

misnaming of the Seller maketh the Sale void against the right owner of the Horse. And this was the Opinion of *Windham* and *Roads* Justices, (upon this Statute, 2 & 3 P. & M.) Anno 30 El. in a Case between *Gibbs* Plaintiff against *Bastel*; the Case being thus, One *Potter* did steal the Horse of the Plaintiff, and sold him to the Defendant in Market overt, by the name of *Lyfser*, and so it was entred into the Toll-Book, that *Lyfser* sold the Horse, whereas his name was *Potter*; whereupon *Gibbs* the Plaintiff brought his Action of the Case *Sur trover* against the Defendant *Bastel*, &c.

Note also, that every Contract for any stolen Horse, &c. made out of open Fair is void, though they be after Booked. *Dyer* 99.

Also, a Sale in a Fair or Market overt shall not take away the Owners property, where the Buyer doth know that the property was to another man, or where the Buyer knoweth that the Horse, or other Goods were stolen. See *postea* tit. *Restitution*.

Also to alter the property of a Stranger having right, Horses and all other Goods are to be sold in such a place, or shop, as is commonly used for the selling of Goods of the same kind or nature.

Also a Sale upon a Sunday, though in a Fair or Market overt, shall not be a good Sale to alter the property of the Goods, by *Brian* 12 E.4. fol. 1. b. §. 4. Sunday.

And indeed Fairs and Markets kept upon the Sabbath day are prohibited by the Statute of *Winch.* c. 6. and of 27 H. 6. cap. 5. And now by the Statutes, 1 Eliz. cap. 2. & 3 Jac. cap. 4. all persons resorting upon the Sabbath-day to any Fair or Market, and by the means thereof absenting themselves from the Church, or not abiding at the Church orderly during all the time of Prayer, Preaching, and other Divine Service, are to be punished by any one Justice of Peace, according to the form of the said Statute 3 Jac. (which see *hic postea*, tit. *Recusants*) or by the Ordinary, or Bishop of the Diocess, by the Statute 1 Eliz. Or otherwise the Offender may be indicted (for such his absence from Church) at the Quarter Sessions of the Peace, or general Gaol-delivery, as it seemeth.

Also the Lord of such a Fair or Market kept upon the Sabbath-day, contrary to the Statute, may be therefore Indicted for the King, either at the Assizes and general Gaol delivery, or at the Quarter Sessions of the Peace within that County. *Plus hic postea*.

But yet for that by *non user* of a Franchise, Fair or Market, they may be forfeited and seized; therefore Fairs anciently holden upon Sundays, or upon other principal Feast days, might be holden and kept within three days before or after any of the said Feasts, after Proclamation first made, what day the Fair shall be holden, though the Lord of the Fair hath otherways no power to keep his Fair but upon such day. Statute 27 H. 6. cap. 5.

No Commoner in any Forest Chase, Moor, Marsh, Common or Wast grounds: §. 5. What Horses may be put into Commons.
 " Nor any Officer thereof in *Norfolk, Cambridge, Buckingham, Huntington, Essex, Kent, Southampton, Northwiltshire, Oxfordshire, Berkshire, Worcester, Gloucester, Somersetshire, North-wales, South-wales, Bedford, Warwick, Northampton, Yorkshire, Cheshire, Staffordshire*, County of the City of
 " *York, Town of Gloucester* and Liberties, *Kingston upon Hull, Lancaster, Salop, Leicester, Herefordshire* and *Lincolnshire*, shall put to Pasture there
 " any stoned Horse or Horses above the age of two years, and under the
 " height of 15 handfals, to be measured from the lowest part of the Hoof
 " of the Forefoot unto the highest part of the wither; every handfals to
 " contain 4 inches by the Standard, to feed or depasture there, upon pain
 " of forfeiture of the Horses found there. 32 H. 8. c. 13.