

Lib. III. Cap. I. Of Parceners. Sect. 242, 243.

6 Co. 12. b.

[a] 20 E. 3. Garranty 70.

[b] Trin. Pickering 8 E. 3.

Rot. 34.

Post 233.

tion of the Land, the Warranty shall remain, because they are compellable to make Partition. [a] But otherwise it was of Jointenants at the Common Law, as shall be said hereafter in its proper Place. [b] Thomas de Eberston, seised of the Manor of Eberston, within the Forest of Pickering, had kept, Time out of Mind, a Woodward for keeping of the Woods, Parcel of that Manor, and had the Bark of all the Trees felled in the said Woods by any of the Foresters of that Forest as belonging to his Manor (which he could not have without a Prescription.) Thomas Eberston infeoffed two of the said Manor, between whom Partition was made, so as one of them had the one Half in Severalty, and the other the other Half. Robert Wyerne afterwards had the one Half, and Thomas Thurnile the other, and they in the Eyre of Pickering claimed to keep a Woodward within the said Woods, and the Bark aforesaid; and the Truth thereof, and the Usage, being specially found by the Foresters, Verderors, and Regardors, Willoughby, Hungerford, and Hanbury, Justices Itinerant within that Forest, gave Judgment as followeth: Ideo consideratum est quod predictus Robertus & Thomas habeant Woodwardum & Corticem in bosco predicto de quercubus predictis sibi & heredibus suis in perpetuum. Salvo semper jure, &c.

Sect. 242.

CUy si home seisie de tenements en fee-simple ou en fee taile, devie sauns issue de son corps engender, & les tenements descendent a ses soers, els sont Parceners, come est avantdit. Et en mesme le manner, lou il nad pas soers, mes les tenements descendent a ses aunts, els sont Parceners, &c. Mes si home nad forsque un file, el ne poit estre dit Parcener, mes el est appelle file & heire, &c.

Also if a Man seised of Tenements in Fee-simple or in Fee-tail, dieth without Issue of his Body begotten, and the Tenements descend to his Sisters, they are Parceners, as is aforesaid. And in the same Manner, where he hath no Sisters, but the Lands descend to his Aunts, they are Parceners, &c. But if a Man hath but one Daughter, she shall not be called Parcener, but she is called Daughter and Heir, &c.

COu en Fee taile. This must be intended of an Estate-tail made to the Father, and to the Heirs of his Body; for otherwise, if the State-tail were made to a Man, and to the Heirs of his Body, his Sisters cannot inherit. And not only Daughters shall be Coparceners, but Sisters, Aunts, Great Aunts, &c.

CFile & heire, &c. Here by [&c.] is implied Sister and Heir, Aunt and Heir, Great Aunt and Heir, and so upward.

Sect. 243.

By this Section, and the [&c.] in the End of it, it is to be understood, that there are two Kind of Partitions between Coparceners, the one in Deed or exprels, and the other in Law or implicit. Of Partitions in Deed or exprels, some be voluntary, whereof Littleton enumerates four Manners, and one compulsoy, that is, by Writ of Partition.

Cest ascavoir, que partition enter parceners poit estre fait en divers manners. Un est quant els agreeout de faire partition, & font partition de les tenements, sicome si soyent deux Parceners

AND it is to be understood, that Partition may be made in divers Manners. One is, when they agree to make Partition, and do make Partition of the Tenements. As if there be two Parceners, to divide between them