

REPORTS  
OF  
CASES

ADJUDGED in the  
**Court of King's Bench,**  
FROM THE

Third Year of King JAMES the Second,  
to the Twelfth Year of King WILLIAM the Third.

*England - Court of KB -*

By **THOMAS CARTHEW,**  
late Serjeant at LAW.

*With two TABLES, the one of the Names of the  
Cases, the other of the Principal Matters therein con-  
tained.*

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Dalbury & Foston Parishioners in Com.  
Derby.

5 Mod. 330.  
What Notice  
is necessary  
to be given  
of a poor  
Man's com-  
ing into a  
Parish.

1684 476  
ante 28.

TWO Justices made an Order for the settling Robert Blood and his Wife, reciting that he was by Trade a Smith, and that at such a Time he came from Dalbury, the Place of his Birth, into the Parish of Foston, and there rented a Smith's Shop of a small yearly Value, and worked at his Trade for a whole Year, and was employed by most of the Inhabitants there, and particularly by one Everard a Justice of Peace; and therefore they adjudged that this amounted to Notice as required by the Statute 2 Jac. and for this Reason, they by this Order settled him at Foston.

And upon an Appeal to the Sessions from this Order, in which all the Matter supra was specially set forth, it was held, that this did not amount to such Notice as was required by the Statute, therefore they vacated that Order.

And now the Sessions Order being removed into B. R. by Certiorari, it was moved, that it might be quashed, for that this Matter appearing in the Order, did in Law amount to Notice sufficient within the Meaning of that Statute.

Sed per Curiam, All this Matter will not supply the Notice which is now required by the explanatory Statute of W. & M. and they distinguished thus:

1. That when one Act is made Explanatory of another, this Court cannot carry the Explanation farther than is expressed in that Act; but upon an original Statute, the Court will make Construction according to Equity.

Wherefore the Order of Sessions was confirmed.

Chamberlain *versus* Harvey. Intratur Trin.  
7 W. 3. adjudged Hillary 8.

5 Mod. S. C.  
Trespas will  
not lie for  
taking away  
a Negro.

TRESPAS, &c. for that the Defendant vi & armis unum Ethiopem (Anglice vocat) a Negro ipsius querentis pretii 100 l. apud London', &c. took and carried away, and kept the Plaintiff out of Possession of the said Negro from that Time usque diem exhibitionis Billæ prædictæ per quod he (the Plaintiff) lost the Use of his said Negro.

Upon Not guilty pleaded, the Jury gave a special Verdict, the Substance whereof was as followeth:

¶ They find that the Negro had been baptized after the Taking, &c. and the Matter was argued upon that Point, (viz.) Whether the Baptism was a Manumission, and as to that the Court gave no Opinion.

Sed per Curiam, An Action of Trespas will not lie, because a Negro cannot be demanded as a \* Chattel, neither can his Price be recovered in Damages in an Action of Trespas, as in Case of a Chattel; for he is no other than a slavish Servant, and the Master can maintain no other Action of Trespas for taking his Servant, but only such which concludes per quod servitium amissu, in which the Master shall recover for the Loss of his Service, and not for the Value, or for any Damages done to the Servant.

Judgment quod querens nil capiat per Billam.

*Boreham versus Waltham, Parishes in Suffex.*

THE Case was, Hester Wood an unmarried Woman being big with Child, was by an Order of two Justices removed from Waltham to Boreham as her last Place of Settlement, from which Order Boreham appealed; but before the next Sessions, she was delivered of this Bastard Child at Boreham; and afterwards the Order of the two Justices was vacated upon the Appeal, and upon that the Woman and her Child were sent back to Waltham.

Then two Justices made a new Order, by which the base Child only was sent to Boreham, because it was born there; which Order being removed into B. R. by Certiorari, it was moved to quash it.

Sed per Curiam, The Child ought to follow the Mother in this Case, because Boreham could not remove the Woman (who was sent thither by an Order) till the Appeal was determined; so they had no Remedy to prevent the Birth of the Child in their Parish.

Parker

A Bastard Child born pending the Appeal.

\* 2 Lev. 201. Adjudged on a special Verdict, that Trever did not lie for a Negro.