

que el clamee dader
de les tenements te-
nus en chivalrie per
sa Vieuf de Dower.
Et si la feme ceo ne
puist dedire, donque
le Judgemēt serra
fait, que le gardeine
en chivalrie tiendra
les terres tenus de
luy durant le nonage
lensant, quite de la
feme, &c.

cage, after the Value of
the third Part which she
claims by her Writ of
Dower, to have the
Tenements holden by
Knight's Service. And
if the Wife cannot gain-
say this, then the Judg-
ment shall be given,
that the Guardian in
Chivalry shall hold the
Lands holden of him
during the Nonage of
the Infant, quit from
the Woman, &c. [10]

if the Land holden by Service
of Chivalry be thirty Acres,
and the Lands holden in So-
cage but five Acres, whether
she shall be endowed by Par-
cels, viz. to recover five Acres
against the Guardian in Chi-
valry, and to retain five Ac-
res? And as to the first, the
Guardian shall as well plead
it, when he comes in as Vou-
chee, as when he is Tenant.
And as to the second, some say
that the Demandant in the
Writ of Dower must have
Assets in her Hands to the
Value of her Dower; so as
she shall not be partly indow-
ed against the Guardian, and
partly retain in her own
Hands. And they say, that

Lib. intrat. Dower fol.
22. a.
18 E. 3. 4. b.

the Judgment should be in part, that is, as to the Land in Socage in Severalty, and as to the Land in Chivalry to recover the third Part; and compare it to the Case in 8 E. 4. 3. that Damages shall not be recovered, partly against the Defendant in an Appeal, and partly against the Abettors, but entirely either against the one or the other. And Littleton here putterh this Case, that the Guardian in Socage hath Assets in Value, and seeing it is a Dower against common Right, they hold that she must be entirely endowed either by her self against Common Right, or against the Guardian, according to common Right. But [a] yet by the Book in 25 E. 3. 52. b. and others it appeareth, that she may in this very Case retain for Part, and recover against the Guardian for Part.

14 H. 7. 26. Keble.
12 Co. 125, 126.
[a] 25 E. 3. 52. b. 4 E. 2.
tit. Disseisin. 10. Regist.
Judic. 26.
Doc. Pla. 149.
Lib. Intrat. 22. 16 E. 3.
breve 657.
20 E. 3. Judgment 175.
[b] 17 E. 3. 58.
[c] 10 E. 3. 50. 6 El. Dy.
230.
[d] 3 E. 3. Dower 75.
8 Ed. 2. Dower 155.
W. 2. cap. 7.
[e] Bract. l. 4. 314. Reg.
origin. 171.
7 E. 2. tit. Admesf. 13.

Guardian in Chivalry shall plead in Bar of her Dower, Detainment or Cloigning of the Body of the Ward, because his Marriage doth appertain unto him: And if the Heir come in [b] as Vouchee, he shall plead the same Plea. But he shall not plead Detainment of the Charters, [c] because the Charters concerning the Inheritance of the Heir belong not to the Guardian. The Guardian in Chivalry [d] may assign Dower of the Lands and Tenements he hath in Ward; or if he assign a Rent out of those Lands in Allowance of her Dower, it is good. If the Guardian in Chivalry assign too much for her Dower, the Heir shall have a Writ of Admesurement by the Common Law. And so [e] if the Heir within Age assign, before the Guardian enter, to the Wife too much in the Dower, the Guardian shall have a Writ of Admesurement, by the Statute of West. 2. cap. 7. And if the Heir within Age, before the Guardian enter into the Land, assign too much in Dower, he himself shall have a Writ of Admesurement at full Age: And some have said, That in that Case he may have it within Age. [f] But if the Heir (before the Guardian enter) endow the Wife of more than he ought, and the Guardian assign over his Estate, his Assignee shall have no Writ of Admesurement; because it was a Thing in Action. Also the Heir shall have an [g] Admesurement, for the Assignment in the Life of his Ancestor, by the Common Law, [h] and a Writ of Admesurement lieth upon an Assignment in Chancery.

[f] 7 R. 2. Admesf. 4.
F. N. B. 148. i.
[g] 7 R. 2. ub. sup.
F. N. B. 149. a.
[h] 7 R. 2. ub. sup.
12 H. 6. Admesf. 9.
F. N. B. 194. 25 E. 3. 51.
Post 168. a.

¶ *Donques le judgement serra fait que le Gardein en Chivalrie tiendra les Terres tenus de luy durant le nonage lensant, quite de la feme, &c.*

¶ *Judgment.* Judicium quasi juris dictum, the very Voice of Law and Right, and therefore Judicium semper pro veritate accipitur. The ancient Words of Judgment are very significant; Consideratum est, &c. because that Judgment is ever given by the Court upon due Consideration had of the Record before them: And in every Judgment there ought to be three Persons, Actor, Reus and Judex. Of Judgments some be final, and some not final, where you shall read more hereafter. And now to return to our Author, it is material that these Words (& cetera) be explained at large, viz. Et quod prædicta A. (the Demandant) capiat de terris hæred' prædicti in custodia sua existen' ad valentiam præd' 3. Partis cum pertinen' tenend' nomine dotis suæ pro prædict' 3. parte superius per eam petit. Now some are of Opinion, That upon this Judgment the Demandant may not in any Sort endow her self of the Land, because she cannot do an Act to her self; but she shall recoupe the third Part of the Profits upon her Account, and be endowed against the Heir at his full Age. But observe what Littleton saith in the next Section: But before you come to that, observe what Privilege the Common Law giveth

22 E. 4. Dow. 16. 16 E. 3.
Walt. 100. 45 E. 3. 6.