

Lib. II. Cap. X. Of Tenure in Burgage. Sect. 170.

4 Co. 36.

6 Co. 66. a. 66.
12 E. 4. 1. 2. Maria, Br.
Prescr. 100.
Dyer 71. 14 E. 3. Bar.
277. 43 E. 3. 32. 7 H.
6. 26. 22 H. 6. 14. 16
E. 2. tit. Prescr. 53.
40 Aff. 27. 41. 21 E. 4.
53. 54. 5 Co. 78. b.

9 Co. 57. b.

tempore substantiam capiens ab
authoritate Legis. In the
Common Law a Prescription
which is personal is for the
most part applied to Persons,
being made in the Name of a
certain Person, and of his An-
cestors, or those whose Estate
he hath; or in Bodies politicke
or corporate, and their Prede-
cessors; for as a natural Bo-
dy is said to have Ancestors,
so a Body politicke or corpo-
rate is said to have Predeces-
sors. And a Custom which
is local is alledged in no Per-
son, but laid within some
Manor or other Place, as ta-
king one Example for many,
J. S. seised of the Manor of
D. in Fee prescribeth thus:
That J. S. his Ancestors, and
all those whose Estate he hath
in the said Manor, have Time
out of Mind of Man, had and
used to have Common of Pa-
sture, &c. in such a Place, &c.
being the Land of some other,
&c. as pertaining to the said
Manor. This properly we
call a Prescription. A Cu-
stom is in this Manner: A
Copp-holder of the Manor of
D. doth plead, that within the
same Manor there is and hath
been such a Custom Time out
of Mind of Man used, that
all the Copp-holders of the
said Manor have had and
used to have Common of Pa-
sture, &c. in such a Waste of
the Lord, Parcel of the said
Manor, &c. where the Per-
son neither doth or can pre-
scribe, but alledgeth the Cu-
stom within the Manor. But
both to Customs and Pre-
scriptions these two Things
are Incidents inseparable, viz.
Possession or Usage, and Time.
Possession must have three
Qualities; it must be long,
continual, and peaceable, Lon-
ga, continua, & pacifica: For
it is said, Transferuntur do-
minia sine titulo & traditione
per usucapionem, i. e. per lon-
gam, continuam, & pacificam
possessionem. Longa, i. e. per
spatium temporis per legem defi-
nitum, of which hereafter shall
be spoken. Continuum dico, ita
quod non sit legitime interrupta

I

per title de Prescription, s. de temps dont
memoire ne curt. Mes divers Opini-
ons ont este de temps
dont memoire, &c. & de
title per Prescription,
q est tout un en Ley.
Car aucuns ont dit,
que temps de memo-
rie terra dit de temps
de limitation en un
brieffe de Droit, scilicet
de temps le Roy R.
le 1. puis le conquest,
come est done per
lestatute de Westmin-
ster 1. par ceo que le
brieffe de Droit est le
plus haut brieffe en
sa nature que poit
estre. Et per tiel
brieffe home poit re-
cover son droit de la
possession son Aunce-
stors de plus auncie-
ent temps que home
purroit p aucun brieffe
per la ley, &c. Et
entant que il est done
per le dit estatute, que
en brieffe de Droit nul
soit oye a demander
de le seisin son Aun-
cestors de plus longe
temps que de temps
le Roy R. avantdit;
issint ceo est prove q
continuance de posses-
sion, ou auters cu-
stomes & usages uses
puis le dit temps, est
le title de Prescrip-
tion, &c. & hoc cer-
tum est: Et auters

by Title of Prescrip-
tion, that is to say,
from Time out of
Mind. But divers O-
pinions have been of
Time out of Mind, &c.
and of Title of Pre-
scription, which is all
one in the Law. For
some have said, that
Time out of Mind
should be said from
Time of Limitation in
a Writ of Right, that
is to say, from the
Time of King Richard
the First, after the Con-
quest, as is given by
the Statute of West-
minster the first, for
that a Writ of Right is
the most high Writ in
its Nature that may
be. And by such a
Writ a Man may re-
cover his Right of the
Possession of his Ance-
stors of the most an-
cient Time that any
Man may by any Writ
by the Law, &c. And in-
somuch that it is given
by the said Estatute,
that in a Writ of Right
none shall be heard to
demand of the Seisin of
his Ancestors of longer
Time than of the Time
of King Richard afore-
said; therefore this is
proved, that Continu-
ance of Possession, or
other Customs and Usa-
ges used after the same
Time, is the Title of

ont