

Auxibien come il fuit mort en fa t. But yet to three Purposes Profession, that is, the Civil Death, hath not the Effect of a Natural Death.

First, This Civil Death shall never derogate from his own Grant, nor be any Mean to avoid it. And therefore if Tenant in Tail maketh a Feoffment in Fee, and entred into Religion, his Issue shall have no Formedon during his Life, because that should be in Derogation of his own Grant, and be a Mean to avoid the same.

[a] 12 E. 1. Dower 176.
31 E. 3. Collusion 29.
33 E. 3. Entre conge. 52.
21 E. 4. 14.

[a] Secondly, It shall never give her Bail, without whose Consent he could not have entred into Religion; and therefore his Wife after his Civil Death shall not be endowed until his Natural Death. But if the Wife, after her Husband hath entred into Religion, alien the Land, which is her own Right, and after her Husband is deaigned, the Husband may enter and avoid the Alienation.

Thirdly, It shall not work any Wrong or Prejudice to a Stranger that hath a former Right; and therefore if the Disseisor entred into Religion, and is professed, so as the Land descends to his Heir, yet this Descent shall not toll the Entry of the Disseisor.

[b] 5 E. 4. 3. a.

[c] 18 H. 6. 33. per
Fortesc.

[b] A Woman cannot be professed a Nun during the Life of her Husband: But some do hold a Diversity [c] that ante carnalem copulam the Husband or Wife may enter into Religion without any Consent, but post carnalem copulam neither of them can without Consent of the other.

[d] 31 E. 3. Collusion 29.

[d] But if a Man holdeth Lands by Knight's Service, and is professed in Religion, his Heir within Age, he shall be in Ward. If I be disseised, and my Brother releaseth with Warranty, and is professed in Religion, and the Warranty descendeth upon me, this Warranty shall bind me, because I am his Heir, and such Inheritance as my Brother had shall descend upon me.

[e] 21 R. 2. Judgm. 263.

[e] And if one Jointenant be professed in Religion, the Land shall survive to the other. If a Man or a Woman be professed in Religion in Normandy, or in any other Foreign Part, such a Profession shall not disable them to bring any Action in England, because it wanteth Trial, but they must be professed in some House of Religion within this Realm, for that may be tried by the Certificate of the Ordinary: So as of Foreign Professions the Common Law taketh no Knowledge. [f] And yet in some Case one that is professed in Religion within the Realm shall have an Action; as if he be made an Executor, or if he be an Administrator, he shall maintain an Action, not in his own Right, but in Right of the Dead.

[f] 14 E. 3. Executors
87. 5 H. 7. 25. 21 H. 6.
30. 3 H. 6. 24.

[g] 44 E. 3. 9. Nonabi-
lit. 3. 14 H. 8. 16.

[g] If a Monk be made a Bishop, or a Parson, or a Vicar, he shall have an Action concerning his Bishoprick, Parsonage or Vicarage; & sic de similibus.

[h] 2 H. 4. 7. 8 H. 5. 6.
7 E. 4. 30. 44 E. 3. 4.
20 E. 3. Vill. 10 & Non-
ability 9.
* Mir. c. 2. sect. 14.
14 H. 4. 37. b. 5 H. 7. 26.
Vide sect. 296. 14 E. 4.
36.

[h] And if a Monk be Farmer of the King, yielding a Rent, he shall have an Action concerning that Farm. And albeit Littleton speaketh generally of one that is professed in Religion, yet must it not be understood of the Sovereign or Head of the Religious House, as of the Abbot, Prior, or the like; * for albeit they be professed in Religion, yet by the Policy of the Law they are Persons able to purchase, and to implead, and to be impleaded, to sue and to be sued, for any Thing that concerns the House of Religion; for otherwise the House might be prejudiced, and other Men also, of their lawful Actions. And this is the ancient Law of England, as it appeareth in these Words, Des biens de gents de Religion appent l'Action al Chiefe en son noime pur luy & son Covent. But what if a Monk, &c. were beaten, wounded or imprisoned, &c. doth the Law give no Remedy therefore? Yes verily; [i] for in that Case the Abbot and the Monk shall join in an Action against the Wrong-doer: And if the Writ be, Ad damnum ipsius Prioris, the Writ is good; and if it be, Ad damnum ipsorum, it is good also. Also if a Monk be by Conspiracy, falsly and maliciously indicted of Felony and Robbery, and afterwards is lawfully acquitted, his Sovereign and he shall join in a Writ of Conspiracy, and the like. And where Littleton speaketh of a Man that is professed in Religion, the same Law is of a Nun, sanctimonialis, mutatis mutandis.

[i] 22 E. 3. 2. 37 H. 6. 8.
36. 13 E. 3. B. 261.
22 E. 3. 2. 38 H. 6. 7. b.
24 E. 3. 34. b. 45. 7 R. 2.
Nonabilit. 3. 9.
Doc. Pla. 9.

[k] 4 H. 3. Br. 766.

[k] A Wife is disabled to sue without her Husband, as much as a Monk is without his Sovereign; and yet we read in Books, that in some Cases a Wife hath had Ability to sue and be sued without her Husband. [l] For the Wife of Sir Robert Belknap, one of the Justices of the Court of Common Pleas, who was exiled or banished beyond Sea, did sue a Writ in her own Name, without her Husband, he being alive; whereof one said, Ecce modo mirum, Quod femina fert Breve Regis, Non nominando virum conjunctum robore Legis.

[l] 2 H. 4. fo. 7. a.
1 Bul. 140.

King Edw. III. brought a Quare Impedit against the Lady of Maltravers, and she pleaded, That she was Covert of Baron; whereunto it was replied for the King, that her Husband, the Lord Maltravers, was put in Exile for a certain Cause: And she was ruled to answer.

[m] 1 H. 4. 1. b.

[m] King Hen. IV. brought a Writ of Ward against Sibel B. who pleaded, that she was Covert Baron, &c. whereunto it was replied for the King, that her Husband for a Crime that he had committed against the King and the Peers, was relegate or exiled into Gascoigne, there to remain until he obtained the King's Grace. And Gascoigne Chief Justice, ex assensu sociorum, awarded that she should answer.

Sir T. Egerton, Lord Chancellor, in his Argument which he published apart by himself in Cal.