that the defendant was actually appointed his bailiff. To bring his case within the Statute (and so the declarations under it have always been) the plaintiff must state that he and the defendant are joint tenants or tenants in common, and that the defendant has received more than his share, see 1 Harr. Ent. 109. And the same point was ruled in Sturton v. Richardson, 13 M. & W. 17. The Act is fully explained by Parke B. in Henderson v. Eason, 17 Q. B. 701, reversing the case of Eason v. Henderson, 12 Q. B. 986.[8] He observes, that before the Statute one tenant in common had, while the tenancy in common lasted, no remedy against the other occupying and taking the whole profits, unless he was turned out of possession when he might bring ejectment, or unless he appointed the other bailiff of his undivided moiety, when account would lie, as in case of an owner of the entirety of an estate. Under the Statute a tenant in common is bailiff only by virtue of receiving more than his just share, and as soon as he does so is answerable only for so much as he receives, and not as a bailiff at common law for what he might have made without his wilful default. The Statute does not mention lands and tenements or any particular subject; every case in which a tenant in common receives more than his just share is within the Statute, and an account will lie when he does so receive, and not otherwise; nor is the receipt of rents, issues and profits mentioned, but simply the receipt of more than comes to his just share, and further, he is to account when he receives and takes more than comes to his just share. What then is a receiving of more than comes to his just share within the meaning of the Statute? Construing the Act according to the ordinary meaning of words, the provision of the Statute applies only to cases, where one tenant in common receives the money or something else from another person, to which both co-tenants are entitled simply by reason of their being tenants in common and in proportion to their interest as such, and of which the one receives and keeps more than his just share according to that proportion. The Statute therefore includes all cases where two co-tenants of land leased to a third party, at a rent payable to each, or where there is a rent-charge, or any money payment or payment in kind due to them from another person, and where one receives the whole or more than his proportionate share according to his interest in the subject of the tenancy. There is no difficulty in ascertaining the share of each, and determining when one has received more than his just share, and if he has, he becomes as such receiver in that case the bailiff of the other and must account. But when we seek to extend the meaning of the Statute beyond the ordinary meaning of its words, and to apply it to cases in which one has enjoyed more of the benefit of the subject or made more by its occupation than the other, we have insuperable difficulties to encounter. There are obviously many cases in which a tenant in common may occupy and enjoy the land or other subject of tenancy in common solely, and have all the advantage to be derived from it, and yet it would be most unjust to make him pay any thing. For instance, if a dwelling house or room is solely occupied by one tenant in common without ousting the other, or a chattel is used by one tenant in common and nothing is received, it would be most inequitable to hold, that by the simple act of

[8] See Hill v. Hickin, (1897) 2 Ch. 579.