDITION OF MARGINAL REFERENCES AND NOTES,

By THOMAS LEACH, Esq.

OF THE MIDDLE TEMPLE, BARRISTER AT LAW.

L O N D O N :

PRINTED FOR G. G. AND J. ROBINSON ; E. AND R. BROOKE ;
J. BUTTERWORTH ; OGILVY AND SPEARE ; AND
L. WHITE, DUBLIN.

Harwood against Parrot.

Case 138.

AN ACTION ON THE CASE was brought by husband and wife, for maliciously indicting the wife of a riot.

An action will not lie for maliciously indicting another for a trespass. Post. 105.

The declaration contained two counts: FIRST, shewing the plaintiff's wife was of good reputation, and that the defendant, to lessen it, indicted her of a riot, of which she was acquitted; the SECOND count was the same, and that the husband was put to great charge.

1. Salk. 114. 119. 2. Show. 259. Comb. 311. 3. Salk. 63. 105. Ld. Ray. 1037. 1208.

IT WAS HELD, as to the first count, to be no scandal to be guilty of *trespass*.

And THE COURT, as to the second count, inclined, that the husband alone ought to have brought the action, for he alone could be put to the charges.

But they delivered no positive opinion.

Wood against Branford.

Case 139.

ERROR OF A JUDGMENT IN DOWER in the court of common pleas, and in *nullo est erratum* pleaded.

On error in dower, a *certiorari* lies to inform the Court whether the infant defended by attorney or guardian.

It was assigned for error, that it was against an infant, who appeared by attorney, when he should have appeared by guardian.

PER CURIAM. Though it be after *in nullo est erratum* pleaded, yet we may grant a *certiorari ad informandas conscientias*, and a dowager is a kind of a purchaser.

206. 1. Lev. 99. 1. Jones, 199.

S. C. post. 124. 6. Mod. 113. 1. Sid. 39.

Shield against Cliff.

Case 140.

CLIFF being sued upon a bond, by the name of Peter, pleaded in abatement, that he was baptized by the name of Paul, and not by that of Peter; and concluded to the country.

Misnomer. Ante, 38. Comb. 40. 287. 1. Salk. 6. 6. Mod. 115.

And PER CURIAM, A *respondeas ouster* was awarded.

3. Salk. 238. 2. Show. 504. Ld. Ray. 118. 509. 8. Mod. 113. 289. Comy. 41. 371. Strz. 756. 1218.

41. 371. Strz.

Haywood against Davis and Another.

Case 141.

MIDDLESEX, BE it remembered, that on Friday next after three weeks from the day of St. Michael in this same Term, before the lady the queen at Westminster, comes Rebecca Haywood by William Smyth her attorney, and brings into the court of the said lady the queen, now here, her certain bill against Margaret Davis, otherwise Davison, and Mary Bonner in custody of the marshal, &c, of a plea of trespass, and there are pledges of prosecuting,

Pleadings in an action of trespass. Salk. 4. S. C.

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