SUPPRESSION OF INTERPRETER
AND
DENONCMENT OF DR. COWELL

THE KING JAMES VERSION

THE
INTERPRETER:
OR
BOOKE CONTAINING
the Signification of Words:

Wherein is set forth the true meaning of all, or
the most part of such Words and Terms, as are mentioned in
the Laws Writers, or Statutes of the several, and re-
owned Kingdoms, requiring any Exposition
or Interpretation.

A Work not only profitable, but necessary for such as desire
thoroughly to be instructed in the knowledge of our
Laws, Statutes, or other Antiquities.

Collected by JOHN COWELL Doctor, and the King's
Masterial Professor of the Civil Law, in the
University of Cambridge.

In Latin manuscript copied.

AT CAMBRIDGE
Printed by JOHN LEGATE. Anno 1667.

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NOTHING turns off the young
quicker than HISTORY
NOTHING turns off the young
quicker than HISTORY
FOREWORD:

You'll never know what you will miss if you fail to read a book's preface. If you haven't read the preface of this book, please finish reading this foreword then read the preface.


James had not planned to make it or any other book famous, nor did he plan to change his mind about the prerogatives of a King, or permit the enlargement of the English Parliament's role as maker of laws. But an irascible, strong willed English judge brought most of that about, the famous author of Coke on Littleton, Sir Edward Coke Chief Justice of the Court Common Pleas, whose reputation as a competent lawyer, legal writer and judge is perhaps as well known to American law students as America's own famous Chief Justice of the Supreme Court Oliver Wendell Holmes, author of "The Common Law," and other writings.

Interpreter probably sold well enough among lawyers, but it is doubtful that its author, Dr. John Cowell, Regius Professor of Civil Law at Cambridge University, England, held any book signings, or was given very many English pounds in advance of its publication in 1607. He had no typewriter, computer or Cross pen with which to prepare the manuscript for the printer. But he was blessed with access to a good library and the absence of our 20th century distraction - TV.

Other legal books were available to English lawyers at that time. Two were well known. Henrie Swinburne's "A Briefe Treatise of Testaments and Last Wills" (1590) and William West's book of legal forms, "Symbolaeographia, Which may be termed The Art, Description, or Image of Instruments, Covenants, Contracts, &c. OR The Notarie of Scrivener," (1590).

West's Symbolaeographia contains a sample formulaic provision of a will that Professor S. Schoenbaum in his "William Shakespeare - A Compact Documentary Life," page 298, says is almost word for word like the introductory provision of William Shakespeare's 1616 will:

"In the name of god Amen I William Shakespear of Stratford upon Avon in the countie of Warr gent in perfect health & Memorie god be praised doe make & Ordaine this my last will & testament in manner & forme followinge That ys to saye first I Amend my Soule into the
hands of god my Creator hoping & assureth thee beleeving through thonelse
merites of Jesus Christe my Saviour to be made paunter of lyfe
overlastinge And my bodye to the Earth whereof yt ys made..."

Schoenbaum says that the Stratford lawyer Francis Collins probably wrote Shakespeare's will. If, however, Shakespeare himself wrote his will, as Charles Hamilton contends in his "In Search of Shakespeare - A Study of the Poet's Life and Handwriting," then we should ask, "Did Shakespeare have a copy of West's form book and follow West's form mentioned by Schoenbaum, or a copy of Swinburne's book on wills?"

Dr. Cowell mentions both authors in Interpreter, but not Shakespeare, a contemporary. Shakespeare knew lawyers, and they knew him and saw his plays, but we don't know if he knew Cowell, West or Swinburne or they knew him. His dig at lawyers, "The first things we do, let's kill all the lawyers." (Second Part of King Henry VI, Act IV, Scene II) wouldn't necessarily have attracted Cowell's attention and prompted mention of it in Interpreter, even if in fact the dig was in the play when Cowell's manuscript was ready for the printer.

Cowell did, however, mention a famous law writer, Thomas Littleton. And did that mention raise the hackles of Coke, the self appointed protector of Littleton's reputation, and cause James to state in his Proclamation that Cowell spoke "...unreverently of the Common Law of England, and the works of some of the most famous and antient Judges thereof..."

Coke had no very kind feelings for any species of law that was not Common Law. He had downright hatred for Civilians, that is, Civil Law lawyers as opposed to Common Law lawyers. Cowell was a Civil Law lawyer. In one of Coke's harangues about Civilians and Canonists he said:

"It is a desperate and dangerous matter for Civilians and Canonists, (I speak what I know, and not without just cause,) to write either of the Common Laws of England, which they profess not, or against them which they know not. And for Littleton's Tenures, I affirm, and will maintain, against all opposition whatsoever, that it is the work of an absolute perfection in its kind, and as free from error, as any book that I have known to be written of any human learning."

As we shall see later, Cowell's reference to Littleton was but a repeat of the negative comments on Littleton's Tenures by the French jurist Hottoman, a Civilian. Cowell did not, as Coke and others claimed, approve and adopt the comments as his own. And furthermore, as we shall see, Cowell vigorously criticised some of Hottoman's other opinions of legal matters.
Dr. Cowell's patron Archbishop of Canterbury Richard Bancroft, to whom Cowell had dedicated *Interpreter*, like both Cowell and Coke had attended Cambridge. And Bancroft, like Cowell, was another one of Coke's enemies.

Bancroft represented the Ecclesiastical Courts and reportedly wanted to make them free of the law. Coke on the otherhand wanted to control them. I will cover in detail their feud so you will understand how it fit in with Coke's disagreement with both Cowell and James, and how Coke prodded Parliament to attack Cowell for *Interpreter*’s definitions of King, Parliament, Prerogative and Subsidy. Hell had no fury like Coke's jealousy of Cowell's reputation for knowledge of the law, both Civil Law and Common Law, a knowledge that Coke felt was a severe challenge to his reputation.

Religion was a factor during these times. And hell had no fury like James's dislike for Puritans as he so emphatically expressed in his book *Basilikon Doron* which I'll cover later.

Lawyers played an important role in the dispute between James and Parliament, between James and Coke, and between Coke and Bancroft. The two types of lawyers, Common Law lawyers (Coke was the leading advocate of Common Law) and Civil Law lawyers (Cowell was the leading advocate of Civil Law) had been contesting each other for supremacy during Queen Elizabeth's reign. Coke and the Common Law lawyers in Parliament, most of whom usually opposed James, became the saviours of Common Law for England. Bancroft's petition to James for relief from writs of prohibition issued by Coke's courts against Ecclesiastical courts came to naught.

Although Common Law lawyers eventually took over nearly all of the practice of Civil Law lawyers, writing at Cambridge about Civil Law continued far into the next century. In 1774 a book about Civil Law appeared. University of Cambridge's Samuel Hallifax, "The King's Professor of Civil Law and Master of the Faculties to the Lord Archbishop of Canterbury" published *An Analysis Of The Roman Civil Law, compared with the Laws of England.* It is dedicated: "To His Grace The Duke of Grafton, Chancellor of the University of Cambridge."

Hallifax's Preface tells a story about Civil Law, Roman Law and English Common Law that I believe is worthy of inclusion in my story about *Interpreter*. You will profit intellectually from what he writes. See Appendix.

Before Dr. Cowell wrote *Interpreter* he wrote in Latin [one of the very few writers upon English jurisprudence who has written in Latin] a
work entitled *Institutiones Juris Anglicani*, written after the method of
Justinian's Institutes, "with the view that in the Universities where the Civil Law
was taught, the transition might be made more easy to an acquaintance with
the municipal law." [The quote is from Marvin's Legal Bibliography which
you learn more about later.]

Apparently English law writers in the 17th and 18th Centuries
thought it obligatory to take pot shots at what other law writers wrote. You
will see plenty of them as you read on.

Halifax could not resist. He states in his Preface that Dr. Cowell in
*Institutiones* undertook to compare Roman Laws and those of England but
because it was done improperly, "I could not therefore reap the fruit I
expected and hoped for from this performance. The comparison I have aimed
at is of a very different nature. . ."

Even though Halifax's remarks about the work of the famous
William Blackstone (1723-1780) Vinerian Professor at Oxford in 1758, were
not too complimentary, we see Halifax was so happy with what Blackstone
said about the study of Civil Law (Halifax's subject) that Blackstone's
complimentary remarks about it are quoted on the title page of "Analys."  

First, Halifax about Blackstone: "No such treatise is extant concerning
the laws of our own country; and even the Commentaries of Mr. Justice
Blackstone, excellent as they are, are still without the stamp of public
authority."

Now Blackstone's remarks that are on the title page of Halifax's
book:

"Far be it from me to derogate from the study of the Civil Law, considered as a
collection of Written Reason. No man is more thoroughly persuaded of the general
Excellence of its Rules, and the usual Equity of its Decisions; nor is better convinced
of its Use, as well as ORNAMENT, to the SCHOLAR, the DIVINE, the
STATESMAN, and even the COMMON LAWYER.
Blackstone's Comm. on the Laws of England, Intro."

We see amazing statements in the Prefaces of English law books. I
have included many of them throughout this book and in the Appendix.
What Mr. Viner said, I find amusing compared to statements of those
authors who point out the deficiencies in the works of others.

Charles Viner (1678-1756), who left the residue of his estate to
Oxford from which the Vinerian Chair was established, Blackstone being its
first occupant, spent years in the compilation of *A General Abridgment Of
Law and Equity* (1746). The criticism he expressed in the Preface to
Abridgment took a different tack. He went after all opponents of his work, and especially after a Mr. Worrall. Here are excerpts:

"Notwithstanding the violent, and even indecent, Opposition given to this Work, the Author was not deter'd from proceeding to the kind of the Alphabet; and has now adventur'd (if any thing can be said an Adventuring, under so great a Patronage and Recommendation) to begin with the letter (A) . . . ."

"As to Mr. WORRALL's PEEVISH ADVERTISEMENT, in his last Law Catalogue, relating to this Work, it IS scarcely worth taking any Notice of, it being SILLY, AND much the more so, as it is FALSE TO HIS OWN KNOWLEDGE."

In 1637 the second edition of Interpreter appeared. There were no changes in the wording of the definitions that led to the suppression of the 1607 edition. Because there were no changes, Interpreter once again came to the attention of Parliament in the reign of James's second son Charles I, another reign marked with with turmoil between King and Parliament, and ending with the public execution of Charles I on January 30, 1649 outside Whitehall Palace.

In 1633 Charles appointed William Laud as Archbishop of Canterbury. Later Laud was charged with treason. During the trial he was accused of the 1637 printing of Interpreter, a suppressed book. Archbishop Laud's denial of the accusations, which you will read here, did not save his neck. He was executed.

Now here is why I say it is important to read a book's preface FIRST.

It is from White Kennett's Preface to his 1701 edition of Interpreter that we learn the full story of Dr. Cowell and his Interpreter. A story that had been known for nearly one hundred years. Kennett's Preface is a most unusual one.

Kennett sets forth a biography of Dr. John Cowell.

He gives us the details of Archbishop Bancroft's petition to King James I for protection of the Ecclesiastical Courts from the writs of prohibition issued by Justice Coke's courts.

He tells us of the gyrations of Parliament, James and Coke over Cowell's writings and Bancroft's actions in trying to protect the jurisdiction of the Ecclesiastical Courts, why James are crow by denouncing Cowell's positions with respect to the definitions of King,
Prerogative, Parliament and Subsidy, which in fact James doubtless secretly supported, and why he issued his Proclamation on March 25, 1610 denouncing Dr. Cowell and suppressing Interpreter. And he reports what Archbishop Laud had to say about the 1637 publication of Interpreter.

Dr. Cowell and his book have been mentioned by countless legal historians. Some have speculated on his reasons for including definitions that should have been apparent to him would raise hackles. I share in Kennett's support of all that Dr. Cowell wrote in Interpreter.

So now. On to the story.
WHY ENGLAND'S KING JAMES I DERAILED THE EXECUTION OF DR. COWELL

The attached material about Dr. John Cowell, Regius Professor of Civil Law at Cambridge and Thomas Blount is a supplement to my story "Why England's King James I Derailed the Execution of Dr. Cowell."

Dr. Cowell's THE INTERPRETER, an English Law Dictionary was first published at Cambridge in 1607. By Royal Proclamation of James I dated March 25, 1610, the book was suppressed and Dr. Cowell denounced.

In 1701, 91 years after James's Proclamation suppressing THE INTERPRETER, The Right Reverend Dr. White Kennett, Bishop of Peterborough, a prolific writer on various subjects, besides religion, edited the 1701 edition, the eighth edition of the ten editions of THE INTERPRETER. The Preface to Dr. Kennett's edition includes a biography of Dr. Cowell, and an extensive account of James's suppression and denounced.

It is generally believed that Dr. Kennett wrote the Preface, an intriguing story about King James I, Dr. Cowell, and his patron the Archbishop of Canterbury Richard Bancroft, England's Parliament and Justice Sir Edward Coke. Kennett expresses contempt for Coke, but approval of James, Cowell and Bancroft.

Kennett's remarks in his Preface prompted me to look into some of his "facts."

I knew, of course, the Holy Bible is commonly referred to as the "Authorized King James Version," but I soon learned that many historians gave James low marks, and seldom failed to repeat old gossip about his homosexuality, his Scottish heritage and accent, and the belief of some, despite his denials, he secretly preferred the Civil Law of Scotland over England's Common Law. Perhaps he did prefer the Civil Law. So what? No crime.

But after reading some of James's speeches, especially to his judges, I concluded that the criticism of some historians reflected a lot of staid British prejudice.

My political prejudice prompts me to applaud James's advice to his eldest son Prince Henry we see in Basilikon
Doron, Or His Majesties Instructions To His Dearest Sonne,
Henry The Prince, that James wrote and privately published in
1599:

"...Kepe specially three rules with you Wife: first, sffer
her never to meddle with the politicke government of the
Commonweale, but holde her at the Oeconomike rul of
the house; and yet all to be subject to your direction..."

Thomas Blount born in 1618, seven years after Cowell's
death, was an English Common Law lawyer who wrote on
legal and various other subjects.

Blount's Preface to his English Law Dictionary,
NOMO-LEXICON, published in 1607 and again in 1691,
includes some unflattering observations about Dr. Cowell,
THE INTERPRETER, and authors of other law dictionaries.

I find some of Blount's prefatory remarks, while quite
informative, to be most amusing.

For example:

"My Genius has also led me (though sometimes diverted)
to this kind of search these thirty years, as my
Glossographia will in some measure witness; For, whil'st
my Contemporaries studied the Law it self, and gain'd
Riches, I was hunting after the difficult and uncath Terms
of it, and got nothing, but my own satisfaction."

In expressing hope he will not be censured for
"mistakes" he says:

"... even Sir Edward Coke has err'd (pardon the
boldness of that word..."

San Francisco 1999
Harold I. Boucher
The following is the complete text of James's Proclamation:

"By the King.

THIS later age and times of the world wherein we are fallen, is so much given to verball profession, aswell of Religion, as of all commendable Morall virtues, but wanting the actions and deeds agreeable to so spesious a profession, as it hath bred such an insatiable curiosity in many mens spirits, and such an itching in the tongues and penne's of most men, as nothing is left unsearched to the bottome, both in talking and writing. For from the very highest mysteries in the Godhead and the most inscrutabla Counsels in the Trinite, to the very lowest pit of Hell, and the confused actions of the divils there, there is nothing now unsearched into by the curiositie of Mens braines. Men not being contented with the knowledge of so much of the Will of God as it hath pleased him to reveale: but they will needs fit with him in his most privie Closet and become privie of his most inscrutabla Counsels. And therefore it is no wonder, that men in these our daies do not spare to wade in all the deepest Mysteries that belong to the Persons or State of Kings or Princes, that are Gods upon Earth: since we see (as we have already said) that they spare not God himselfe. And this Licence that every Talker or Writer now assumeth to himselfe, it come to this abuse, that many Phormios* will give Counsel to Han nibal, and many Men that never went out of the compass of cloisters or Colleges will freely wade by their writings in the deepest mysteries of Monarchie and politique government: Whereupon it cannot otherwise fall out, but that when men goe out of their element, and meddle with things above their capacitie, themselves shall not onely goe astray and stumble in darknesse, but will mislead also divers others with themselves into many mistakings and erroms; the proof whereof wee have lately had by a Book written by Doctour Cowell, called The Interpreter: For he being only a civilian by profession, and upon that large ground of a kinde of Dictionary (as it were) following the Alphabet, having all kind of Purposes belonging to Government and Monarchie in his way, by medling in matters above his reach, he hath fallen in many Things to mistake and deceive himselfe: In some things disputing so nicely upon the Mysteries of this our Monarchie, that it may receive doubtful interpretations: yea in some points very derogatory to the supreme Power of this Crowne: In other cases mistaking the true state of the Parliament of this Kingdome, and the fundamental Constitutions and privileges thereof: And in some other points speaking unwarrantably of the Common Law of England, and the works of some of the most famous and antient Judges therein: it being a thing utterly unlawfull to any Subject, to speak or write against that lawe under which he liveth, and which we are sworne and are resolved to maintaine. Wherefore upon just
considerations moving us hereunto, for preventing of the said errors and
inconveniences in all times to come, we doe hereby not onely prohibit
the buying, uttering, or reading of the said Books, but do also Will and
straitly command all and singular persons whatsoever, who have or shall
have any of them in their hands or custody, That upon paine of our
high displeasure and the consequence thereof, they doe deliver the same
presently upon this publication to the Lord Maior of London, if they or
any of them be dwelling in or neere the said Citie, or otherwise to the
Sheriffe of the County where they or any of them shall reside, and in
the two Universities to the Chancellour or Vice-chancellour there, to the
intent that further order may be given for the utter suppressing thereof.
And because there shall be better oversight of Books of all sorts before
they come to the Prese, we have resolved to "make choice of
Commissioners, that shall looke more narrowly into the nature of all
those things that shall be put to the Prese, either concerning our
Authoritie Royall, or concerning our government, or the Lawes of our
Kingdome, from which a more strict account shall be yeelded unto us,
then hath bene used heretofore.

"Given at our Palace of Westminster the 25, day of March,
in the eight yeere of our Reign of Great Britaine, France and
Ireland.

God save the King.

Imprinted at London by Robert Barker, Printer to the
Kings most Excellent Majeste. Anno Dom. 1610."

"Phormio. A banger-on, a toady, sycophant."
His later age and times of the world wherein we are fallen,

...
Dr. John Cowell (1554-1611)  [cowell.mac]

Cowell was born in Devonshire in 1554, attended Eton School and Cambridge. He served as Regius Professor of Civil Law at Cambridge 1594 until his death in 1611, shortly after his denouncement by King James.

Regius Professor is defined in Interpreter:

"Regius Professor, Anno 12 Car.2. cap. 17, Henry the Eighth founded five Lectures in each University, viz. Of Divinity, Hebrew, Greek, Law and Physick. The Readers of which lectures are called in the University Statutes, Regii Professores"

A modern Dictionary's definition of Regius Professor is:

"Royal professor (1621) a holder of a professorship founded by a royal subsidy at a British university."

Henry VIII founded the professorship of civil law at Cambridge, in 1540, partly no doubt, to demonstrate his displeasure at the Canonists. many of whom had proved less than cooperative in matters of divorce.

Cowell became a member of Doctors Commons in 1584, served as Master of Trinity Hall 1598, and Vice Chancellor of Cambridge 1603 and 1604. Richard Bancroft, then Bishop of London, persuaded him to study civil law and to write Interpreter. Cowell in turn dedicated Interpreter to Bancroft who had become Archbishop of Canterbury in 1604. Cowell practiced as an Advocate in the Court of Arches and served as Vice- General of Archbishop of Canterbury, 1608-1611.

From what we see in his will, apparently he never married. Brian Levack in his The Civil Lawyers in England 1603-1641 A Polictical Study, Oxford at the Clarendon Press, 1973, said Cowell left by his will land in Landkey to his brother Simon, a Manor to nephew John Allen, a house to Trinity Hall to support logic lectures, and books in civil and canon law to Trinity College Library, and for the discharge of a debt of a friend, Dr. Mountowe, he left 30 pounds sterling.


A special edition of McIlwain's book has been printed by The Legal Classics Library, Division of Gryphon Editions, 133 East 38th Street, New York, New York, 10016
Dr. Cowell’s definition of KING in 1607 edition of Interpreter:

"King (Rex) is thought by M. Camden in his Britain, pag.105 - to be contracted of the Saxon word Cyning, signifying him that hath the highest power & absolute rule over our whole Land, and thereupon the King is in intendment of Lawe cleared of those defects, that common persons be subject unto. For he is alwayes supposed to be of full age, though he be in yeares never so young. Cromptons Jurisdictions, fol. 134, Kitchin, fol. 1. He is taken as not subject to death, but is a Corporation in himselfe that liveth ever. Crompton ib idem. Thirdly, he is above the law by his absolute power. Bracton lib. pri cap. 8. Kitchin fol. 1. and though for the better and equall course in making Laws he doe admitte the 3 estates, that is, Lords Spiritual, Lords temporall, and the Commons unto Counsell; yet this, in divers learned mens opinions, is not of constrainte, but of his owne benignitie, or by reason of his promise made upon oath, at the time of his coronation.

"For otherwise were he a subject after a sort and subordinate, which may not bee thought without breach of duty and loyalty. For then must we deny him to be above the law, and to have no power of dispensing with any positive lawe, or of granting especiall priviledges and charters unto any, which is his order and cleare right, as Sir Thomas Smith well expresseth lib. 2 cap. 3. de Reput. Anglican and Bracton, lib. 2. cap. 16 num. 3. and Britton, cap. 39. For here pardoneth life and limme to offenders against his crowne and dignitie, except such as he hindeth himselfe by oath not to forgive. Staunf. pl. cor. lib. 2. cap. 35. And Habet omnia iura in manu sua. Bracton, lib. 2. cap. 24. num. prim.

"And though at his coronation he take an oath not to alter lawes of the land: Yet this oath notwithstanding, hee may alter or suspend any particular lawe that seemeth hurtfull to the publike estate. Blackwood on Apologia Regum, c.11. 1. See Oath of the king. Thus much in short, because I have heard some to be of opinio, that the lawes be above the King. But the kings oath of old you may see in Bracton, lib.3.cap. 9. nu. 2. for the which looke in Oath of the King. The kings oath in English, you may see the old abridgement of Statues, titulo, Sacram. Regis. Fourthly, the kings only testimonie of any thing done in his presence, is of as high nature and credit as any Record. Whence it cometh, that in all writs or precepts sent out for the dispatch of justice, he useth none other witnesse but himself, alwaies using these words under it, Teste me ipso. Lastly, he hath in the right of his crowne many prerogatives above any commone person, be he never so potent or honourable; whereof you may read ye fill in Staunf. tractate upon the Statute thereof made, anno 17. Ed. 2. though that containe not all by a great number. What the kings power is, reade in Bracton. lib. 2. cap. 24. nu.prim & 2."
make good a doctrine: And of these two one must needs be true, that either the king is above the Parliament, that is, the positive laws of his kingdom, or else that he is not an absolute king. Aristotle lib. 3. Politeia. cap. 16. And therefore though it be a mercifull policye, and also a politique mercie (not alterable without great peril) to make lawes by the consent of the whole Realme, because so no one part shall have cause to complain of a partialitie, yet simply to bind the prince to or by these lawes, were repugnent to the nature and constitution of an absolute monarchy. See Bracton.lib.5. tract. 3.ca.3.nu.3. and Cassan de consuet.Burg. pag. 335. and Tiraquel. in his book De Nobilitate, cap. 20. pag.68.nu. 26. See the statute anno 31 H.8.cap. 8. in proximo. and many excellent men more that handle this point. That learned Hotomun in his Francogallia, doth vehemently oppose this ground, as some other that write in corners; but he is so cleane overborne by the gods of reason, that not onely many meaner men for learning triumph over him in this case, but himselfe, as I have credibly heard, upon the sight of his fault, cried God and the world for mercie for his offence, in writing that erroreous and scolding booke. The Emperours of Rome had their semestrall consilia & their praetorium or place of counsell, builded by Augustus in his palace, and thereupon called (palatium) afterward termed (consistorium) where they, as in their principall court, did both determine the greatest sort of their causes, And here had they assisting them many of the wisest of their empire; whom Augustus first called (consiliarius,) Alexander Severus afterward (seratiorum principes) others after that (palatinos) and then (comites consistoriarius) And these men in this respect, were indeed with great honour, and enjoyed many privileges. Yet were they but assistants to the Emperour to advise him, not challenging any power over him, or equal with him. More touching the course and order of this Parliament, see in Cromptons Jurisdict.fol.pr. & seqg. and Vorell, alias Hooker, in his booke purposely written of this matter. See King.
Dr. Cowells definition of SUBSIDY (Subsidie) in 1607 edition of Interpreter.

"Subsidie, (subsidiun) commeth of the French (subside) signifying a taxe or tribute assessed by Parliament, and granted by the commons to be leved of every subject, according to the value of his lands or goods after the rate of 4. shillings in the pound for land, and 2 shillings &. pence for goods; as it is most commonly used at this day. Some hold opinion, that this subsidie is granted by the subject to the Prince, in recompence or consideration, that whereas the Prince of his absolute power, might make lawes himselfe, he doth of favour admit the consent of his subjects therein, that all things in their owne confession may be done with the greater indifferentience.

"The manner of assessing every man's lands or goods, is this: first, there issueth a Commission out of the Chauncerie to some men of honour or worship in every Countie, by vertue thereof to call unto them, the head Constables or Boglifes of every Hundred, and by them the Constable and the three or foure of the substantiallest householders in every town within their hundred at a day certaine which men so called or so many of them as the Commissioners thinke good to use, do rate the inhabitants of their owne towne, in such maner, as they find meete, yet by the discretion of the said Commissioners.

"And then every man after his value set downe, must at his time pay to the Collectour appointed, after the rate aforesaid. Yet in auncient time, these subsidies seeme to have beeene granted both for other causes as in respect of the Kings great travell, and expences in warres, or his great favours toward his subjects; as also in other maner then now they be, as every ninth Lambe, every ninth fleece, and every ninth sheafe. anno 14.Ed.3.stat.prim.cap.20. And of these you may see great varietie in Rastalls Abridgement tit. Taxes, Tenth, Fifteenths Subsidies, &. whence you may gather that there is no certaine rate, but even as the two houses shall thinke good to conclude. Subsidie is in the statute of the land, sometime confounded with custome. anno 11 H.4.cap.7. See Benevolence..
Dr. Cowell's definition of PARLIAMENT (Parliament) in 1607 edition of Interpreter.

"Parliament (parlementum) is a French word signifying originally as much as (Co locatio) or (collogium) but by use, it is also taken for those high courts of justice throughout the kingdom of France, where mens causes and difference are publicely determined without farder appeals: whereof there be seven in number: as Paris, Tolesse, Grenoble in Dauphine, Ais in Provence, Bordeaux, Dijon in Bourgogne, and Rouen in Normandy. Nincentius Lupanus de Magistrat. Franc. lib. 2. cap. Parliamentium. num. 28. whereunto Gerard de Halion addeth the eighth.viz. Rhones in Bretagne.

"In England we use it for the assembly of the king and the three estates of the Realme, videlicet, the Lords Spirituall, the Lords Temporall, and commons, for the debating of matters touching the common wealth, and especially the making and correcting of lawes, which assembly or court is of all other the highest, and of greatest authoritie, as you may read in Sir Thomas Smith. de Repub. Anglo lib.2.cap.1 & 2. Camden Britan. pag. 112. and Crompton Jurisd. fol.pri & segg. the institution of this court Polyidor Virgil. lib. 11. of his Chronicles, referreth after a sort to Henry the first; yet confessing that it was use before, though verie seldom. I finde in the former prologue of the Grande Customarie of Normandie, that the Normans used the same means in making their lawes. And I have seen a monument of Antiquite, shewing the manner of houlding this parliament in the time of King Edward the sonne of Etheldred, which (as my note saith, was delivered by the discreetere sorte of the Realme unto William the Conquerour, at his commandement, & allowed by him. This writing beginneth thus.

"Rex est caput, principium, & finis parliamenti, & sit non habet parrem in suo gradu. Et sic ex Rege solo primus gradui est. Secur.due gradus est ex Archiepiscopis, Episcopis, Abbatibus, Prioribus per Baronia tenentibus. Tertius gradus est, de procuratoribus cleri. Quartus gradus est de Comitis, Baronibus, & alias Magnatibus. Quintus gradus est de militibus Comitatuum. Sextus gradus est de civibus & Burgenfibus. & it a est parliamentum ex sex gardibus. fed scindendum, licet aliquis dictorum quin's gradum post Regem absens fuerit, dunatamem omnes pramonitii suerint per rationabiles summongiones, parliamentum nibilo minus censeretur esse plenum.

"Touching the great authority of this court, I finde in Stowes Annals, pag. 669. that Henry the sixth directing his privie seal to Richard Earle of Warwick, thereby to discharge him of the Captainship of Caless, the Earle refused to obey the privie seal, and continued forth the said office, because he received it by Parliament. But one example cannot
make good a doctrine: And of these two one must needs be true, that either
the king is above the Parliament, that is, the positive lawes of his kingdome, or
else that he is not an absolute king. Aristotle lib. 3. Politico. cap. 16. And
therefore though it be a mercifull policie, and also a politique mercie (not
alterable without great peril) to make lawes by the consent of the whole
Realm, because so no one part shall have cause to complaine of a partialitie;
yet simply to bind the prince to or by these lawes, were repugnant to the nature
and constitution of an absolute monarchy. See Bracton.lib.5. tract. 3.ca.3.m.3.
and Cassan de consuet:Burg. pag. 335. and Tir aquel. in his book De Nobilitate,
cap. 20. pag.6.6.6. 6. See the statute anno 3 I.H.8.cap. 8. in proximo, and
many excellent men more that handle this point. That learned Holman in his
Francogallia, doth vehemently appugne this ground, as some other that write
in corner: but he is so cleane overborne by the pois of reason, that not one
many meaner men for learning triumph over him in this case, but himselfe, as
I have credibly heard, upon the sight of his fault, cried God and the world for
mercie for his offence, in writing that erroneous and seditious booke. The
Emperours of Rome had their semestria constilla & their praetorium or place
of counsell, buildded by Augustus in his palace, and thereupon called (palatinum)
afterward termed (consistorium) where they, as in their principall court, did
both determine the greatest sort of their causes. And heere had they assisting
them many of the wittest of their empire; whomse Augustus first called
(constillariou.) Alexander Severus afterward (seniorium principes) others after
that (palatinos) and then (comites consistorianus) And these men in this
respect, were indeed with great honour, and enjoyed many privileges. Yet were
they but assistants to the Emperour to advise him, not challenging any power
over him, or equal with him. More touching the course and order of this
Parliament, see in Cromptons Juridt. fol. pr. & segg. and Vorell, alias Hooker,
in his booke purposely written of this matter. See King.
COWELL’S "definition" of Littleton.

L. 1
The level of the oyster bed, 10 ft., cap. 1, 50: it is said in the old maior, fol. 77, in the words: "the rive de confratelsaburs in feminis" leech, where for mine An-sex-

tures after the limitation of All-

ter, were not filled of the Ca-

fleurs, etc. But before their limi-
tation of Allif we were filled,

6ec.

L., of 10, was a Doctor of
both Canul and Canons laves.
and Deane of the Archb., he was
Embassador for Henry the
fourth into Portingal, anno 1432,
as appears by the preface to
his commentaries upon the Pro-
nunciation.

L. 1
Littleton, was a lawyer of great ac-
complice in the times of Ed-
ward, the fourth, as appears by
Steen's, praegn. cap. 21, fol. 71.
he wrote a booke of great ac-
compl, called "Littletun cenoures," which
Histonian in his commen-
tary, de verbis fondubituwerk. For-

dem, thus commendeth, Steph-

non (Polpurtus excecution) in hege-

nia, "et inter Paralutis, candiditus de-

sende facultatis prelatus," libellum

nobilus Anglicanum Litteram de-

di, quod in eadem Angliiarum lo-

tor in exponens, illa incensata, alio-

ora, de, & in circos, frigus, ex facile

apparat numos, e pace, nod Polaris,


fibiasim in a librum com motu "et

cummandi libres cessare.

Litze, ad fasandum attem-

sero profilo sevendac. see in the

Regis anglicis, fol. 171. Littera de

annuis prigs, edem, 166, &

107. Litherae c. ad facendum

generaliu "notis commens qua efficem,

edem, fol. 21. Litze per quem de-

mens reusis c. quam fuam Reji,

edem, fol. 3. Littera de espissa, ed-

dem, fol. 135. Litzeae ad eas-

crevis ad insectorum loculos, see.

705. Litzeae ad insectorum re-

crevis. Regis de se pectus

insectis pugnacum, incerpell, fol. 305.

Litzeae praecursus ad conferenda

beneficia, domino in remote

agente, fol. 305. Litzeae ad insectorum re-

crevis. Regis de se pectus

insectis pugnacum, incerpell, fol. 305.

Litzeae praecursus ad conferenda

beneficia, domino in remote

agente, fol. 305. Litzeae ad insectorum re-

crevis. Regis de se pectus

insectis pugnacum, incerpell, fol. 305.
J. G. Marvin's LEGAL BIBLIOGRAPHY or a THESAURUS of AMERICAN, ENGLISH, IRISH AND SCOTCH LAW BOOKS. 1847 states the following about Dr. John Cowell, author of THE INTERPRETER, Cambridge, 1607

COW


COVERT, NICOL. The Solicitor's Guide. Being choice and approved Precedents of all sorts of Business, now in use and Practice. 6th ed. much enlarged, particularly relating to Bankruptcy, and the whole made agreeable to the present Practice. 3d ed. 3 vols. 8vo. London. 1760.

COWELL, JOHN. Institutiones Juris Angllicani ad Methodum et Etsiam Institutiones Imperialisum compositionem et digesta. 8vo. Gantab. 1684, 1685, 1686, 1687.

Dr. Cowell's work is written after the method of Justinian's Institutes; "with the view that in the future time when the Civil Law was taught, the transition might be made more easy to an acquaintance with the municipal law." The author was well skilled in both the common and civil law, and he is one of the very few written upon English jurisprudence who has written in Latin. His work is founded upon the old Feudal Tenure, such as the law of wards and liferents, tenures in septem, and knight service, which he has treated with considerable ability in "elegant Latin, but it has passed, with the learning which it contains, into almost total oblivion." It was, however, as highly esteemed during the Commonwealth, as to have had the honor of being translated into English by order of Parliament, by W. G. Bro., London, 1651.

1 Kent's Com. 608; Blac. Cod. 148; Prof. Wrigg's Civil Law, 88; Prof. Blackstone's Analysis, 6; Prof. Grose's Fortescue, 17.

--- A Dictionary of the Interpreter of words and terms used either in the Common or Statute Laws of England, and in Tenures or Judicial Customs; much augmented and improved. With an Appendix, containing two Tables: one, of the Ancient Names and Places in Great Britain, the other, of the Ancient Roman Emperors. 6th. 1607, 1609, 1630, 1672, 1684, 1701, 1708, 1737.

The Interpreter was written at the suggestion of Bishop Burnet, and is an enlargement of a Treatise entitled in Eulobus, called "Les Tenures de la Loy." It was the masterpiece of Cowell to live in tyrannical times, and some of the author's maxims, among whom were Sir Edward Coke, discovered that the Interpreter combined what they represented to be dangerous doctrines, under the titles Statutory, Parliament, King, Prohibition, &c. One of the crimes laid to Cowell's charge, "was his diluting the laws of England, and endeavoring to expose Litigant's Temora; whereas, in truth, all that could justly be charged
on him (as to this particular,) was only a modest recital of Hutton's
beliefs and objections; under the word Littleton. But this, together
with Coke's powerful hatred of the citizen, was enough to retain
his deep and continued animosity towards Cowell, who, chiefly through
Coke's influence, was thrown into prison, threatened to be hanged,
and his Interpreter was suppressed by a royal proclamation and publicly
burned; "for which the Commons returned thanks with great joy at
their victory."

The edition of 1688 is purged from the objectionable passages. The
Interpreter, by Thomas Mamer, in 1672, and by several anonymous
editors since that time, has been considerably enlarged. Stephen and
other writers, or, and since his time, have freely used the work, and pre-
vie to Jacob's it was the best existing Law Dictionary. "With the
exception of the purgative doctrines in Cowell's Interpreter, it is a
useful work, and an excellent glossary to Coke Littleton and the old
law books, and will be found of considerable utility to a modern student
of English law and antiquities."

1 Hall. Const. Hist. 444; Exonumia, 136; Biog. Brit. art., Cowell;
2 Kent's Com. 507; Gergon's Pioneers, Procl. 37; 3 N. Hist. Lib.
177; 2 L. M. 513.
DR. COWELL'S INSTITUTIONES

Dr. Cowell published INSTITUTIONE in 1605.

The handwritten manuscript, in Latin, used by the printer of INSTITUTIONE is in the Library of Trinity Hall, Cambridge.

Following are:

1. Title page of 1605 edition of INSTITUTIONES and a page of its Preface

2. Title page of 1651 edition of INSTITUTIONES.

3. Preface of 1651 edition of INSTITUTIONES titled:

   "THE Institutes of the Lawes of ENGLAND"

4. Table of general heads contained in 1651 edition

5. Page of 1651 edition titled:

   "The First Booke of the Institutes of the Lawes of ENGLAND."

NOTE: Item "2" of the above page states:

"2. The Precepts of the Law are these, To live honestly, to doe no injury to any one, and to render every one their due."
INSTITUTIONES
IVRIS ANGLICANI AD METHO
dVM ET SERIEM INSTITUTIONVM
IMPERIALIVM COMPOSITAE

AVTHORE JOHANNE CUBELLO
IVRIS CIVILIS DOCTORIS Ex Officina...
VIRO ILLUSTRISSIMO, SVOVLE DOMINO BE-NIGISSIMO HENRICO HOPWABDO,
Comiti, Northuminensi, Baroni de Marsbi,
quem, Portuum prefell, Equis de homansica, Grafton ordine, & fere annesi LA COB, Beg, Confitentem
Significare, annu hortis & falsicellis habite,
meminisse. L.C.
THE

PREFACE.

THE Eminency of our Author is so well known, to this present Age, that it were to little purpose for me to imagine, that what I am able to say, would add any thing to his Glory. Only this, his too much crying up Parliament Priviledges, rendered him not so much a favourite of those former times as his worth merited: nor his Books so vendible as they have been since these late changes in England: And therefore though this Treatise...
The Preface.
I feare of the Lawes of England, since himselfe was so good a Common wealths man, I hope for the Authors sake it will find no lese acceptance in the English World, then if he had lived to mayntaine what he in that Age duret asow; and thereby appeared in his owne naturall and proper colours. If in any thing I have erred in this Translation, Charity can pardon me, especially when I shall affirme, that this was a worke of Charity in my selfe (as I conceived) not to let so choose a method of our English Lawes lye obscured in a language, which I know many of this Nation who were wel-willers to the Law could not understand, and to those only it is intended. And if it happen into any other hand, especially into such as hate

The Preface.
hate the profession of the Law, I do no more regard their censure than they do the Laws Precepts, which our Author tells us, are to live honestly, to do no injury to any one, and to render every one their due.

Farewell.
THE
First Booke of the Institutes of the Lawes of
ENGLAND.

TIT. I.

Justice is a constant and perpetual will of rendering unto every one what is just, what is unjust. (b)

1. The knowledge of learning, according to the Law, is a knowledge of things both Divine and Human, and a Science distinguishing what is just, what is unjust. (b)

2. The Precepts of the Law are these. To do, wrong and to render every one their due. (c)

3. The Law is to be considered, either as public or private. "We call that the Law public, (c)"

(b) Bract. I.
(c) Id. ed.