

Imberbis Juvenis, tandem Custode remoto,
Gaudet Equis, Canibusque, & aprici gramine Campi,
Cereus in vitium flecti, Monitoribus asper,
Utilium tardus provisor, prodigus æris,
Sublimis, cupidusque, & amata relinquere pernix.

Horace.

And again, no living Creature more infirm than Man.

Nil homine infirmum tellus animalia nutrit
Inter cuncta magis.

Ho.

Sect. 212.

MES si home voile prescriber, que si ascun aüs fueront sur les demesnes de son mannoz, la damage feasant, que le Seignior del mannoz pur le temps esteant ad use eur de distreiner, & le distresse retaine tanque fine fuit fait a luy pur le damage a sa volunt, cest prescription est void; pur ceo que il est encounter reason, que si tort soit fait a un home, que il de ceo serra son Judge demesne: Car per tiel voy, sil avoit damages forsque al value dun mail, il puissoit assesser & aver pur ceo C. l. que serroit encounter reason. Et issint tiel prescription, ou ascun autre prescription use, (si ceo soit encounter reason) ceo ne doit estre allow devant judges: Quia malus usus abolendus est.

BUT if a Man will prescribe, That if any Cattel were upon the Demesns of the Manor, there doing Damage, that the Lord of the Manor for the Time being hath used to distrain them, and the Distress to retain till Fine were made to him for the Damages at his Will, this Prescription is void; because it is against reason, that if Wrong be done any Man, that he thereof should be his own Judge: For by such Way, if he had Damages but to the Value of an Halfpenny, he might assess and have therefore an C. Pound, which should be against Reason. And so such Prescription, or any other Prescription used, if it be against Reason, this ought not, nor will not be allowed before Judges: *Quia malus usus abolendus est.*

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EST encounter reason, que si tort soit fait a un home, que il de ceo serra judge demesne. For it is a Maxim in Law, Aliquis non debet esse judex in propria causa. * And therefore a Fine levied before the Bailiffs of Salop was reversed, because one of the Bailiffs was Party to the Fine, quia non potest esse judex & pars.

Malus usus abolendus est. And every Use is evil, that is (as our Author saith) against Reason; Quia in consuetudinibus non diuturnitas temporis, sed soliditas rationis, est consideranda. And by this Rule cited by our Author, at the Parliament holden at Kilkenny in Ireland, Lionel, Duke of Clarence, being then Lieutenant of that Realm, the Irish Customs, called there the Brehon Law, (for that the Irish call their Judges Brehons) was wholly abolished, for that (as the Parliament said) it was no Law, but a lewd Custom, & malus usus abolendus est.

But our Student must know, that King John in the twelfth Year of his Reign went into Ireland, and there by the Advice of grave and learned Men in the Laws, whom he carried with him, by Parliament, de communi omnium de Hibernia consensu, ordained and established, that Ireland should be governed by the Laws of England: which

5 Co. 84, 85.
7 E. 2. 24. 38 E. 3. 18.
2 H. 3. 4. 8 H. 6. 19.
5 H. 7. 9. b.
* Hill. 4 H. 4. Coram Rege Salop.

5 Co. 82. 6 Co. 59.
An. 40 E. 3. at Kilkenny.
2 Roll. 265.

4 Inst. 349. 1 Roll. 565.

Vide Sect. 265.

Vaugh. 293.