

tion by the Twelve, and that the Sheriff should not return what Partition he would. Now after all this, this [&c.] viz. twelve, &c. doth imply, that the principal Judgment upon the Partition so returned is, Ideo consideratum est per Curiam quod partitio firma & stabilis in perpetuum teneatur: The later two [&c.] are evident.

Sect. 250.

Et nota q̄ partition per agreement perenter parcerers, poit estre fait per la ley enter eux auri-bien p̄ parol sans fait, come per fait.

AND note, that Partition by Agreement between Parceners may be made by Law between them, as well by Parol without Deed, as by Deed.

Here it appeareth that [a] not only Lands and other Things that may pass by Libery without Deed, but Things that do lie in Grant, as Rents, Commons, Advowsons, and the like, that cannot pass by Words without Deed, whether they be in one County or in several Coun-

[a] 2 E. 4. 9. 10. 9 E. 4. 38. 11 H. 4. 3. 9 H. 4. Partition 13. 21 E. 3. 38.

Dyer 350. b. Post 187. a.

108. b.

[b] Vide Sect. 290. 3 H. 4. 1.

19 H. 6. 25. 28 H. 6. 2.

47 E. 3. 22. 19 H. 6. 1.

17 E. 3. 46. 2 Eliz.

Dyer 179. 6 Co. 12.

8 Co. 42.

ties, may be parted and divided by Parol without Deed. Jointenants is not good without Deed, albeit it be of Lands, and that they be compellable to make Partition by the Statutes of 31 H. 8. cap. 10 and 32 H. 8. cap. 32. because they must pursue that Act by Writ de partitione facienda, and a Partition between Jointenants without Writ remains at the Common Law, which could not be done by Parol. And so it is, and for the same Reason, of Tenants in Common. But if two Tenants in Common be, and they make Partition by Parol, and execute the same in Severalty by Libery, this is good and sufficient in Law. And therefore, where Books say, that Jointenants made Partition without Deed, it must be intended of Tenants in Common, and executed by Libery.

Nota; Between Jointenants there is a twofold Privity, viz. in Estate and in Possession: Between Tenants in Common there is Privity only in Possession, and not in Estate: But Parceners have a threefold Privity, viz. in Estate, in Person, and in Possession.

Sect. 251.

Item si deux meases descendent a deux Parceners, & l'un mease vault per ans 20 s. l'auter forsque 10 s. per an, en cest cas partition poit estre fait enter eux en tiel forme, cestascavoir q̄ un parcener avera l'un mease, & que l'auter parcener avera l'auter mease, & celui q̄ aver le mease q̄ est de value de 20 s. & les heires, payera un annual rent

Also if two Meases descend to two Parceners, and the one Mease is worth 20 Shillings per Ann. and the other but 10 Shillings per Annum, in this case Partition may be made between them in this manner, to wit, the one Parcener to have the one Mease, and the other Parcener the other Mease. And she which hath the Mease worth 20 Shillings per Ann. and her Heirs, shall pay

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PER Parol. Nota; Ante 164.

Here [c] a Rent may be granted for Dwelty of Partition without Deed, [53] even as a Rent in case of a Lease for Years, for Life, or a Gift in Tail may be reserved without Deed; and so may a Rent be assigned to a Woman out of the Land whereof she is dowable, &c. without Deed: But albeit an Exchange for Lands in the same County may be without Deed, yet a Rent granted for Equality of the same Exchange cannot be without Deed; and the Cause of the Difference is apparent, for Coparceners are in by Descent, and compellable to make Partition.

[c] 21 E. 3. 33. 11 H. 4. 43. 61. 45 E. 3. 21. 2 H. 6. 14.

Le Rent, &c. The same Law is of Common of Estovers, or a Cozody, or a Common of Pasture, &c. or a May