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Reports of Cases in the Court of Chancery in the Time of King James II (1685-1688)

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REPORTS OF CASES
IN THE COURT OF CHANCERY
IN THE TIME OF KING JAMES II
(1685-1688)

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Richmond, Virginia

2015

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INTRODUCTION

This book is a collection of the law reports from the Court of Chancery during the reign of King James II, which coincidentally included the chancellorship of Sir George Jeffreys. The choice of time was made somewhat arbitrarily because it was a short reign and, thus, it would be a manageable project to put into one place all the reports, whether in print or in manuscript, in chronological order, according to the ancient tradition of English law reporting. There turned out to be a larger corpus of reports from this court than was originally anticipated.

The collections of Chancery reports before the tenure of Lord Nottingham are poor.¹ The appointment of Sir Heneage Finch, Lord Nottingham, to the Chancery bench in 1673 marked a new era in law reporting in the Court of Chancery. Lord Nottingham, a first rate lawyer, began making reports of the cases that he heard as judge, and these reports were full and learned. They cover the period 1673 to 1682, and, while they were generally known, they were not easily accessible until they were published by David Yale in 1957 and 1961, Selden Society, volumes 73 and 79. Fortunately, Thomas Vernon

¹ W. H. Bryson, *Cases Concerning Equity*, vol. 1, Selden Society, vol. 117, pp. xiv-xvi; M. Macnair, 'The Nature and Function of the Early Chancery Reports', in C. Stebbings, *Law Reporting in England* (1995), pp. 123-132.

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began his extensive collection of Chancery reports in 1681; they continue up to 1720. Vernon's reports are not particularly good, even the much expanded later editions, but they are fairly comparable to the contemporary common law reports. Thus, there has been systematic reporting of Chancery cases since 1673. There are also a few Chancery reports from this period in other printed books, and the bibliography of them is given below.

By putting all of the reports of this court for this reign into one book and arranging them chronologically, we can see that, in fact, the systematic contemporaneous reporting of Chancery cases begun by Lord Nottingham continued unabated after his untimely death in 1682.

This collection of reports has the expected cases involving procedure and jurisdiction. However, the vast majority deal with issues of property law. These arose out of family settlements which generated disputes over settlements not performed, the interpretation of conditional gifts and devises, intestate succession, breaches of trust, the rights of mortgagees and other secured creditors, jointures, charges on land, etc. In most of these cases, the issues to be decided were common law rights, but they had to be determined in a court of equity before an equitable remedy could be granted. They illustrate that the principles of common law and equity were not in opposition, as a general principle, but equity fulfilled and fine-tuned the common law by giving more modern and sophisticated remedies to enforce basic common law rights.

Most of the text of the law reports herein has been in print for several centuries. However, this new edition and new arrangement of some few of our books, though small and modest, is a part of the international, ongoing effort to keep the tools of the common law sharp and in good repair.

We give praise to the Masters of the Bench of Lincoln's Inn, London, and the Council of King's Inns, Dublin, for preserving manuscript reports of the common law. Additionally, many thanks are due to them for their permission to publish some of them here.

The following are the main printed law reports containing cases from the reign of James II.