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Inter vivos gift, exhausting assets…… V. I, p. 319-322, 324-325;
V. II, p. 83, 118-121, 144-145, 304;
V. III, p. 21, 141, 245.

Lease accepted in lieu of a legacy……………….. V. II, p. 119-122.
“No assets” …………… V. II, p. 29-42 (six cases), 40-46, 117, 129-130, 239-244;
V. III, p. 13-14, 252-256.

Plene administravit…….. V. II, p. 286-289.
Release…………………… V. II, p. 210-216, 216-217;
Revocation…………… V. II, p. 249-262.
“Shifting legacy”………. V. II, p. 267-270.

Testamentary jurisdiction of Ecclesiastical Courts (3)
Probate………………… V. I, p. xxxix, xl, lxxiii, 37, 132, 172, 201-204, 290-291, 327, 330, 367;
V. II, p. 84-85, 233, 247, 251-257, 262, 270, 282-283, 318;
V. III, p. 164.
Subject Index

Testamentary jurisdiction of Ecclesiastical Courts (4)
Wills, with special characteristics (as opposed to straightforward wills in most of the cases above).

Mixed wills………… V. I, p. lxxiii, 201-204, 290-291, 327-331, 349;
(comprising land and goods) V. II, p. 84-85, 252-255.
Suit to revoke will…… V. II, p. 284-285.
Executorless………… V. II, p. 247-249.
Nuncupative………… V. II, p. 232-233, 244-247.
Oral addition to will, creating trust………… V. III, p. 160-163.


Thorne, Samuel……………… V. I, p. 50.

Tithes, General discussion……. V. I, p. xxxiii-xxxix.
Many of the procedural and jurisdictional problems in these volumes arose from tithe suits. Substantive questions of tithe law are beyond the scope of Vols. I-III. The reader can, however, get an impression of the variety of tithe suits and of defendants’ claims why tithes were not due.

Tithes (1) The staple tithes, grain and hay, sometimes appear in the cases and are likely to be the subject of ones in which the product is not reported. Only suits for other products (which present more tithe-law problems than grain and hay) are indexed. Vol. III, Sect. I.F (p. 119 ff) is about a feature of tithe law only applicable to grain and hay.

Animal products
Barren cattle………… V. I, p. 77.
Dry cattle, agistment… V. I, p. 193 ff.
V. III, p. 229
Draught / work animals………… V. I, p. 152, 300.
Fish………………… V. II, p. 112.
Lambs……………… V. I, p. 308;
V. II, p. 72.
Milk, cheese, calves…. V. I, p. 73, 358, 360-i;
V. II, p. 175.
Pigeons……………. V. I, p. 302.
Wool……………… V. I, p. 212, 257 ff, 309;
V. II, p. 70, 149.

Tithes (1) (cont’d).
Garden produce, fruit……… V. I, p. 271;
V. II, p. 141.
Wood (distinguished by the law as between valuable timber and other forms, mainly useful as fuel);
miscellaneous fuel products…………….. V. I, p. 63, 65, 195, 220, 263, 298;
V. II, p. 165, 172;
V. III, p. 10, 11, 18, 20, 22.

By products……………. V. I, p. 190, 248, 251, 252, 257, 275, 285;

Tithes (2) (a) Prescriptive commutation or modulus decimandi ……… V. II, p. 87-89, 109-112, 112-116, 131, 151-152, 166, 172-175;
Note: Persons sued for tithes very commonly claimed that the tithe was commuted. The Prescriptive claim is the commonest form of claim for commutation. There are roughly 40 instances of this in Vol. I, rarely of intrinsic legal interest. Leafing through these cases would give a sense of the different kind of modi claimed.
The context of Vols. II and III, on the other hand, allow for significant discussion of the modus as such.)

Tithes (2) (b) Composition Real…………………… See Composition real.
Tithes could also be commuted by Composition Real.

Tithes (2) (c) Commutation by Contract……………… V. I, p. 63, 65.
Tithe payers and recipients could simply contract for a commutation (for any time up to the limit of their lives). Because these bargains made a difficulty for Prohibitions, they appear in this book.
Subject Index

Tithes (3) Exemption from tithes
(a) Monastic lands………… See Monasteries, Dissolution of.
(Land owned by monasteries before the Reformation was often tithe-exempt, either by privilege conferred under the law of the church or by prescription. When the monasteries were dissolved these exemptions were preserved by statute to donees and vendees of monastic land.)
(b) Land owned by ecclesiastical institutions (could be exempt by prescription in non decimandi)……………… V. II, p 100-103.
(c) Land reclaimed from waste (temporarily exempt by statute)………………… V. I, p. 68, 90, 137, 180, 263; V. II, p. 180.

Tithes (4) Claims that no tithes were due resting on allegation that the person suing for them was not incumbent.……………… V. I, p. 62, 218, 234, 360; V. II, p. 122-124, 127-129, 160-174; V. III, p. 213-214, 220-222, 226, 256.
Note: Related are claims that the person suing for tithes, though incumbent in some parish, mistakenly alleged that the produce in question was grown in his parish. Cf. Bounds of Parish.

Tithes (5) Other Topics


Products exempt de jure (but capable of tithability by custom)………………… V. I, p. 158, 189; V. II, p. 154-157.

Tithes (5) Other Topics (cont’d)
Cf. Appropriation / Impropration.

Trespass………………… See Forms of Action at Common Law.

Two-witness rule
All cases in Vol. II, Sect. IV (p. 207 ff) concern the two-witness rule.
General discussion……………… V. II, Sect. I (p. 1 ff) passim.

Utrum………………… See Forms of Action at Common Law.

Verdict………………… See Jury.
Estopped by………………… See Estoppel.

Vicar / Vicars………………… See Parson and Vicar.
Visitation, Episcopal………………… V. I, p. xxxiii; V. III, p. 38, 188, 195, 236.
Right to visit………………… V. III, p. 166-169.
See also Criminal Law in ecclesiastical system.
See also Presentment.

White, Stephen D………………… V. I, p. 50.

Wills………………… See Testamentary jurisdiction of ecclesiastical courts.

Cf. Marital jurisdiction of ecclesiastical courts.
Subject Index

Writs, Common law
(miscellaneous) (1) (a)

The study is mainly based on the writ of Prohibition and its “inverse”, Consultation. For basic nature of these writs…… V. I, General introduction.

A few passages on the general theory of Prohibitions can be singled out from the many cases started by Prohibition that constitute most of the book………… V. I, p. 161-165, 175-177; V. II, p. 124-133, 194; V. III, p. 250-251.

Writs, Common law (miscellaneous) (1) (b)

Many Consultations reported are not separately indexed. Sometimes they merely execute final judgment in favor of defendant-in-Prohibition.

A special problem is raised by Consultations sought on a motion prior to judgment …… V. I, Sect. VII (p. 267 ff) is devoted to this issue.

For problematic instances outside V. I, Sect. VII…… See Formal Pleading in Prohibition Cases.

Writs, Common law (miscellaneous) (1) (c)

A number of cases arising on Habeas corpus present issues similar to those arising on Prohibition………… V. I, p. xlvii, 133-137; V. II, p. 353; V. III, p. 194, 250-251.

Writs, Common law (miscellaneous) (2) Other Writs


Mittimus…………… V. I, p. 106.

Monstraverunt…… V. I, p. 337.

Nisi prius…………… V. I, p. 375.

Recordari facias…… V. I, p. 108.

Rege inconsulto…… V. I, p. 380.

Supersedeas………… V. I, p. 109, 365.

Venire facias…… V. I, p. 185, 376.

Writ of error……………… V. I, p. 82, 101, 213, 290; V. II, p. 33.

Writs, Common law (original)… See Forms of Action at Common Law.

See also Subpoena.

Yearbooks, citation of……… V. I, p. lxxviii, lxxix; V. II, p. 166, 238, 258; V. III, p. 23, 32, 49-50, 73, 93, 97-98, 101-105, 112, 118-119, 143-144, 205-211

See also, Index of Cases.

Habeas corpus references… V. I, p. xxv-xxviii, lxx, lxxii, 2.


V. III, p. 216, 250.
Early-modern lawyers seem freely to have stated maxims in both Latin and the vernacular, sometimes in the same work. Not only could maxims be expressed in the vernacular, but not all statements in Latin should be regarded as maxims. Common lawyers might quote material originally in Latin, or in the case of Edward Coke simply summarise arguments with a pithy Latin statement. A good example of the difficulty is Charles M. Gray, The Writ of Prohibition: Jurisdiction in Early Modern English Law 2nd edn (2004, e-book available here: http://www.lib.uchicago.edu/e/law/gray/), vol.2 pp.25 and 322 and vol.3 p.130. Gray’s analysis is flawed in identifying any Latin statement as a “maxim”. 