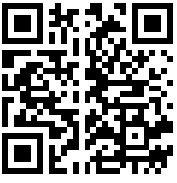

REPORTS

OF

SIR GEORGE CROKE, KNIGHT,

OF

SELECT CASES

ADJUDGED IN THE

COURTS of KING's-BENCH and COMMON-PLEAS,

IN THE REIGNS OF

QUEEN ELIZABETH, KING JAMES, and KING CHARLES I.

IN THREE VOLUMES.

VOLUME THE FIRST—PART THE SECOND,

FROM THE

THIRTY-EIGHTH YEAR TO THE END OF THE REIGN

OF

QUEEN ELIZABETH.

M. D.

REPORTS

OF

SIR GEORGE CROKE, KNIGHT,

FORMERLY ONE OF THE

JUSTICES

OF THE

COURTS of KING's-BENCH and COMMON-PLEAS,

OF SUCH

SELECT CASES

AS WERE ADJUDGED IN THE SAID COURTS DURING THE

REIGN of QUEEN ELIZABETH.

COLLECTED AND WRITTEN IN FRENCH,

By HIMSELF;

REVISED AND PUBLISHED IN ENGLISH

By SIR HARBOTTLE GRIMSTON, BARONET,
MASTER OF THE ROLLS.

THE FOURTH EDITION, CORRECTED,

WITH

MARGINAL NOTES and REFERENCES to the LATER REPORTS,

AND OTHER BOOKS OF AUTHORITY,

By THOMAS LEACH, ESQ.

OF THE MIDDLE TEMPLE, BARRISTER AT LAW.

LONDON:

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AND T. WHIELDON, FLEET-STREET.

M,DCC,XC.

CASE 64.

Bon *againſt* Smith.

Deviſe to *A.* remainder to *the next of his name.* A woman who has changed the name by marriage *previous* to the death of *A.* ſhall not have it. Poſt. 576.

GLANVILE, *ſerjeant*, prayed the opinion of THE COURT in this caſe. A man had iſſue a ſon and a daughter, and deviſed his land to his ſon in tail; and if he died without iſſue, that it ſhould remain to the next of *his* name, and died: the ſon died without iſſue, the daughter being *then* married: Whether ſhe ſhould have this land? was the queſtion.—And held PER CURIAM that ſhe ſhould not, for ſhe had loſt her name *by* her marriage, but it ſhould go to the next heir male of the name; but if ſhe had not been married at the time of her brother's death, the daughter ſhould have had it, for ſhe was the next of the name.—*Vide poſtea*, 576. *Jobſon's Caſe.*

30. Aſſ. pl. 47. 1. Vent. 363. 2. Salk. 570. Pigot on Recov. 177. 1. Bl. Rep. 607.

CASE 65.

Hollingworth *againſt* Aſcough.

Plea amounting to the general iſſue is bad. Vide Co. Lit. 303. b. 3. Mod. 166. 2. Sid. 106.

AUDITA QUERELA upon a defeaſance of a ſtatute of 2000l. and grounded the *audita querela* upon the defeaſance. The defendant ſaith, that he made another defeaſance, ABSQUE HOC that he made that defeaſance: and it was thereupon demurred, becauſe he ought to have pleaded the general iſſue, *non eſt factum*; for this plea amounted to no more.—And of that opinion, after argument by the ſerjeants, was all THE COURT. Wherefore it was adjudged againſt the defendant.

CASE 66.

Block *againſt* Pagrave *and* Pagrave.

Hilary Term, 37. Eliz. Roll 631.

Deviſe to a wife until his daughter attain full age, and then to *the wife and daughter* for their lives, they hold in joint-tenancy.

Co. Lit. 182. b. 188 a. 3. Com. Dig. 265. Cowp. 40 352. 1 Ter. Rep. 389.

DOWER. Upon a ſpecial verdict the caſe was, That one deviſed his land to *Mary Pagrave* his wife until *Faith* his daughter ſhould come to the age of twenty-one years, and then to *Mary Pagrave* and *Faith* for their lives; and the ſaid *Faith* the daughter hath not yet attained her age of twenty-one years; and in dower againſt *Mary Pagrave* and *Faith* they plead, that they are not tenants of the freehold *modo & formâ*, *prout*, *&c.* and, Whether upon the matter *Mary* and *Faith* be joint-tenants, or tenants in common, or how otherwiſe they hold? was the queſtion.—ANDERSON and BEAUMOND. If it be a term for years in *Mary Pagrave* the mother, and a freehold to the mother and *Faith* the daughter, this term for years cannot ſtand with the freehold, and therefore it is drowned, and they are immediate joint-tenants of the freehold, and the iſſue is found for the demandant: but if the term be drowned only for the moiety, as they ſaid it was clear that it ſhould be, and ſhe is tenant for years, remainder to *Faith* of the other moiety, it is then found for the defendant, that they be not tenants *modo & formâ*, *prout*, *&c.* But they held that they were joint-tenants for the reaſon aforeſaid.—WALMSLEY agreed, that if it ſhould enure as an immediate deviſe, that the term ſhould be extinct, and they are joint-tenants of the freehold. But peradventure the will was to make it a term in the mother, and after the expiration of the years a freehold; according to the intention of the deviſor, it ſhall be conſtrued that it ſhould not be a deviſe of the freehold until after the years expired, and in the mean time the land ſhould deſcend to the heir.—But afterwards, upon releaſe of damages, the defendants confeſſed the action.

Michalmas