

q. Brit. Bail court.

REPORTS OF CASES

ARGUED AND DETERMINED

IN THE

Queen's Bench Practice Court;

WITH

POINTS OF PRACTICE AND PLEADING

DECIDED IN THE

Courts of Common Pleas and Exchequer;

FROM HILARY TERM to MICHAELMAS TERM, 1850.



BY

JOHN JAMES LOWNDES, OF THE INNER TEMPLE,

PETER BENSON MAXWELL, OF THE MIDDLE TEMPLE,

AND

CHARLES EDWARD POLLOCK, OF THE INNER TEMPLE,

ESQUIRES, BARRISTERS AT LAW.

9735



VOL. I.

LONDON:

SWEET; MAXWELL; AND STEVENS & NORTON;

Law Booksellers & Publishers.

DUBLIN:

HODGES AND SMITH, GRAFTON STREET

1851.



REPORTS OF CASES

DETERMINED ON

Points of Practice and Pleading,

IN THE

SUPERIOR COURTS OF LAW AT WESTMINSTER.

Hilary Term.

IN THE THIRTEENTH YEAR OF THE REIGN OF VICTORIA.



Ex parte WILLIAM DAGGETT.

[*Bail Court. Coram Erle, J.*]

Volume I.
1850.

January 11.

UDALL moved for a rule, directing the Master to substitute the name of William Daggett on the roll of attorneys, in the place of William Daggett Ingledew, and that the Master should be at liberty to make an indorsement of such alteration of name on the certificate of the applicant.

It appeared upon the affidavit of the applicant, upon which the motion was made, that he was admitted an attorney in the year 1848, and signed the roll by the name of William Daggett Ingledew, the surname, Ingledew, being that of his father, and which he then bore. That in December, 1849, his mother died, leaving him her heir at

An attorney who, without royal license, or any formal authority for the change, has assumed another name from that on the roll, for a specified reason, may have the roll altered to the assumed name, if it appear to the Court that such name has been taken

bonâ fide and without fraudulent intention.

Volume I.
1850.

Ex parte
DAGGETT.

law, and expressing her desire that he would relinquish the use of the surname of Ingledew, and use that of Daggett only. That accordingly, in compliance with her desire, he did discontinue the use of the surname of Ingledew, and used, and was since commonly known by, the surname of Daggett only. That being in partnership with his father as attorney, the name of the firm had been changed to Ingledew and Daggett. An application had been made to *Wightman, J.*, at Chambers, to the same effect as the present one; but his Lordship had referred the case to the Masters, who could find no instance of the change of name on the roll, unless the same had been changed by royal license, and *Wightman, J.*, refused to interfere.

Udall. The correct and proper surname of a party is that which he himself uses, and by which he is commonly known; and no royal license is necessary to enable him to change it at any time. In *Doe d. Luscombe v. Yates* (a), where the objection was that a party had not sufficiently complied with the terms of a will that he should bear a particular surname, by merely assuming to use it, without obtaining a royal license or an act of Parliament for the purpose, Lord *Tenterden, C. J.*, in giving judgment, said, "A name assumed by the voluntary act of a young man at his outset into life, adopted by all who know him, and by which he is constantly called, becomes, for all purposes that occur to my mind, as much and effectually his name as if he had obtained an act of Parliament to confer it upon him." In *Davis v. Lowndes* (b), the point was expressly ruled by *Tindal, C. J.*, in charging the grand assize. There the devisee, by the terms of the will, was to take the name of Selby; and a fine was held to be properly passed, which was passed by him in that name, although he had not obtained any act of Parliament or royal letters of license for the purpose. The case went afterwards to the Exchequer

(a) 5 B. & A. 544, 556.

(b) 1 Bing. N. C. 618. See also 5 Bing. N. C. 161, 178.

Chamber on this very point, and the judgment of *Tindal*, C. J., was upheld (a). [*Erle*, J.—It may be taken as decided that the voluntary assumption of a surname is the legal assumption of a surname.] That is clearly laid down as law. The formal change by act of Parliament or royal license may make it more known, but cannot make the change more valid than the assumption of a new name without any authority, so that it is done bonâ fide and without fraud. [*Erle*, J.—There was a case, I recollect, where the question arose as to misnomer.] Probably the case of *Williams v. Bryant* (b) is the one referred to. There the defendant, by the name of William Bryant, had been the obligor in the bond sued on; but the declaration complained against defendant as William Francis Bryant, sued by the name of William Bryant; and that was held, on non est factum pleaded, to be no variance. [*Erle*, J.—Are there any other cases?] It has been held in the Common Pleas that they would not grant an application of this kind where no sufficient motive was disclosed (c); but since then, the same Court have granted an application of this kind (d), and there is a case in this Court in which it has been granted (e). In a criminal case, *Rex v. Norton* (f), the prosecutor's dwelling-house was described as the dwelling-house of Mary Johnson: this name she had assumed for five years, her original name being Mary Davis; and it was held by the Judges, on a point reserved, that she was properly described by her assumed name. [*Erle*, J.—Are there any cases that shew how long it takes after the alteration to make the assumed name the legal name?] There are not; the test appears to be, that the alteration must be made bonâ fide and without fraud. It is for the interest of the public

L. M. & P.
1850.

Ex parte
DAGGETT.

(a) 7 Scott, N. R. 141.

(d) *Ex parte Benthall*, 1 D. & L.

(b) 5 M. & W. 447; S. C. 7

747.

Dowl. 502.

(e) *Ex parte Ware*, 6 Dowl.

(c) *Ex parte Hayward*, 5 Scott,

311.

712; S. C. nom. *Ex parte Ware*,

(f) *Rex v. Norton*, R. & R.

6 Dowl. 463.

510.

Volume I.
1850.

Ex parte
DAGGETT.

that the name a party is known by should be on the roll ;
such alteration may, in fact, prevent fraud.

ERLE, J.—I do not see any reason why the name should
not be changed.

Application granted (*a*).

(*a*) Similar applications were Exchequer, and granted. Ex
made in the same case to the relat. *Udall*. See also the fol-
lowing case.

[The following case, decided in the Easter Term following,
may be here conveniently inserted.]

[April 16, 17.]

Ex parte THOMAS JAMES.

[*Bail Court. Coram Coleridge, J.*]

See the mar-
ginal note,
ante, p. 1.

SIMON moved for a rule, directing the Master to strike
out the name of Thomas James Moses, which now appeared
upon the roll of attorneys, and to substitute in lieu thereof
the name of Thomas James only.

The affidavit of the applicant upon which the motion
was made, shewed that he had been admitted an attorney
in the year 1848, and that he had signed the roll of attor-
neys by the name of Thomas James Moses; the surname
of his father, and which he then bore, being Moses. That
in the present month of April, his father had consented to
advance a large sum of money to enable him to enter into
partnership; but that before doing so, he was desirous that
his son should cease to use the surname of Moses, and
should use and be known by the name of Thomas James
only. That accordingly he had since (*a*) ceased to use

(*a*) The day named in the affi- had used the name of Thomas
davit as the day since which he James only, was the 8th of April,

This (PDF) case report was prepared by, and is the copyright of, [Deed Poll Office](#). You are free to use this report for non-commercial purposes, so long as you do not modify this (PDF) document and you keep every part of the report (including this notice) intact.

Find more cases like this at:

<https://deedpolloffice.com/change-name/law/case-law>

<https://deedpolloffice.com/change-name/children/case-law>



Deed • Poll • Office