

Court that the words were scandalous and actionable, being two substantives. Otherwise it had been, if the words had been "bankruptly knave," or had been adjectively apoken, and judgment was given for the plaintiff.

FOSTEN *versus* BROWNING.

*Trinity Term, 1624.*

Action for these words: "Thou art as arrant a thief as any is in England, for thou hast broken up I. S. Chest, and taken away 40*l*." After verdict it was moved in arrest of judgment, because he doth not aver that there was any thief in England; and the last words do not import any felony, for he sheweth not that he stole any money or robbed him of any money; and therefore all the Justices held that the action lay not, for it is not to be maintained by intendment, but by express words, for the first words without an averment will not maintain an action. And the words do not prove any felony to be committed, for the money may be taken away and the chest broken open upon pretence of title, and in the midday, and presence of divers, and then it is not any felony. Therefore Hobert, Chief Justice, put the case: "If one saith, 'Thou art a thief, for thou hast taken away my corn,' action lies not, for the taking away may be lawful. But if he had said, 'For thou hast stolen my corn,' action lies, for it shall be intended corn thrashed, and not in the sheafs." Wherefore it was adjudged for the defendant.