

Doe ex dim. CUNIFFE *versus* HURLOCK.

IN this ejectment it appeared in evidence, that the defendant's negro grounds encroached a little on the plaintiff's land; yet as there was no express claim made to it by the defendant, nor specific demand of it by the plaintiff, the Court directed the Jury that it was not such a trespass as ought to carry a verdict so as to saddle the defendant with costs, as has sometimes happened for inconsiderable undefigned trespasses, different from the main object in contest.

N. B.—The like determination was made in *Doe ex dim. Cuniffe versus Crowder*, August Grand Court 1775; *Obisbolm versus Chandler*; *Smith versus Curtin*; *Richards versus Hall*, November 1776, and other subsequent ejectments.

February Grand Court, 1775.

Doe ex dim. RATCLIFFE et Uxor, et al. *versus* REID.

THIS was an ejectment brought for a valuable plantation in *Vere*, under the will of *Innes Reid* the elder, who devised "all his estate, &c. to his son *Innes Reid* the younger, and the heirs of his body; remainder to *Dorothy* and *Mary Reids*; remainder to *Richard Huggins Reid*, the defendant; remainder to "*John Reid*." Young *Innes Reid*, by a conveyance and reconveyance, docked the entail. The conveyance is in consideration of 10 s. paid to *Isaac Lyon* by *Innes Reid*, yet he conveys to *Reid*, i. e. himself, *habendum* to *Isaac Lyon*. The reconveyance is right. Young *Reid* by will devotes the premises, *for life*, to the defendant; remainder to the plaintiffs. It was argued for the plaintiffs, that the conveyance being to *Reid* himself, no estate could pass to *Lyon* to give foundation to the reconveyance; that the *habendum* only limits the nature of the estate given, and therefore cannot supply the defect of consideration. 2 Bac. 667. 5 Bac. 266. 1 Bac. 276. *Viner*, title *Grant*, 144. Bur. 1108. 1112. Bur. 629. Act of *Jamaica*, 57. On the other side it was contended, that the *habendum* is sufficient even where the grantee's name is omitted in the premises, *Wood* 246.; that deeds leading to uses never have a consideration in them, *Lee* 82. *Cro. Car.* 573. 2 Co. 74. *Piggot on fines*, 13. 157. 134. 320. 2 Bac. 168. 169. 1 Co. 173. 9 Id. 10. 1 *Wilson*, 73. *Cro. Car.* 276. 270. 6 Co. 64. 1 Co. 95. *Infl.* 313. and *Plowd.* 168.

For

For the defendant it was also contended, under some of the above authorities, that the plaintiff Mrs *Ratcliffe* not being of age, (admitted by *Baker* her counsel) could not sue without guardian; but this point not being much dwelt upon was over-ruled, and the counsel appeared to acquiesce in it.

Verdict for the plaintiffs.

N. B.—The judgment in this ejectment was reversed in error; and, on appeal to the King in council, the judgment in error was affirmed.

ROWAN et alii, *versus* COLDSTREAM. 3d March 1775.

A Rule *nisi* had been made on *Duncan Charles Macglashan* to return into the Provost Marshal's office, a sum of money which he had got through a manifest collusion, and on motion that rule was now made *absolute*. For a long time, (I think for two terms), he eluded the service of this last rule, and was clamorous against the Court and Bar. At length being served, he was brought to Court in custody for *contempt*, in not complying with the rule. Mr *Welch* his counsel, in his presence, and by his desire, made a very humble submission for him to the Court, expressive of penitence from conviction of his fault, therefore he was let off on a fine of a ryal, and without answering *interrogatories*, which in the sequel proved an undeserved lenity; for on the meeting of the Assembly he laid before the House a long petition, charging the Court, especially the Chief Justice, with injustice and partiality; but (without being entered in the minutes) it was voted "infamous, false and scandalous."

Memorandum.—Never again to dispense with examination on interrogatories.

BROWN *versus* SMELLIE.

ON a motion to quash execution, and to enter a *vacatur* on a judgment obtained in a Court of Common pleas in *Hanover*, on a fraudulent admission through the malpractice of a pettifogging attorney, named *Dollard*, *or Dollan?*

Quashed and *vacatur* ordered.

C

REID