

Post 127. b.

thy of Observation. Here is the first (&c.) and there is no (&c.) in all his three Books (there being, as you shall perceive, very many) but it is for two Purposes: First it doth imply some other necessary Matter. Secondly, That the Student may, together with that which our Author hath said, inquire what Authorities there be in Law that treat of the Matter, which will work three notable Effects: First, It will make him understand our Author the better. Secondly, It will exceedingly add to the Reader's Invention. And lastly, It will fasten the Matter more surely in his Memory; for which purpose I have for his Ease in the Beginning set down in these Institutes, the Effect of some of the principal Authorities in Law, as I conceive them, concerning the same. In this Place the (&c.) implieth Possession or Receipt, and such other Matter as appeareth by my Notes in this Section. As for the Authorities of Law, you shall find the Effect of them in this Section, and the like of the Rest of the (&c.) which you shall find in the Sections hereafter mentioned, omitting those (for avoiding of tediousness) that either are apparent, or which are explained in some other Places, viz. Sect. 20, 48, 102, 108, 120, 125, 136, 137, 146, 149, 154, 164, 166, 167, 168, 177, 179, 183, 184, 194, 200, 202, 210, 211, 217, 220, 226, 233, 240, 242, 244, 245, 248, 262, 264, 269, 270, 271, 279, 320, 322, 323, 325, 326, 327, 329, 330, 335, 336, 341, 347, 348, 349, 350, 352, 355, 356, 359, 364, 365, 374, 375, 377, 381, 384, 389, 393, 395, 397, 399, 401, 402, 410, 417, 428, 433, 447, 449, 464, 470, 471, 477, 483, 489, 500, 501, 522, 532, 552, 553, 556, 558, 562, 578, 591, 592, 593, 594, 603, 613, 624, 625, 630, 632, 634, 637, 638, 648, 659, 660, 661, 669, 687, 693, 700, 718, 745, 748, 749. All which I have observed and quoted here once for all, for the Ease of the studious Reader.

Britton 205, 206. optime.
Fleta, lib. 6. cap. 5.
Idem, lib. 3. cap. 15.
Dyer 14. b.

¶ Ut de feodo. Where (ut) is not by way of Similitude, but to be understood positively that he is seised in Fee. And so it is where one pleads a Descent to one ut filio & heredi, that is to Jo. S. that is Son and Heir, & sic de ceteris, where (ut) denotat ipsam veritatem.

[a] Doc. Plac. 287.

¶ Sicome de Advowson. Of an Advowson (a) wherein a Man hath as absolute Ownership and Property as he hath in Lands or Rents, yet he shall not plead, that he is seised in Dominico suo ut de feodo, because that Inheritance, labouring not de domo, cannot either serve for the Sustentation of him and his Household, nor any Thing can be received for the same for defraying of Charges. And therefore he cannot say, that he is seised thereof in dominico suo de feodo; whereby it appeareth how the Common Law doth detest Simony and all corrupt Bargains for Presentations to any Benefice, but that (b) idonea persona, for the Discharge of the Cure, should be presented freely without Expectation of any Thing; nay, so cautious is the Common Law in this Point, that the Plaintiff in a Quare impedit should recover no Damages for the Loss of his Presentation, until the Statute of W. 2. c. 5. And that is the Reason that Guardian in Socage shall not present to an Advowson, because he can take nothing for it, and by Consequence he cannot account for it. And by the Law he can meddle with nothing that he cannot account for. [c] And in a Writ of Right of Advowson, the Patron shall not alledge the Expence or taking of the Profits in himself, but in his Incumbent. And hereby the old Books shall be the better understood, viz. Bracton, lib. 4. tract. 3. cap. nu. 5. Est autem dominicum quod quis habet ad mensam, & proprie, sicut sunt Woodlands Anglice. And Fleta, lib. 5. cap. 5. Est autem dominicum proprie terra ad mensam assignata. Dominicum etiam dicitur ad differentiam ejus quod tenetur in servitio. But of an Advowson, and such like, he shall plead, that he is seised de advocatione ut de feodo & jure.

[b] Lib. 6. fo. 51. Boswell's Case.

[c] Fleta, lib. 5. cap. 5.

[d] Bract. lib. 4. fo. 240.

[e] Fleta, lib. 5. cap. 14.

[f] 33 H. 6. 11. b. per
Prifot.
4 Co. 75. 5 Co. 102.
2 Inst. 35, 357.

¶ Advowson. Advocatio, signifying an Advowling or taking into Protection, is as much as jus patronatus. Sir William Herle in 7 E. 3. fol. 4. saith, that it is not long past, that a Man did know what an Advowson was; but when a Man would grant an Advowson he granted Ecclesiam, the Church, and thereby the Advowson passed. Vide 45 E. 3. 5. But surely the Word is of greater Antiquity, for in the Register there is an original Writ de recto Advocationis, and in the original Writ of Assise de darrein Presentment, the Patron is called Advocatus. Vide W. 2. c. 5. and so doth [d] Bracton call him. Advocatus autem dici poterit ille ad quem pertinet jus advocationis alicujus, ut ad Ecclesiam presentet nomine proprio & non alieno. And [e] Fleta, lib. 5. cap. 14. agreeth herewith almost totidem verbis: Advocatus est ad quem pertinet jus advocationis alterius Ecclesie, ut ad Ecclesiam nomine proprio non alieno possit presentare. And Britton, cap. 92. the Patron is called Avow, and the Patrons are called Advocati, for that they be either Founders or Maintainers, or Benefactors of the Church, either by Building, Dotation, or increasing of it, in which respect they were also called Patroni, and the Advowson jus Patronatus.

And it is to be understood that there is a great [f] Diversity inter advocationem medietatis Ecclesie, &c. & medietatem advocationis Ecclesie, and of their several Remedies for the same. For the Advowson of the Moiety is when there be several Patrons, and two several Incumbents in one Church, the one of the one Moiety thereof, and the other of the other Moiety, and