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Edited and Translated by Alfred J. Horwood and Luke Owen Pike

Excerpt

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HILLARY TERM

IN

THE ELEVENTH YEAR OF THE REIGN OF

KING EDWARD THE THIRD

FROM THE CONQUEST.

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HILLARY TERM IN THE ELEVENTH YEAR OF
THE REIGN OF KING EDWARD THE THIRD
FROM THE CONQUEST.

A.D. 1337. § One Robert brought an assise against William and made his plaint of certain &c.—*Trewith*. You have here William who tells you that Robert ought not to have the assise, for he says that the same tenements were in the seisin of one J. who leased the same tenements to this same Robert who complains, to hold for the whole of his life, which Robert afterwards by this deed surrendered all his estate in the same tenements to J. whose estate William has, by which surrender the estate of freehold merged in his person, and we pray judgment if he ought to have an assise without shewing title &c. And he produced the deed witnessing the surrender.—*Elmer*. To the surrender of which you speak you are an entire stranger; wherefore it does not lie in your mouth &c.; wherefore I pray the assise.—*Trewith*. By the surrender his estate was merged and extinguished as effectually as it would have been by his release.—SCHARDELOWE. If you were the same person to whom the surrender was made, perhaps the plea would be in bar, but in your mouth who are a stranger the plea is only to the assise.—Wherefore the assise was awarded.

§ In a plea of Debt the plaintiff put forward a bond, which the defendant denied. Wherefore an inquest was joined, and it was found that it was not his deed, wherefore the defendant prayed that the deed might be cancelled: and the plaintiff said that it should not be

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[More information](#)

DE TERMINO HILLARII ANNO REGNI REGIS
EDWARDI TERTII A CONQUESTU UNDECIMO.

§ Un Robert porta une assise vers Willem et fist sa A.D. 1337. plainte de certain &c.—*Trew.* Vous avez ci W. qe vous dit qe R. ne doit assise aver, qar il dit qe mesme ceux tenementz furent en la seisine un J. qe lessa mesme ceux tenementz a mesme cesti R. qe se pleint, a tenir a tote sa vie, le quel R. apres par ceo fait rendi sus son estat de mesme les tenementz a J. qui estat W. ad, par quel rendre estat de franktenement anienti en sa persone, et demandoms jugement sil deive assise avoir sanz title mostrer &c.; et mist avant le fait qe testmoigna le rendre.—*Elm.* Al rendre de quei vous parlez vous estez tut estrange, par quei il ne gist en vostre bouche &c.; par quei jeo pri lassise.—*Trew.* Par le rendre son estat fut anienti et exteint auxint avant com serroit par son relees.—*SCH.* Si vous fussez mesme celui a qui le rendre se fist, par cas le ple serroit en barre, mes en vostre bouche qestis estrange le ple nest fors qe a lassise. Par quei lassise fut agarde.

§ En ple de dette le pleintif mist avant obligacioun, la quele le defendant dedist; par quei enquest se joint, et trove fut qe ceo ne fut pas son fait, par quei le defendant pria qe le fait fut dampne; et le pleintif dit

A 2

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[More information](#)

A.D. 1337. cancelled because he might have the Attaint. And notwithstanding, SCROPE caused the deed to be cancelled.

§ A woman, tenant in dower, pleaded in bar of the assise by a fine levied between the plaintiff's ancestor, whose heir he is, and the husband of the woman, by whose endowment she holds; and she put forward a part of the fine.—*Gayneford*. She is an entire stranger to the fine. Wherefore he prayed the assise.—SCOT. The woman holds by the endowment of her husband who was party to the fine, and in the right of the heir, so she is sufficiently a privy to plead it in bar.—*Gayneford*. You disseised us of the same tenements, without this that she had anything by assignment to hold in name of dower; ready by the assise.—SCOT. In opposition to the fine, by which your ancestor devested himself, you shall not get to have the assise without showing title.—SCHARDELOWE. There is no cause why this plea should lie in your mouth to plead in bar, except only this which you have said, that you hold in name of dower by assignment from the heir of your husband who was party to the fine; and to this he has said that you have nothing in dower by his assignment, and thereby he deprives you of the plea in bar.

Escheat. § One William brought his writ of Escheat against J. and M. his wife, and demanded certain tenements; and he said that one R. held the same tenements of him by homage and fealty and the service of 20s. by the year; and he said that he was seised through his hands in time of peace, in the time of a certain king, namely of the homage and of the fealty as of fee and of right, and of the rent in his demesne as of fee and of right; and he said that the tenements ought to revert to him as his escheat, because R. died without heir.—*Parning*. You cannot have an action, for we tell you that heretofore a

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qil ne qil ne serreit pas dampne pur ceo qil pout aver A.D. 1337.
latte[i]nt. Et non obstante SCROPE fist dampner le
fait.

§ Une femme tenant en dower pleda en barre das-
sise par un fin que se leva parentre lancestre le pleintif,
qi heir il est, al baron la femme de qi doement ele
tient; et mist avant partie de la fin.—*Gayn.* Ele est
tut estrange a la fin. Par quei il pria lassise.—*SCOT.*
La femme tint del dowement son baron que fut partie
a la fin et en le dreit le heir, issint est ele assez prive
de pleder le en barre. — *Gayn.* Vous nous disseisistes
de mesme les tenementz, sanz ceo que ele navoit rienz
par assignement a tenir en noun de doer; prest par
assise.—*SCOT.* Encountre la fin, par la quele vostre
auncestre se demist, vous navendrez pas daver lassise
sanz title mostrer.—*SCH.* Il nad nulle cause par quei
cesti ple girreit en vostre bouche de pleder en barre
fors que soulement ceo que vous avez dit que vous tenez
en noun de doere del assignement le heir vostre baron
que fut partie a la fine, et a ceo ad il dit que vous
navez rien en doer de son assignement, et par tant il
vous toust le ple en bare.

§ Un William porta son bref deschete vers J. et M.
sa femme, et demanda certains tenementz; et il dit
qun R. tint mesme les tenementz de lui par homage
fealte et par le service de xx. souz par an; et dit qil
fut seisi par my sa meyn en temps de pees, en temps
de certain Roi, nomement del homage et de la feaute
com de fe et de dreit, et de la rente en son demesne
com de fee et de dreit, et dit que les tenementz a lui
duissent revertir com sa eschet, pur ceo que R. morust
sanz heir.—*Parn.* Vous ne poez accioun aver, que nous
vous dioms que avant ces hures fin se leva de mesme

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[More information](#)

A.D. 1337. fine was levied of the same tenements between R., mentioned in his plaint, and this same M. then his wife of the one part, and one G. of the other part, by which fine R. acknowledged the tenements to be the right of G., as those which he had of his gift, and for that acknowledgment G. granted and rendered the same tenements to R. and this M., to have and to hold to them and the heirs of their two bodies begotten, and if they should die without heir that the tenements should remain to the right heirs of M.; so M. is tenant to William of the same tenements, and we demand judgment if you can have an action.—*Trewith.* I am an entire stranger to the fine, therefore no law compels me to answer to it, so I will aver that R. died tenant to William, as is supposed by the writ.—*Parning.* I freely admit that R. died tenant to William, but the tenancy which he had was jointly with M. by force of the fine: wherefore you shall not be received to a general averment in opposition to what we have said.—*Trewith.* I am an entire stranger to the fine, wherefore the law does not put me to answer to this: wherefore the law does not oust me from averring my writ.—*SCHARDELOWE.* Will you aver that R. died solely seised in his demesne as of fee.—*Trewith.* That is supposed by my writ; and I will aver my writ.—*Parning.* You ought to tender your averment by express words and not by suppositions. *Trewith.* Although I should be willing to tender an averment that R. died sole tenant to William in his demesne as of fee, still you would say that I shall not have the averment in opposition to the fine.—*SCHARDELOWE.* Plead it and try.—*Trewith.* I say that W. the father of R. died seised of those tenements, after whose death R. entered as son and heir, and continued that estate until his death, without G., who was party to the fine as they say, ever having anything, ready &c.—*Parning.* The estate which R. had after the fine was levied could only be by force of the fine, and that jointly with M. his wife:

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Excerpt

[More information](#)

XI. EDWARD III.

7

lez tenements entre R. de qui il pleint et ceste M. A.D. 1337. adonqe sa femme dune part et un G. dautre part, par quel fin R. conust lez tenementz estre le dreit G. com ceux queux il avoit de son doun, et pur cele reconisance G. graunta et rendi mesme lez tenementz a R. et a cesti M., aver et tenir a eux et a les heirs de lour deus corps engendrez, et sils deviassent sanz heir qe lez tenementz remeindrent as dreits heirs M.; issint est M. tenant a W. de mesme ceux tenementz, et demandoms jugement si accion puissez avoir.—*Tre.* Jeo sui tut estrange a la fin, par quei nulle ley ne moi mette a respondre a ceo; par quei jeo voille averer qe R. morust le tenant W. auxint com est suppose par le bref.—*Parn.* Jeo conusse bien qe R. morust le tenant W., mes la tenaunce qil avoit fut joint ove M. par force de la fin; par quei vous ne serrez pas rescu a un general averement encountre ceo qe nous avoms dit.—*Tre.* Jeo sui tut estrange a la fine, par quei la ley ne me mette pas a respondre a ceo; par quei la ley ne moi ouste pas daverer mon bref.—*SCH.* Volez vous averer qe R. morust soul seisi en son demene com de fe?—*Tre.* Ceo est suppose par mon bref, et jeo voille averer mon bref.—*Par.* Vous devez tendre votre averement par expresse parols et ne mie par supposes.—*Tre.* Tut voldrei jeo tendre daverer qe R. morust soul le tenant W. en son demene com de fee, unqore dirrez vous qe jeo naverai pas laverement encountre la fin.—*SCH.* Pledez ceo et assaiez.—*Tre.* Jeo die qe W. pere R. morust seisi de ceux tenementz, apres qi mort, R. entra com fitz et heir et cel estat continua taunqe a son moriaunt sanz ceo qe G. qe fut partie a la fin a ceo qils ount dit unqes riens navoit, prest &c.—*Parn.* Lestat qe R. avoit apres la fine leve ne poet estre fors qe par force de la fine, et

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[More information](#)

A.D. 1337. wherefore he shall not get to aver that his estate was other than what the fine declared, without showing how he got it &c.—*STONORE*. He is a stranger to the fine, wherefore he shall have the averment notwithstanding the fine, as was adjudged in the writ of Wardship which the Prior of Bradestoke brought against Walter Pavely.—*Trewith*. I have no need to plead to any estate which my tenant had except to that estate which he had at the time of his death; and I will aver that he died our sole tenant in his demesne as of fee, ready &c.—*Parning*. R. divested himself of the right and of the possession by the fine to G., and retook an estate to himself and this M., so that his estate after the fine can only be considered as being by force of the fine, unless he show how it is otherwise.—*Trewith*. This would be to put us to acknowledge the fine to which we are an entire stranger, which cannot be.—And upon this a day was given over.

Per quæ
servitia.

§ John de Whitfeld sued a “per quæ servitia” against the Abbat of Thame &c., and put forward a note (of a fine) by which one W. had granted the services of the Abbat to him.—*Gayneford*. By the grant of W. we ought not to attorn, for we tell you that W., long before the fine was levied, by this deed which is here, released and quit-claimed to the Abbat and his successors for ever all the right which he had in the seignory &c., and we demand judgment.—*Stouford* offered to aver that he held of W on the day of the acknowledgment (of the fine), ready &c.—And the averment was received.

Assise of
novel
disseisin.

§ William de Hothum brought an assise of Novel Disseisin against Christiana de Hothum and several others, and they all came by bailiff and said that they had committed no tort; and the assise stood for default of jurors until this day; and now Christiana comes in proper person and answers as tenant of the tenements

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[More information](#)

ceo joynt oveke M. sa femme; par quei daverer son A.D. 1337. estat altre qe la fine voleit, saunz mostrer coment, il navendra pas, &c.—*STONORE*. Il est estrange a la fine, par quei il avera laverement non obstante la fine auxint com fust ajuge en le bref de Garde qe le Priour de Bradestoke porta vers Walter Pavely.—*Tr*. Jeo nai mister a pleder a nul estat qe mon tenant avoit fors qe a cel estat qil avoit jour de son moriant, et jeo voille averer qil morust soul nostre tenant en son demene com de fee, prest &c.—*Parn*. R. se demist de dreit et de possession par la fine a G., et re prist estat a lui et a ceste M., issint qe son estat apres la fine ne pout estre ajuge fors qe par force de la fine sil ne moustre coment.—*Tr*. Ceo serroit de mettre nous a conustre la fine, a la quele nous sumes tut estraunge, qe ne poet estre.— Et sur ceo jour fut done outre.

§ Johan de Whitfeld suist un per quæ servitia vers labbe de Thame &c. et mist avant une note par la quele un W. avoit grante lez services labbe a lui.—*Gayn*. Par le grant W. nous ne devons attourner, qar vous dioms qe W., long temps avaunt la fin leve, par ceo fait qe ci est relessa et quiteclama al Abbe et as ses successours a toutz jours tout le dreit qil avoit en la seignurie &c., et demaundoms jugement.—*Stouf*. tendi daverer qil tient de W. jour de la conisance, prest &c. Et laverement fut rescu.

§ William de Hothum porta une assise de novele disseisine vers Christiene de Hothum¹ et plusurs autres, et tous vindrent par baillif et disoient qil navoint fait nul tort; et lassise remist par defaute des jorours tanqe a cesti jour; et ore Christiene vient en propre persone et

¹ I.—Mohoun.

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[More information](#)

A.D. 1337. and says that there ought not to be an assise, for she says that J. de H., cousin of this William, whose heir he is, by this deed which is here released and quit-claimed all the right which he had in the same tenements to this same Christiana, to her and her heirs for ever, and bound himself and his heirs to warranty &c.; and we demand judgment if he ought to have the assise, —*Trewith*. Heretofore the assise was awarded, and the assise cannot be revoked, wherefore you shall not be received to plead this in bar; and together with this I make protestation that I do not admit that Christiana is tenant of the tenements.—*Parning*. In this case, although William should recover by the assise, Christiana afterwards by force of this deed would have a writ to make William come and also the jurors to be examined on the deed; and if it should be found for Christiana she would have again her possession; wherefore à multo fortiori shall she be received to aid herself by the deed.—*STONORE*. This is given by statute¹ in case the assise passes against him, but the statute does not aid him in the case in which we are; and perchance the assise will pass for Christiana, so that she will have no need to sue the process which is given by statute.—And notwithstanding it was awarded that she should be received to use the deed in bar.—*Trewith* said that any other than the tenant should not be received to plead in bar; and (said he) we tell you that Christiana has nothing in the freehold, but is named as a helper in the disseisin, wherefore we have no need to answer any plea in bar which lies in her mouth, and we pray the assise.—*Parning* offered to aver that she was tenant of the freehold; and the other side offered a contrary averment.—At another day the parties were called, and the plaintiff came and Christiana came, but the others did not come; wherefore *Parning* said that whereas the plaintiff says that Richard is tenant of the tenements and not Christiana who pleaded in bar as tenant, you

¹ 13 Edw. I. Westm. 2. c. 25.