

W. A. Price
Siddall & Taylor
R E P O R T S
OF
C A S E S

ADJUDGED IN THE
Court of King's Bench:

WITH SOME
SPECIAL CASES

IN THE
**Courts of Chancery, Common Pleas,
and Exchequer,**

ALPHABETICALLY DIGESTED UNDER PROPER HEADS;

From the First Year of King WILLIAM and Queen MARY,
to the Tenth Year of Queen ANNE.

By **WILLIAM SALKELD,**
LATE SERJEANT AT LAW.

★
THE SIXTH EDITION:

Including the NOTES and REFERENCES of KNIGHTLEY D'ANVERS, Esq.
and Mr. Serjeant WILSON;

And large Additions of NOTES and REFERENCES to Modern Authorities
and Determinations,

By **WILLIAM DAVID EVANS, Esq.**
BARRISTER AT LAW.

IN THREE VOLUMES.
VOL. I.

L O N D O N:

PRINTED BY A. STRAHAN AND W. WOODFALL,
LAW-PRINTERS TO THE KING'S MOST EXCELLENT MAJESTY;
FOR E. AND R. BROOKE, IN BELL-YARD, NEAR TEMPLE-BAR;
AND J. BUTTERWORTH, FLEET-STREET.

1795.

14. *Lett versus Mills.*

[Hill. 2 Ann. B. R.]

DEFENDANT pleaded in abatement *quod suscepit ordinem militarem & jam miles existit*; and upon demurrer it was held, first, That *quod suscepit ordinem militarem, &c.* was a very proper way of expressing he was made a knight. *V. Statute de militibus*; and that *miles* without addition is a knight bachelor. 2. That there needs no *venue* where he was dubbed; for any thing that concerns his person shall be tried where the action is laid (*a*). Yet at last a *respondeas ouster* was awarded, *quia* not said he was knight before, or at the time of the bill exhibited.

(a) Vi. 2 *Ld. Ray.* 1504. *Str.* 775.15. *Holman versus Walden.*[Hill. 2 Ann. B. R. 2 *Ld. Raym.* 1015. S. C.]

ACTION of the case was brought for words against *Benjamin Walden*; defendant pleaded in abatement that he was baptized by the name of *John*, & *per nomen & cognomen de John Walden semper, &c. cognitus & vocatus fuisse, absque hoc*, that he was called or known by the name and surname of *Benjamin Walden*; plaintiff replied, He was called and known by the name and surname of *Benjamin Walden*; & *hoc petit quod inquiratur per patriam*: Defendant demurred, and it was urged that the material part of the plea was the name of baptism, and that he could not have another name; and that the traverse was needless and frivolous, and the matter precedent was the substance of the plea: To this opinion *Powel* Justice at first inclined; but at last a *respondeas ouster* was awarded *per tot. Curiam*; for *per Holt* C. J. one may have a *nomen & cognomen* that never was baptized, and thousands in fact have: Also one may be baptized by the name of *A.* and be confirmed by the name of *B.* as *Sir Francis Gaudy* was; not that he thought the first name ceased. Also he thought it would not be a sufficient answer for the defendant to say he was baptized by the name of *A.* without averring also, that he was ever called and known by that name: But supposing it had been a sufficient answer without more, yet saying he was baptized, &c. was no more than inducement, which is waived by the traverse; so that the effect of the plea is, that the defendant was never called by the name of *A. B.* and the Chief Justice said that the traverse was material, and likewise the inducement. *Jud. quod respondeat.*

6 *Mod.* 105.
S. C. 2 *Ld.*
Raym. 1014.
by the name
Nutt ver. Mills.
Plea, *quod suscepit ordinem militarem, &c.*
Matter that concerns the person need not be pleaded with *venue*.
Ante 2.
5 *Mod.* 310

6 *Mod.* 115. by the name of *Walden ver. Holman* 225. *Holt* 492, 503. S. C. *Misnomer* pleaded.
Traverse of the name in the writ is the point of the plea. But both that and the inducement are material.

1 *Inst.* 3. 2.
Cro. Jac. 558.
4 *Mod.* 347.
Cro. El. 897.
2 *Brownl.* 48.
2 *Rol. Abr.*
135. *Far.* 15, 28.
2 *Salk.* 451, 512.
Post. 50. 6 *Co.*
53. 1 *Show.*
298. *Noy* 435.
[*Rep. B. R.*
temp. Hard.
286.]

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