

THE *Jam<sup>o</sup> Manus*  
REPORTS  
AND  
ENTRIES  
OF

Sir Edward Lutwyche, Kt.

Serjeant at Law, and late one of the Judges of  
the Court of Common Pleas.

The several Cases therein are truly stated upon  
the respective Pleadings and Entries, in *English*.

A L S O

Every Citation in the Report is carefully exami-  
n'd by the Law-Books to which they refer, and  
where they agree, and where they differ from the Point  
in Question made appear; and those ranged in that Or-  
der as in many Places to form an Argument where there  
was none before; with large Observations.

L I K E W I S E

Many obsolete Words and difficult Sentences  
are explain'd; which are printed in a different Character.

Composed in a plain and easy Method, and  
made very useful for Students and Practisers of the  
*Common Law*.

*Pellibus exiguis Volumina magna coegi.*



By *W. NELSON* of the Middle-Temple, Esq;

In the *SAVoy*:

Printed by *Clz. Nutt*, and *R. Gosling*, Assigns of *Edw. Sayer*, Esq;  
for *D. Botton* in *Exeter-Exchange*; *W. Hears*, *J. Botton* and  
*F. Clay*, without *Temple-Bar*; and *J. Hooke*, at the *Flower-de-Luce*  
against *St. Dunstan's-Church* in *Fleet-street*. MDCCXVIII.

*Glover versus Kendall.*

Trin. 2 Jac. II. Rot. 627.

Midd. ff. **D**EBT upon an Escape, brought against the Marshal of the King's Bench, wherein the Plaintiff declared in the *debet & detinet*, setting forth, That he, as Executor of Elizabeth Bond, had recovered 600 l. against one Farrington, and had taken him in Execution, and committed him to the Marshal, who suffered him to escape.

The Plaintiff had Judgment by *nil dicit*, and upon a Writ of Error brought in the Exchequer-Chamber, that Judgment was reversed; because it appeared that the Plaintiff had recovered in the first Action in the *detinet* as an Executor, and therefore, he ought not to have brought this Action of Escape in the *Debet & Detinet*, because 'tis grounded on the former Record, and for that Reason it ought to be in the *Debet* alone. In Cro. Eliz. 326. there is a Case in Point, viz. By the Opinion of two Judges against one; it was *Hitchcock's Case*, which is mentioned again by Justice Croke, in Sir George Reynell's Case, and there he tells us, That the Plaintiff perceiving the Opinion of the Chief Baron Periam to be against him, brought a new Action in the *Detinet* only.

All that can be said for the Action is, That an Escape is a Tort done to the Plaintiff himself as Executor; and an Action of Debt for that Wrong, is given by a particular Statute; and therefore it may be brought in the *Debet & Detinet*; but this Inconvenience would follow; That the Demand in such Case being of a Duty due to himself, (for so it must be if 'tis in the *Debet*) then he would recover in his own Right, what is really due to the Testator; and therefore he ought to pursue the first Action, for the Escape is grounded upon it.

*Robert Clerke, Mil. versus Ambrose Isted.*

Trin. 2 Jac. II. Rot. 372.

London, ff. **D**EBT upon Bond, there was a Special Verdict found, in which the Case was thus.

ff. Sir Robert Clerke entered into a Bond by the Name of John Clerke, but the Condition was, That if the above bounden Robert Clerke, do pay 200 l. to one Mannings, that the Bond should be void.

Mannings

Mannings died, and Ambrose Isted, who was his Executor, brought an Action of Debt against Sir Robert Clerke, setting forth, That he per Nomen of John Clerke entered into the Bond, and upon non est factum pleaded, the Jury found all this Matter; but that at the Time the Bond was sealed, the true Name of the Defendant was Robert Clerke; and upon arguing this Verdict, the Plaintiff had Judgment in B. R. and now a Writ of Error was brought in the Exchequer-Chamber, and that Judgment was reversed.

And it was upon these Authorities following:

- \* *Dyer* 279. *B.* *Owen* 48. ff. In 10 *Eliz.* one \* *William Shotbolt* was bound by the Name of *John*, and an Action of Debt was brought against him by the Name of *William* alias *dict' John*, and upon non est factum pleaded, the Matter was found specially, and the Defendant had Judgment; but the Court was of Opinion, that it had been the best Way for the Plaintiff to have brought the Action against *John Shotbolt*, as named in the Bond, *nuper dictus William Shotbolt*.
- 2 *Cro.* 558, 640. in Point. *Cro. Eliz.* 897. Anno 44 *Eliz.* *James Wilton* was bound by the Name of *John*, and the Condition was, that *James* should pay, &c. and the Action was brought against *James*, for that he per Nomen of *John* became bound; and upon Demurrer to the Declaration, the Defendant had Judgment, because *James* could not be *John*.
- † *Moor* 897. In † *Panton's Case*, the Court held, that any Writing made by a wrong Christian Name is void; because no Man could be known by two Names.
- 2 *Brown.* 48. In 8 *Jac.* *Sir Edward Ashfield* was bound by the Name of *Edmond*, but subscribed his true Name *Edward*: An Action was brought against him by the Name of *Edward* alias *Edmond*, and upon non est factum pleaded, he had Judgment, because a Man cannot have two Christian Names.
- 1 *Mod.* 107. By all which Books we may see that a Bond made by a wrong Christian Name is void; but *Jacob* instead of *Jacob* is well enough.

### *Lewin versus Brunetti.*

*Henley.*

Trin. 4 *Jac.* II. Rot. 185.

London, ff. ACTION on the Case upon a Bill of Exchange, setting forth the Custom of Merchants, viz. That if a Merchant at London draw four Bills of Exchange of the same Date, &c. upon another at Leghorn, payable to any Merchant, or his Order; that if the first Bill is protested for Non acceptance, then if another Merchant will give a Note under his hand to pay the Money at the Return of the Bill, for the Honour of the Drawer; then if the second Bill is endorsed to several Merchants, and the Money not paid by him on whom the Bill was first drawn, but the second Bill should be protested; and if any Merchant, for the Honour of the

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