

**CASES CONCERNING
EQUITY AND THE COURTS
OF EQUITY 1550–1660**

VOLUME I

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47. ANONYMOUS (Ex. 1588)

Treble damages under a penal statute are not recoverable in courts of equity.

Exeter Coll. Oxf. MS. 132, fo. 188v, pl. 8 [Fr.]

One commenced his suit by English bill in the Exchequer Chamber upon the statute of 2 Edw. VI, c. 13,¹ to have the treble value for the non-payment of his tithes according to this statute. And [it was] held by the barons that he could not have it inasmuch as he had a remedy for it in the court of common pleas in the Exchequer,² and also there is no [ground in] conscience upon a penal statute. But it seemed to them that he could sue there for the tithes only if they be detained from him.

[Other copies of this report: 3 Leonard 204, 74 E.R. 634; LI MS. Maynard 29, fo. 100v; Oxf. Bodl. MS. Rawl.C.341, fo. [76], pl. 2; IT MS. Barrington 76, part 3, p. 1, pl. 3; LI MS. Hale 134, fo. 65, pl. 3; LI MS. Hale 134, fo. 224v, pl. 4; LI MS. Misc. 361, fo. 136.]

48. CALTON'S CASE (Ex. 1588)

A lessee of a lessee of the queen not privileged to sue in the Court of Exchequer.

Exeter Coll. Oxf. MS. 132, fo. 192v, pl. 11 [Fr.]

In *Calton's Case*, which was moved by Serjeant Fenner, it was agreed by all the barons of the Exchequer that if the queen makes a lease to one rendering rent, and afterwards the lessee of the queen leases part of it rendering to her the same rent, that in this case the second lessee should not have the privilege of the Exchequer to sue and to be sued concerning this land or otherwise, because by such means all the causes of England could be [brought]³ in the Exchequer. And upon this, *Fenner* before says that he has demurred upon a bill exhibited in the Exchequer Chamber by such a lessee of the lease of the queen; thus he prays of the court that he should not be put to answer to this bill, and held that [it] should be dismissed.

[Other copies of this report: LI MS. Hale 134, fo. [65], pl. 4; LI MS. Maynard 29, fo. 104v, pl. 1; Oxf. Bodl. MS. Rawl.C.341, fo. [76v], pl. 4; YLS MS. G.R.29.29, p. 451, pl. 3; BL MS. Hargr. 12, fo. 238v; IT MS. Barrington 76, part 3, p. 2, pl. 1.]

[Other reports of this case: Owen 38, 74 E.R. 883.]

¹ S. 1 (*SR*, IV, 56).

² I.e. the Exchequer of pleas.

³ Reads 'same'.