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Sample

## ***Earl of Oxford's case (1615) 21 ER 485***

**Source:** Hard copy via your law library or electronically via a subscription service

**Court details:** Court of Chancery

**Facts:**

- A parcel of land at St Botolph's Aldgate in London was sold by Magdalene College, Cambridge, to Queen Elizabeth I, and then to Benedict Spinola, a Genoese merchant.
- A statute, 13 Eliz c 10, provided that conveyances of estates by the masters, fellows, any college dean to anyone for anything other than a term of 21 years, or three lives, 'shall be utterly void'.
- It was thought transfer to the Queen would grant unimpeachable title.
- Spinola thought this, and so did Edward de Vere, the Earl of Oxford, who bought the land in 1580 and built 130 houses.
- John Warren leased a house through intermediaries.
- Then, Barnabas Gooch, Master of Magdalene College, claimed that he was able to lease the land to John Smith.
- Warren brought an action of ejection against Smith, but his lease expired before it was heard by court.
- Warren asked the question to be decided anyway.

**Procedural history:**

Jury

- The Jury held that Smith had taken possession unlawfully (ie through the later sale by Gooch on behalf of the College) and so the sale was good.
- This ultimately meant that Warren was entitled to eject Smith.

King's Bench

- Chief Justice Coke held the initial land transfer was void, caught by the statute 13 Eliz c 10.
- The Queen was 'the fountain of justice and common right' and could not be exempted from a statute aimed to maintain the advancement of learning.
- Therefore, Goche had validly leased the property again to Smith.
- Warren could not eject Smith.
- In the meantime, Edward de Vere had died, and was succeeded by Henry de Vere, who was still a minor.
- He and another tenant, Thomas Wood, brought the case to the Court of Chancery.
- Barnabas Gooch and John Smith refused to answer the bill, saying it was void.

- They refused to appear.
- The Chancery Court committed them to Fleet Prison for contempt of court.

**Issue:**

**Reasoning / Decision (Commentary):**

- Lord Ellesmere LC, issued a common injunction out of the Court of Chancery prohibiting the enforcement of the common law order, and granting the Earl of Oxford and his tenants quiet enjoyment of the land.
- In other words this meant that the statute did not void the initial transaction of the land.
- It stayed all common law suits against the Earl.
- He began his judgment by referencing the Bible, Deuteronomy 28:30, saying he:  
"that builds a House ought to dwell in it; and he that plants a Vineyard ought to gather the Grapes thereof."
- He remarked that common law judges themselves 'play the Chancellors Parts' in taking the equitable construction of statutes to be law properly speaking.
- The Chancery, however, was not like a Court of Appeal.
- Instead, the Chancery had a unique position.

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