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1676.

1. Bardili, Burckhardus: De exceptionibus in genere.

2. Bardili, Burckhardus: De exceptionibus in specie.

3. Brotbequius, Johan Conradus: Χολογραφια sive Scrutamen physico-medicum bilis.

4. Frommann, Joh. Andreas: Decas thesium casuumq. ex institut. jur. lib II tit. XI ... de prompta.

5. Frommann, Joh. Andreas: De obligatione naturali.

6. Frommann, Joh. Andreas: De administratione adventitiorum legitima

7. Gravius, Johannes: De felonia.

8. Lauterbach, Wolfgang Adamus: De domiciliis pauperum.

9. Lauterbach, Wolfg. Adamus: De nautis, cauponibus et stabulariis

1677.

1. Bardili, Burckhardus: De judicio militum privilegiato.

1677.

2. Bardili, Burckardus: De judicio concursus universali vulgo Gand-Process.

3a-c Frommann, Joh. Andreas: De correali obligatione
2 Exempl. 1677 u. 1736.

4a-b Frommann, Johann Andreas: De actionibus per divisionem hinc inde occurentium delineationem.

5a-b Frommann, Joh. Andreas: De executione in effigie.

5c* Schoberus, Johannes Fridericus: Diploma, quo fac. jur. decanus ad solemnia doctoralia Johannis Friderici Schoberi etc. invitat.

6. Grovius, Johannes: Spicilegium juris ex VIII lig. partibus congestum . . — —

7. Lauterbach, Wolfgangus Adamus: De magis dilecto.

8. Lauterbach, Wolfgang Adamus: Positiones inaugurales.

9. Pregizerus, Joannes Ulricus: Fetialis Germanicus.

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1677.

2. Bardili, Burckardus: De jure concursus universali vulgo Gant-Process.

3tio Fromman, Joh. Andreas: De cornuta obligatione

8 Sept. N 2do 1736.

4to Fromman, Johann Andreas: [illegible] per [illegible] [illegible] [illegible] [illegible]

5to Fromman, [illegible] [illegible]: [illegible] in effigie

5to Harpprecht, [illegible] [illegible]: Diploma, quo fac. jur. [illegible] [illegible] Johannis Friderici [illegible] [illegible] [illegible]

6. Fromman, Johann: [illegible] juris in III. [illegible] partibus [illegible]

7. Lauterbach, Wolfgang Adamus: De magis electo.

8. Lauterbach, Wolfgang Adamus: [illegible] [illegible]

9. Harpprecht, [illegible] [illegible]: [illegible] [illegible]

CONCLUSIONES

Ex Materia

DE

[illegible]TIONIBUS

[illegible]RE,

[illegible]

[illegible]

SERENISSIMO AC CELSISSIMO PRINCIPI [illegible]

DOMINO, DOMINO

LUDOVICO,

[illegible] Würtembergiæ ac Tecciæ,

[illegible] Montisbelgardi, Domino

In Heidenheim &c.

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[illegible]

[illegible]

16761

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CONCLUSIONES
Ex Materia
DE
EXCEPTIONIBUS IN GENERE,
Quas Occaſione
Tit. I. Lib. XLIV. Digeſtor.
AUXILIANTE DIVINA GRATIA
SERENISSIMO AC CELSISSIMO PRINCIPE AC
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Duce Würtembergiæ ac Tecciæ,
Comite Montisbelgardi, Domino
in Heidenheim &c.
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1676,1.
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DN. PARENTI
SUO
CHARISSIMO.

Theſis I.

EXceptiones perſonales fidejuſſoribus non competere, certo certius eſt. (a) Neque cum quibusdam facienda diſtinctio inter perſonales exceptiones competentes ex diſpoſitione hominis, & inter eas, quæ à lege conceduntur. (b) Quin tamen fidejuſſor interveniendo denunciare poſſit reo principali, ut defenſioni aſſiſtat, & exceptiones perſonales in propria perſona objiciat, (c) vel quoad illas jure Nov. aliud ſit dicendum, haud equidem dubitamus. (d)

a) *l. 7. ff. de Except. ubi Dd.* Brunnem. Hering. *de fidejuſſ. c. 27. p. 4. num. 80.* Mev. *p. 4. D. 150. n. 8.*

b) vid. Ferd. Arias de Meſa. *lib. 2. V. R. cap. 16. n. 7. pr. l. 37. §. ult. ff. de oper. libert. ſed vid. l. 12. ff. jud. ſolv.*

c) *arg. l. 10. §. generaliter 12. ff. mand.* Hering. *de fidejuſſ. c. 27. 4. part. num. 81.* Barboſ. *ad l. 83. ff. ſolut. matr.* Ferd. Arias de Meſa. *lib. 2. c. 16. n. 10. add.* Mev. *p. 4. D. 150. n. 8. inf. in not.*

d) *arg. N. 4. c. 1.*

II.

Quando debitor reſcriptum Moratorium impetrat, hanc Exceptionem ceu perſonalem fidejuſſori

non

non prodeſſe communiter receptum eſt. (a) Quod tamen non eſt extendendum ad caſum, quo ex ſtatuto vel lege Provinciali debitoribus depauperatis quædam beneficia concedi ſolent; Hiſce enim etiam fidejuſſores frui rectè defenditur. (b)

a) *arg. d. l. 7.* Mev. *part. 3. d. 261. num. 1.* Coler. *de proceß. Exec. p. 1. c. 10. num. 384.*

b) Mev. *d. l.*

III.

Quid ergò dicendum: Reo depauperato beneficium conceditur ex R. I. de Anno 1654. (a) ne integras uſuras ſolvere cogatur: fidejuſſor verò eſt opulentus, an hic ex perſona principalis hoc beneficium opponere poſſit? Quod affirmandum. (b)

a) *§. 174. verſ.* was ein *fidejuſſor.* Mev. *part. 4. d. 150.*

b) Brunn. *ad l. 7. ff. de Except. n. 5.* Mev. *d. l.*

IV.

Reales Exceptiones, quæ principali debitori competunt, fidejuſſori proſunt (a) iisque utitur, etiam invito debitore. (b)

a) *l. 7. ff. de Except. l. 19. eod. l. 15. ff. de fidejuß. ibique* Brunnem.

b) *d. l. 15.* Brunn.

V.

Quando tamen executivè contra fidejuſſorem procedi poteſt, tunc non admittuntur in executione illæ, quæ ſunt altioris indaginis, quantumvis ſint Reales.

Brun-

Brunnem. *ad l. 7. in f. ff. de Except.* Mev. *p. 5. d. 221. num. 3.*

VI.

Exceptiones quidem in judicio allegandæ ſunt & proponendæ (a) ne, ſi fuerint omiſſæ, his renunciatum videatur (b) usque adeò, ut nec Judex illas regulariter ſupplere poſſit. (c) Maximè eas, quæ in facto conſiſtunt; (d) hoc tamen multis in caſibus fallit, atque ex officio Judex ſupplet eas, quæ publicam utilitatem reſpiciunt, aut ordinem proceſſus (e) nec non eas, quæ Juris ſunt (f) quo etiam pertinet Exceptio præſcriptionis (g) item non competentis actionis (h) & quæ obligationi ipſi quaſi inſunt, modo, de his ex actis appareat (i) aut judicium reddant retrò nullum (k) vel contra contumacem procedatur (l) aut miſerabilem perſonam. (m)

a) *l. 4. ff. de ſervit. l. 11. C. de Appellat.*
b) Mev. *p. 5. d. 42. num. 5.*
c) *arg. l. 4. §. 8. ff. de damn. inf.* Carpz. *lib. 2. Reſp. 3. num* 2. Mev. *p. 1. d. 87. num. 3.*
d) Mev. *p. 1. d. 87.*
e) *arg. l. un. C. ut quæ deſunt Adv. jud. ſuppl.* Mev. *p. 1. d. 29. p. 3. d. 351.*
f) *arg. d. l. un. Nov. 82. in pr.* Mev. *p. 3. d. 351. n. 4.*
g) Mev. *p 7. d 182.* Carpzov. *l. For. p. 1. conſt. 25. d. 1. 2. vid. tamen* Brunn. *ad l. 11. num. 7. ff. de div. & temp. præſcr.*
h) Anton. Fab. *in Cod. lib. 8. tit. 24. d. 39. num. 11.*
i) Gail. *1. Obſ. 66. num. 4.* Mev. *p. 3. d. 351. n. 6.* Frantz. *Tit. d. A. E. V. n. 16.*

k) *arg. l. 24. C. de Procur.* Anton. Fab. *in cod. lib. 8. tit. 23. d. 36.*

l) Brunn. *ad l. un. C. ut quæ deſunt Advoc. in f.* Vasq. *part. 2. controv. lib. 2. c. 39. num 21.*

m) *arg. l. 9. §. 5. ff. de off. Proconſ. l. 28. §. 5. C. de adm. tut.* Barbos. Locuplet. *lib. 9. cap. 89. ax. 5. lim. 2.*

VII.

Quando reus nec negat actoris intentionem, nec confitetur, ſed ſimpliciter proponit exceptionem, nihilominus actor prius ſuam intentionem probare tenetur, antequam de exceptione cognoſcatur (a) niſi ipſe ſimul ſeſe in probatione ſua fundet. (b)

a) *arg. l. 9. ff. l. 9. c. de Except. l. 2. l. 21. ff. de probat.* Mev. *p. 4. d. 159. num. 4. part. 7. d. 128.* Trentac. *lib. 2. Tit. de Except. Reſol. 2. num. 2.* Umm. *diſp. 8. th. 72.* Georg. Frantzk. *lib. 2. Reſ. 2.*

b) Brunn. *ad l. 9. ff. de Except.* Trentacinq. *lib. 2. tit. de Except. Reſ. 2.*

VIII.

Reus in dilatoriis exceptionibus ſuccumbens in expenſas retardati proceſſus rectè condemnatur, (a) nec non à Judice ex officio punitur, (b) nec expenſæ ad finem litis ſervantur. (c)

a) *O. C. part. 3. tit. 50.* §. wir wollen. Brunn. *Proceß. c. 7. num. 31.* Myns. *cent. 1. Obſ. 23.*

b) Brunn. *d. Proceß. c. 7. num. 32.*

c) Brunn. *d. l.*

IX. Plu-

IX.

Pluribus Exceptionibus uti licet (a) etiam diverſis (b) non ſolum unà & ſimul, ſed etiam ſucceſſivè (c) niſi lex obſtet (d) quod tunc etiam fieri cenſetur, quando mendacii reus eſt convictus. (e) Hodie tamen omnes ſunt ſimul proponendæ. (f)

a) *l. 5. ff. de Except. cap. 4. X. de Except. l. 43. de R. I.*

b) *l. 8. ff. de Except. ubi* Brunn. Wiſſenbach. *ad Pand. Tit. de Except.* §. 7.

c) *arg. l. 5. l. 8. ff. de Except.* Carpzov. *Jur. For. part. 1. conſt. 3. def. 1. n. 3.* Weſenb. *ad π. h. t. n. 10.*

d) *l. 43. de R. Jur. l. 22. ff. de nox. act.*

e) *l. 12. §. f. ff. de nox. act.* Wiſſenb. *ad π. h. t. tit. 7. inf.*

f) *O. C. p. 3. tit. 24.* §. und ſollen. *add.* Fürſtl. Wirtemb. Landr. *p. 1. t. 24.* §. ſolche und dergleichen. Carpzov. *Jur. For. part. 1. conſt. 3. def. 1. 4. 5. id. in proceſſ. tit. 9. art. 1. num. 12.*

X.

Quemadmodum actor qui nullum Jus habet agendi, exceptione tua non intereſt, repellitur. (a) ita exceptiones quæ ſunt de Jure tertii non admittuntur (b) niſi tales ſint quæ ſimul Jus agentis infringunt (c) aut æquitas aliud ſuadeat (d) aut lege aliter cautum ſit. (e)

a) *arg. l. 11. ff. de O. & A.* Mev. *part. 2. dec. 95. p. 1. dec. 203. num. 4.*

b) *arg. l. 7. §. 4. ff. ſi ſervit. vind.* ubi Brunn. Chriſt. Phil. Richter. *vol. 2. conſ. 89. num. 9.*

c) Mev. *part.* 4. *dec.* 284.

d) *vid.* Mev. *part.* 2. *d.* 304. Brunn. *add. l.* 7. §. 4. Tabor. ad Barbos. *l.* 5. *c.* 23. *ax.* 15.

e) *l.* 10. §. *f. ff. de bon. poſſ. contr. tabb.* Barbos. *d. l.*

XI.

Perpetuæ dicuntur Exceptiones, non illæ, quæ intra 30. annos poſſunt opponi: ſed quæ nullo tempore extinguuntur.

Hillig. ad Donell. *lib.* 22. *comm. c.* 2. *lit. o.* Brunn. *ad l.* 5. §. *fin. ff. de dol. mal. Except. num.* 4. Weſenb. *in* π. *Tit. de Except. num.* 12. Celſ. Bargal. *lib.* 4. *d. dal. c.* 2. *num.* 89.

XII.

Perpetuas tamen non eſſe illas Exceptiones, quæ aliter, quam per modum exceptionis proferri poſſunt, conſtans eſt Dd. ſententia.

Brunn. *vid. l.* 5. §. *fin. ff. de dol. mal. n.* 4. Mæv. *part.* 3. *deciſ.* 333. Weſ. *in* π. *Tit. d. Except. n.* 12.

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