

of the Mortgagor or his Heir (without his Consent or Privity) tender the Money, and the Mortgagee accepteth it, this is a good Satisfaction; and the Mortgagor or his Heir agreeing thereunto, may re-enter into the Land; *Omnis rariabitio retro trahitur & mandato equiparatur.* But the Mortgagor or his Heir may disagree thereunto if he will.

Plowd. 133. a. b.
Anre 180. b.
Post 245. a. 258. 2.

Sect. 335.

EC memoran-
dum q'en tiel
cas, lou tiel tender de
le money est fait, &c.
& le feoffee de recevoir
ceo refusa, per que le
feoffor ou ses heires
entront, &c. dunque le
feoffee nad ascun re-
medy daver le money
per le common ley,
pur ceo que il serra
rette sa folly que il
refusa le money quant
un loyal tendre de ceo
fust fait a luy.

AND be it remem-
bred that in such
Case, where such Tender
of the Money is made,
&c. and the Feoffee re-
fuse to receive it, by
which the Feoffor or his
Heirs enter, &c. then
the Feoffee hath no Re-
medy by the Common
Law to have this Mo-
ney, because it shall be
accounted his own Folly
that he refused the Mo-
ney, when a lawful Ten-
der of it was made unto
him.

TENDER de le
money est fait,

6 Co. 13. Noy 12.
Anre 180. b.
Sid. 364, 365.

&c. Here is implied, at
the due Time and Place ac-
cording to the Condition.

Entrent, &c. viz.
into the Lands or Tene-
ments.

Donque le feoffee
nad ascun remedy da-
ver le money per le
common ley, &c. And
the Reason is because the
Money is collateral to the
Land, and the Feoffee hath
no Remedy therefore.

8 E. 2. tit. Aff. 389.
31 Aff. 32.

If an Obligation of an
hundred Pound be made
with Condition for the Pay-
ment of fifty Pounds at a
Day, and at the Day the
Obligor tender the Money,

2 Rol. 523, 524.
Sid. 13, 30, 365, 369.

and the Obligee refuseth the same; yet in Action of Debt upon the Obligation, if the Defen-
dant plead the Tender and Refusal, he must also plead that he is yet ready to pay the Mo-
ney, and tender the same in Court. But if the Plaintiff will not then receive it, but take
Issue upon the Tender, and the same be found against him, he hath lost the Money for ever.

22 H. 6. 39. 21 E. 4. 25.
22 E. 3. 5.
Lib. 9. fo. 79. H. Peytoe's
Case.

If a Man be bound in two hundred Quarters of Wheat for Delivery of a hundred Quar-
ters, if the Obligor tender at the Day a hundred Quarters, &c. he shall not plead uncore
prist, because albeit it be Parcel of the Condition, yet they be Bona peritura, and it is a
Charge for the Obligor to keep them. And the Reason wherefore in the Case of the Obliga-
tion the Sum mentioned in the Condition is not lost by the Tender and Refusal, is not only
for that it is a Duty and Parcel of the Obligation, and therefore is not lost by the Tender
and Refusal, but also for that the Obligee hath Remedy by Law for the same. And in this
Case, *Liberata pecunia non liberat offerentem.*

2 Rol. 523. 3 Cro. 258.
Doct. pla. 6. 389, 390,
107.
† Dyer 24. b. 25. con-
tra.

But if a Man make a single Bond, or acknowledge a Statute or Recognizance, and after-
wards make a Defeasance for the Payment of a lesser Sum at a Day, if the Obligor or Co-
nisor tender the lesser Sum at the Day, and the Obligee or Conussee refuseth it, he shall ne-
ver have any Remedy by Law to recover it, because it is no Parcel of the Sum contained
in the Obligation, Statute or Recognizance, being contained in the Defeasance, made at the
Time or after the Obligation, Statute or Recognizance. And in this Case in Pleading of
the Tender and Refusal the Party shall not be driven to plead, that he is yet ready to pay
the same, or to tender it in Court: Neither hath the Obligee or Conussee any Remedy by
Law to recover the Sum contained in the Defeasance. [a] And so it is if a Man make an
Obligation of one hundred Pound, with Condition for the Delivery of Corn or Timber, &c.
or for the Performance of an Arbitrement, or the Doing of any Act, &c. This is collateral
to the Obligation, that is to say, is not Parcel of it, and therefore a Tender and Refusal is
a perpetual Bar.

† 2 Saun. 48.
7 H. 4. 18. 5 Mar. Dyer 150.
21 E. 4. 25. 22 E. 3. 5.
33 H. 6. 2. b. 17 Aff. Pl. 2.
20 E. 4. 1. b. 9 H. 6. 16.
35 H. 6. 26. 15 E. 4. 1.
16 H. 7. 13. 18 E. 3. 53.
7 E. 4. 4. b. 19 H. 8. 12.
27 H. 8. 12. 22 H. 6. 39.
tit. Abatement 11.
49 E. 3. 3. 19 H. 6. 12.
Mo. 36. 3 Cro. 755.
Post 236. Saund. 48.
2 Rol. 528.

But if a Man be bound to make a Feoffment in Fee to the Obligee, and he make a Lease
and a Release to him and his Heirs, albeit this be a collateral Condition, yet is it well
performed, because this amounts in Law to a Feoffment.

[a] Henry Peytoe's Case,
ubi supra.
31 Aff. 25. 11 H. 4. 33.
1 H. 6. 8. 1 E. 4. 1. 7 E. 4. 3.
Pl. Com. Fogge's Case.
fo. 6. Post 210, 219.
Lib. 5. fo. 114, 115.
Wade's Case, Lib. 9.
Authority, fo. 78.

Money, *moneta*, *Legalis moneta Angliae*. Lawful Money of England,
either of Gold or Silver, is of two Sorts, viz. the English Money coined by the King's