

their portions, or of the chief Lord, and do homage unto him. And forasmuch as the said Knights have requested to be certified how it hath been used heretofore within our Realm of *England* in like case: (2) at their instance we do you to wit, that such a Law and Custom is in *England* in this case, That if any, holding of us in chief, happen to die, having daughters to his heirs, our ancestors and we, after the death of the Father, have always had and received homage of all such daughters, and every of them in this case do hold of us in chief: (3) And if they happened to be within age, we have always had the ward and marriage of every of them: (4) And if he be tenant unto another Lord, and not to us (the sisters being within age) the Lord shall have the ward and marriage of them all, and the eldest only shall do homage for herself and all her sisters. (5) And when the other sisters come to full age, they shall do their service to the Lords of the Fee by the hands of the eldest sister: yet shall not the eldest by this occasion exact of her younger sisters, homage, ward, or any other subjection, for they be all sisters, and in manner as one heir to one inheritance. (6) If the eldest should have homage of the other sisters, and demand wardship, then the inheritance should be divided, so that the eldest sister should be seignioress and tenant of inheritance [*simul & semel*] that is to say, heir of her own part, and seignioress to her sisters, which could not stand well together in this case, for the elder can demand no more than her sisters, but the chief mese by reason of her ancienty. (7) Moreover, if the elder sister should take homage of the younger, she should be as a seignioress to them all, and should have the ward of them and their heirs; which should be no other but to cast the Lamb to the Wolf to be devoured. (8) And therefore we command you, that you cause the aforesaid Customs that be used within our Realm of *England* in this case, to be proclaimed throughout our Dominion of *Ireland*, and to be straightly kept and observed. In testimony whereof, &c. I witness myself at *Westminster*, the ix. day of *February*, in the xiv. year of our Reign.

Statutum de Hibernia is said not to be a *Statute* in the old Abridgement, Tit. Homage, but is inserted as one in the English Editions.

PROVISIONES DE MERTON.

Statutes made at Merton in Crastino Sancti Vincentii (scil. 23 Jan.) Anno 20 HEN. III. and Ann. Dom. 1235.

2 Inf. 79.

IT was provided in the Court of our Lord the King, holden at Merton on Wednesday the morrow after the Feast of St. Vincent, the 20th Year of the Reign of King HENRY the Son of King JOHN,

Cotton MS. Claudius D. 2.
PROvisum est in Curia domini Regis, die Mercurii in crastino sancti Vincencii, Anno regni Regis HENRICI filii Regis JOHANNIS vicesimo, apud Merton, coram Archiepiscopo

piscono Cantuariensi, & Episcopis Suffraganeis, coram majori parte Comitum & Baronum Anglie ibidem existentium, pro coronatione ipsius domini Regis & Alianore Regine, pro qua omnes vocati fuerunt Cum tractatum esset de communi utilitate regni super articulis subscriptis Ita provisum fuit, & concessum, tam a predictis Archiepiscopis, Episcopis, Comitibus, Baronibus, quam ab ipso Rege & aliis.

JOHN, before William Archbishop of Canterbury, and other his Bishops and Suffragans, and before the greater part of the Earls and Barons of England, there being assembled for the Coronation of the said King, and Hellianor the Queen, about which they were all called, where it was treated for the Commonwealth of the Realm upon the Articles underwritten, thus it was provided and granted, as well of the foresaid Archbishops, Bishops, Earls, and Barons, as of the King himself and others.

C A P. I.

A Woman shall recover Damages in a Writ of Dower.

DE viduis vero I. que post mortem virorum suorum expelluntur de dotibus suis & dotes suas, vel quarentenam habere non possunt sine placito Videlicet quod quicumque deforciaverit eis dotes suas vel quarentenam suam de tementis de quibus viri sui obierunt seifiti & ipse vidue postea per placitum recuperaverint ipsi qui de injusto deforcamento convicti fuerint reddant eisdem viduis dampna sua videlicet valorem totius dotis eis contingentis a tempore mortis virorum suorum usque ad diem quo ipse vidue per iudicium curie seifinam suam inde recuperaverint nichilominus ipsi deforcatores sint in misericordia domini regis.

theless shall be amerced at the King's pleasure.

First, Of Widows which after the Death of their Husbands are deforced of their Dowers, and cannot have their Dowers or Quarentine without Plea, whosoever deforce them of their Dowers or Quarentine of the Lands, whereof their Husbands died seifed, and that the same Widows after shall recover by Plea; (2) they that be convict of such wrongful Deforcement shall yield Damages to the same Widows; that is to say, the Value of the whole Dower to them belonging, from the time of the Death of their Husbands unto the Day that the said Widows, by Judgment of our Court, have recovered Seifin of their Dower, &c. (3) and the Deforcers never-

Co. Lit. 32. b.
33. a.
2 Inst. 80.
4 Co. 30. b.
9 Hen. 3. c. 7.
Trin. 14 & 15
Geo. 2.
Doe v. Roe in
B. R. Hill.
7 Geo. 2.
Kent v. Kent.
in B. R.
Carth. 134, 135.
9 Hen. 3. c. 7.

C A P. II.

Widows may bequeath the Crop of their Lands.

Item, omnes vidue de cetero possunt legare blada sua de terra sua, tam de dotibus suis, quam de aliis terris & tementis suis: salvis servitiis dominorum, que de dotibus &

Also from henceforth all Widows may bequeath the Crop of their Ground, as well of their Dowers, as of other their Lands and Tementments, saving to the Lords of the

2 Inst. 80. 81.

the Fee, all ſuch Services as & aliis tenementis ſuis debentur.
be due for their Dowens and
other Tenements.

C A P. III.

Enquiry and Punishment of Rediſſeiſin.

Co.Lit. 154.a.
b.
a Inſt. 82.83.
52 H. 3. c.8.
13Ed.1. ſtat.1.
c.25,26.

ALſo if any be diſſeiſed of their Freehold, and before the Juſtices in Eyre have recovered Seiſin by Aſſiſe of *Novel diſſeiſin*, or by Confession of them which did the Diſſeiſin, and the Diſſeiſee hath had Seiſin delivered by the Sheriff, if the ſame Diſſeiſors, after the Circuit of the Juſtices, or in the mean time, have diſſeiſed the ſame Plaintiff of the ſame Freehold, and thereof be convicted, they ſhall be forthwith taken and committed, and kept in the King's Priſon, until the King hath diſcharged them by Fine, or by ſome other mean. (2) And this is the Form how ſuch convicted Perſons ſhall be puniſhed; when the Plaintiffs come into the Court of our Lord the King, they ſhall have the King's Writ directed to the Sheriff, in which muſt be contained the Plaint of Diſſeiſin framed upon the Diſſeiſin. (3) And then it ſhall be commanded to the Sheriff, that he, taking with him the Keepers of the Pleas of the King's Crown, and other lawful Knights, in his proper Perſon, ſhall go unto the Land or Paſture, whereof the Plaint hath been made, and that he make before them, by the firſt Jurors, and other Neighbours and lawful Men, diligent Inquiſition thereof; and if they find him diſſeiſed again (as before is ſaid) then let him do according to the Proviſion aforemention'd; but if it be found otherwiſe, the Plaintiff ſhall be amerced, and the

ITEM, ſi quis fuerit diſſeiſitus de libero tenemento ſuo, & coram Juſticiariis itinerantibus ſeiſinam ſuam recuperaverit per aſſiſam nove diſſeiſine, vel per recognitionem eorum, qui fecerint diſſeiſinam, & ipſe diſſeiſitus per Vic' ſeiſinam ſuam haberit. Si iidem diſſeiſiatores poſtea, poſt iter Juſticiariorum, de eodem tenemento interum eundem conquerentem diſſeiſiverint, & inde convicti fuerint, ſtatim capiantur, & in priſona domini Regis detineantur, quouſque per dominum Regem, per redemptionem, vel aliquo alio modo, deliberentur. Et hæc eſt forma qualiter tales convicti puniri debeant, Videlicet, cum conquerentes ad Curiam venerint, habeant breve domini Regis vicecomiti directum, in quo contineatur eorum narratio de diſſeiſina facta ſuper diſſeiſinam. Et ideo mandetur Vicecomiti, quod aſſumptis ſecum cuſtodibus placitorum Corone, & aliis legalibus Militibus, in propria perſona ſua accedat ad tenementum illud, vel paſturam illam, de quibus facta fuerit querela [*loquela*] & coram eis per primos Juratores, & per alios vicinos & legales homines, diligentem inde faciat inquiſitionem; & ſi ipſum iterum invenerit diſſeiſitum, ſicut predictum eſt, faciat tunc ſecundum proviſionem predictam; ſin autem, tunc ſit conquerens in miſericordia domini regis, & alius quietus recedat Nec debet Vicecomes, ſine

sine speciali precepto domini Regis, hujusmodi loquelam prosequi. Eodem modo fiat de illis, qui seisinam recuperaverint per assisam mortis antecessoris et de omnibus terris et tenementis recuperatis per juratas in Curia domini Regis, si postea disseisiti fuerint a prioribus deforciatoribus, versus quos recuperaverint per juratam quoquo modo.

the other shall go quit; (4) neither shall the Sheriff execute any such Plaint without special Commandment of the King. (5) In the same manner shall be done to them that have recovered their Seisin by Assise of *Mortdauncestor*; (6) and so shall it be of all Lands and Tenements recovered in the King's Court by Enquests, if they be disseised after by the first Deforceors, against whom they have recovered any wise by Enquest.

CAP. IV.

In what Cases Lords may approve against their Tenants.

IV. **I**tem, quia multi Magnates Anglie, qui feoffaverunt Milites & libere tenentes suos de parvis tenementis in magnis Maneriis suis, questi sunt, quod commodum suum facere non potuerunt de residuo Maneriorum suorum, sicut de vastis, boscis, & pasturis, Cum ipsi feoffati habeant sufficientem pasturam, quantum pertinet ad tenementa sua; Ita provisum est & concessum, quod quicumque hujusmodi feoffati assisam Nove disseisine deferant de communa pasture sue, et coram Justiciariis recognitum fuerit, quod tantam pasturam habeant quantum sufficerit ad tenementa sua, & quod habeant liberum ingressum & egressum de tenementis suis usque ad pasturam suam, tunc inde sint contenti; & illi, de quibus conquesti fuerint, recedant quieti de hoc quod commodum suum de terris, vastis, boscis, & pasturis fecerint; Si autem dixerint quod sufficientem pasturam non habeant, vel sufficientem ingressum vel egressum, quantum pertinet ad tenementa sua, tunc inquiratur veritas per assisam; Et si per assisam

Also because many great men of England (which have ² Inst. 84, &c. ² Vern. 301. ^{356.} ¹³ Ed. 1. stat. 1. ^{c. 46.} ³ & ⁴ Ed. 6. ^{c. 3.} *infeoffed Knights and their Freeholders of small Tenements in their great Manors*) have complained that they cannot make their Profit of the residue of their Manors, as of Wastes, Woods, and Pastures, whereas the same Feoffees have sufficient Pasture, as much as belongeth to their Tenements; (2) it is provided and granted, That whenever such Feoffees do bring an Assise of *Novel disseisin* for their Common of Pasture, and it is knowledged before the Justicers, that they have as much Pasture as sufficeth to their Tenements, and that they have free Egress and Regress from their Tenement unto the Pasture, then let them be contented there with; and they on whom it was complained shall go quit of as much as they have made their Profits of their Lands, Wastes, Woods, and Pastures; (3) and if they alledge that they have not sufficient Pasture, or sufficient Ingress and Egress according to their Hold, then let the Truth be inquired by Assise; (4) and if it be found by the Assise, that the

the ſame Deforceors have diſturbed them of their Ingreſs and Egreſs, or that they had not ſufficient Paſture (as before is ſaid) then ſhall they recover their Seiſin by view of the Inqueſt : ſo that by their Diſcretion and Oath the Plaintiffs ſhall have ſufficient Paſture, and ſufficient Ingreſs and Egreſs in Form aforeſaid; (5) and the Diſſeiſors ſhall be amerced, and ſhall yield Damages, as they were wont before this Proviſion. (6) And if it be certified by the Aſſiſe, that the Plaintiffs have ſufficient Paſture, with Ingreſs and Egreſs, as before is ſaid, let the other make their Profit of the reſidue, and go quit of that Aſſiſe.

predictum eſt, tunc licite faciant alii commodum ſuum de reſiduo, & recedant de illa aſſiſa quieti.

C A P. V.

Uſury ſhall not run againſt any within Age.

Co.Lit. 246. b.
2 Inſt. 88, 89.

Likewiſe it is provided and granted by the King, that from henceforth Uſuries ſhall not run againſt any being within Age, from the time of the Death of his Anceſtor (whoſe Heir he is) unto his lawful Age; ſo nevertheleſs, that the Payment of the principal Debt, with the Uſury that was before the Death of his Anceſtor (whoſe Heir he is) ſhall not remain.

37 H. 8. c. 9.

V. Similiter proviſum eſt, & conſeſſum a domino Rege, quod de cetero non current uſure contra aliquem infra etatem exiſtentem, a tempore mortis antecęſſoris ſui, cujus heres ipſe eſt, uſque ad legitimam etatem ſuam; Ita tamen quod propter hoc non remaneat ſolucio debiti principalis, ſimul cum uſura ante mortem antecęſſoris ſui, cujus heres ipſe eſt.

C A P. VI.

The Penalties for Ravishment of a Ward, Forfeiture of Marriage, or Disparagement of a Ward.

Co.Lit. 76. a.
80. a. 81. b.
2 Inſt. 89, &c.
92.
Wright's Ten.
93 to 97.

OF Heirs that be led away, and with-holden, or married by their Parents, or by other, with Force againſt our Peace, thus it is provided, That whatſoever Layman be convict thereof, that he ſo hath with-holden any Child, led away, or mar-

VI. DE heredibus per parentes, vel per alios, vi abductis, vel detentis, ita proviſum eſt, quod quicumque laicus inde convictus fuerit, quod puerum ſic maritaverit, reddat perdenti valorem maritaggi Et pro delicto corpus ejus ca-

capiatur & imprisonetur, donec perdat emendaverit delictum, si puer maritetur Et preterea donec domino Regi satisfecerit pro transgressione. Et hoc fiat de herede infra quatuordecim annos existente. De herede autem, [qui] cum sit quatuordecim annorum, vel ultra, usque ad plenam etatem, si se maritaverit sine licencia domini sui, ut ei auferat maritagium suum, & Dominus offerat ei rationale maritagium, ubi non disparagetur, dominus suus tunc teneat terram ejus ultra terminum etatis sue, scilicet viginti & unius anni per tantum tempus, quod possit inde duplicem valorem maritagii recipere, secundum estimationem legalium hominum, vel secundum quod ei pro eodem maritagio prius fuerit oblatum sine fraude & malicia, & secundum quod probari poterit in Curia domini Regis. De dominis qui maritaverint illos quos habent in custodia [sua] villanis, vel aliis, sicut burgensibus, ubi disparagentur; [tunc] si talis heres fuerit infra quatuordecim annos, & talis etatis, quod consentire non possit, tunc si parentes conquerantur, dominus ille amittat custodiam usque ad legitimam etatem heredis & omne commodum, quod inde perceptum fuerit, convertatur in commodum ipsius qui infra etatem est, secundum dispositionem & provisionem parentum contra dedecus ei factum; Si autem fuerit quatuordecim annorum, & ultra, quod consentire poterit, & tali maritagio consenserit, nulla sequatur pena.

Years, and above, so that he may consent, and do consent to such Marriage, no Pain shall follow.

married, he shall yield to the Loser the Value of the Marriage; and for the Offence his Body shall be taken and imprisoned until he hath recompensed the Loser, if the Child be married; and further, until he hath satisfied the King for the Trespas. And this must be done of an Heir being within the Age of Fourteen Years. (2) And touching an Heir being fourteen Years old, or above unto his full Age, if he marry without Licence of his Lord to defraud him of the Marriage, and his Lord offer him reasonable and convenient Marriage (without Disparagement) then his Lord shall hold his Land beyond the Term of his Age, that is to say, of One and Twenty Years, so long that he may receive the double Value of the Marriage after the Estimation of lawful men, or after as it hath been offered before without Fraud or Collusion, and after as it may be proved in the King's Court. (3) And as touching Lords, which marry those that they have in ward to Villains, or other, as Burgesse, where they be disparaged, if any such an Heir be within the Age of Fourteen Years, and of such Age, that he cannot consent to marriage, then if his Friends complain of the same Lord, the Lord shall lose the Wardship unto the Age of the Heir; and all the Profit, that thereof shall be taken, shall be converted to the Use of the Heir being within Age, after the Disposition and Provision of his Friends, for the Shame done to him; but if he be Fourteen

9 Hen. 3. c. 6.
3 Ed. 1. c. 22.
13 Ed. 1. stat. 1.
c. 35.

CAP. VII.

In what case the Ward shall pay to his Lord the Value of his Marriage.

2 Inft. 92, 93.
Wright's Ten.
93 to 97.

IF an Heir (of what Age soever he be) will not marry at the Request of his Lord, he shall not be compelled thereunto; but when he cometh to full Age, he shall give to his Lord, and pay him as much as any would have given him for the Marriage before the Receipt of his Land, and that whether he will marry himself, or not; for the Marriage of him that is within Age of meer Right pertaineth to the Lord of the Fee.

SI quis heres, cujuscunque fuerit etatis, pro domino suo se noluerit maritare, non compellatur hoc facere, sed cum ad etatem pervenerit, det domino suo, & satisfaciat ei de tanto, quantum percipere possit ab aliquo pro maritagio, antequam terram suam recipiat, & hoc sive voluerit se maritare, sive non; Quia maritagium ejus, qui infra etatem est, mero jure pertinet ad dominum feodi.

CAP. VIII.

Several Limitations of Prescription in several Writs.

Co. Lit. 114,
115.
2 Inft. 94, &c.
Hale's Hist.
Com. Law,
2, 3. 122, 123,
124, 129, 130.
143.

TOUCHING Conveyance of Descent in a Writ of Right from any Ancestor from the time of King HENRY the elder, the Year and Day, it is provided, That from henceforth there be no mention made of so long time, but from the time of King HENRY our Grandfather; (2) and this Act shall take effect at *Pentecost*, the One and twentieth Year of our Reign, and not afore, and the Writs before purchased shall proceed. (3) Writs of *Mortdauncestor*, of *Nativis*, and *Entre*, shall not pass the last Return of King JOHN from *Ireland* into *England*; and this Act shall take effect as before is declared. (4) Writs of *Novel disseisin* shall not pass the first Voyage of our Sovereign Lord the King, that

3 Ed. 1. c. 39.
32 H. 8. c. 2.
21 Jac. 1. c. 16.

now is, into *Gascoine*. And this Provision shall take his effect from the time aforesaid; and all Writs purchased before shall proceed.

VII. DE narratione descensus in brevi de recto ab antecessore a tempore H. Regis senioris, anno & die, provisum est, quod de cetero non fiat mencio de tam longinquo tempore, set a tempore H. Regis Avi nostri; & locum habeat ista provisio ad Pentecosten, anno vicesimo primo, & non ante; & brevia prius impetrata procedant. Brevia mortis antecessoris, de nativis, & de ingressu, non excedant ultimum reditum domini Regis JOHANNIS [Patris nostri] in Angliam. Brevia Nove disseisine non excedant primam transfretacionem domini Regis HENRICI, qui nunc est in Vasconiam: Et locum habeat ista provisio a tempore predicto; & brevia prius impetrata procedant.

CAP.

CAP. IX.

He is a Bastard that is born before the Marriage of his Parents.

VIII. **A**D breve [domini] R. de Bastardia, utrum aliquis natus ante matrimonium habere poterit hereditatem, sicut ille qui natus est post, Responderunt omnes Episcopi, quod nolunt, nec possunt, ad istud respondere; quia hoc esset contra communem formam ecclesie. Ac rogaverunt omnes Episcopi Magnates, ut consentirent, quod nati ante matrimonium essent legitimi, sicut illi qui nati sunt post matrimonium, quantum ad successionem hereditariam, quia ecclesia tales habet pro legitimis. Et omnes Comites & Barones una voce responderunt, quod nolunt leges Anglie mutare, que usitate sunt, & approbate.

the Realm, which hitherto have been used and approved.

CAP. X.

Attornies allowed to make Suit to several Courts.

IX. **P**ROvisum est insuper, quod quilibet liber homo, qui sectam debet ad Comitatum, [Trithingum,] Hundredum, & Wapentachium, vel ad Curiam domini sui, libere possit facere attornatum suum, ad sectas illas pro eo faciend.

MOREover it is provided, ^{2 Inst. 99, 100.} That every Freeman, which oweth Suit to the County, Tything, Hundred, and Wapentake, or to the Court of his Lord, may freely make his Attorney to do those Suits for him.

CAP. XI.

Lords shall not imprison Offenders at their own Wills for Trespasses in their Parks and Ponds.

X. **D**E malefactoribus in parcis & vivariis non est discussum; quia Magnates petierunt propriam prisonam suam de illis quos ceperant in parcis & vivariis suis; quod quidem dominus Rex contradixit; & ideo differtur.

CONcerning Trespasses in ^{2 Inst. 100. 52 H. 3. c. 1.} Parks and Ponds it is not yet discussed; for the Lords demanded the proper imprisonment of such as they should take in their Parks and Ponds, which the King denied; wherefore it was deferred.

The