

[a] 7 H. 1. 7. 3 R. 2.
Entr. cong. 38. 2 H. 4. 8.
6 H. 7. 9.
Vide Sect. 556.

[b] 21 H. 8. cap. 19.

Lib. 9. fo. 136. Af-
cough's Case. 27 H. 8.
fo. 4. 32 H. 8. cap. 2.
Lib. 9. fol. 36.
Bucknal's Case.

1 Cro. 83.
34 H. 8. Avowry Br. 113.
27 H. 8. 4 & 20.

Lib. 9. f. 22. in Case
Dayowry. 44 E. 3. 20.
11 H. 7. 4. 21 H. 7. 40.
34 H. 6. 18.
6 R. 2. Refcous 11.
Ante 161. a.

Title, this shall bar him of his Escheat, which is to be understood of a Discent or Feoffment, after the Title of Escheat accrued; [a] for if the Disseisor make a Feoffment in Fee, or die seised, and after the Disseisee die without Heir, then there is no Escheat at all, because the Lord hath a Tenant in by Title. And when Littleton wrote, the Disseisee in the Case here put, should have compelled the Lord to have abowed upon him, as Littleton holdeth. But now this is altered by a later Statute of [b] 21 H. 8. for whereas by Fines, Recoveries, Grants and secret Feoffments, &c. made by Tenants to Persons unknown, the Lords were put from Knowledge of their Tenants, upon whom by Order of Law they should make their Abowry, &c. It is by that Statute enacted, That if the Lord shall distrain upon the Lands and Tenements holden, &c. that he may abow, &c. upon the same Lands, &c. as in Lands, &c. within his Fee or Seignior, &c. without naming of any Person certain, and without making Abowry of a Person certain. Upon which Statute these four Points are to be observed: First, That the Lord hath still Election either to abow according to the Common Law, or by Force of the Statute, by reason of this Word (May.) Secondly, Albeit the Purview of the Act be general, yet all necessary Incidents are to be supplied, and the Scope and End of the Act to be taken: And therefore though he need not to make his Abowry upon any Person certain, yet he must alledge Seisin by the Hands of some Tenant in certain, within forty Years. Thirdly, That if the Abowry be made according to the Statute, every Plaintiff in the Replevin, or second Deliberance, be he Termor or other, may have every Answer to the Abowry that is sufficient, and also have Aid, and every other Advantage in Law (Disclaimer only excepted) for disclaim he cannot, because in that Case the Abowry is made upon no certain Person. Fourthly, Where the Words of the Statute be, If the Lord distrain upon the Lands and Tenements holden, yet if the Lord come to distrain, and the Tenant enchain his Beasts which were within the View out of the Land holden, and there the Lord distrain, albeit the Distress be taken out of his Fee and Seignior, in that Case, yet is it within the said Statute; for in Judgment of Law the Distress is lawful, and as taken within his Fee and Seignior; and this Statute being made to suppress fraud, is to be taken in Equity.

Sect. 455.

Item, si terre soit done a un home en Tail, reservant al Donor, & a ses heires un certain Rent, si le Donee soit disseise, & puis le Donor releffa al Donee & a ses heires tout le droit q'il avoit en la terē, & puis l'Donee enter en la terē sur le Disseisor, en cest case le Rent est ale, pur ceo que le Disseisee al temps de release fait fuit tenant en droit, & en le Ley al Donor, & abowry a fine force covient de estre fait sur luy per le Donor pur le rent adere, &c. Mes uncore rien de droit de terres, s. de le droit de le reversion passera per tiel Release, pur ceo que le Donee a q le Release est fait, adonq n'avoit riens en la terre forsq tantsolement un droit, & insint le droit del terre ne puisset adonques passer al Donee per tiel Release.

Also if Land be given to a Man in Tail, reserving to the Donor and to his Heirs a certain Rent, if the Donee be disseised, and after the Donor release to the Donee and his Heirs, all the Right which he hath in the Land, and after the Donee enter into the Land upon the Disseisor, in this Case the Rent is gone, for that the Disseisee at the Time of the Release made, was Tenant in Right, and in Law, to the Donor, and the Avowry of fine Force ought to be made upon him by the Donor for the Rent behind, &c. but yet nothing of the Right of the Lands, viz. of the Reversion, shall pass by such Release, for that the Donee to whom the Release is made, then had nothing in the Land, but only a Right, and so the Right of the Land could not then pass to the Donee by such Release.