

W. A. Price
Siddall & Lyfey
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.

6 Mod. 198.
Holt 41.

16. Lepiot *versus* Browne.

[Hill. 2 Ann. B. R. S. C.]

2 Inst. 670. Additions at common law by Senior and Junior. Where no addition the father intended prima facie. Hob. 330. Any matter that distinguishes the person makes addition of Senior and Junior not necessary. Styl. 394. 2 Rol. Rep. 225.

ONE brought up by *habeas corpus*, and in *custod. mar.* was declared against by the name of *A. B. de D. in custod. mar.* Defendant pleaded in abatement, that his father lived in *D.* likewise, and that his name was *A. B.* and so because there was no addition *pet. jud. de billa*; and it was urged, that though this be by bill, and not within the statute of additions, yet by common law there ought to be an addition to distinguish father and son, *viz. junior* and *senior*; and if the son be sued, there ought to be an addition; *aliter* if the father. *Vide Rast.* 310. 3 *H. 6.* 54. 55. 37 *H. 6.* 29. *b. a.* 4 *E. 3.* 31. 8 *E. 3.* 50. 21 *H.* 6. 26. *b.* 5 *E. 4.* 25. *Per Holt C. J.* If father and son are both called *A. B.* by naming *A. B.* the father *prima facie* shall be intended; but if a devise were to *A. B.* and the devisor did not know the father, it would go to the son: Suppose one deals with the son, and knows nothing of the father, must he bring his action *v. A. B. junior*? If this had been an original, and the father and son had lived in different counties, there had been no need of this addition; but this is an action *v. A. B. in custod. mar.* you must shew there is *A. B.* the father *in custod. mar.* too. Judgment *quod respond. ouster nisi.*

6 Mod. 225.
S. C. 311.
3 D. 227. p. 2.
268. p. 5.

Feme covert after arrest and bail bond given by a wrong name, may plead the misnomer. If a person binds himself in a bond by a wrong name, he is estopped to say it is not his name. 1 Rol. Abr. 872. Ow. 1, 2, 3. Sty. 187. Lutw. 365. Mod. Cases 28, 225, 311. Far. 104.

17. Linch *versus* Hooke.

[Mich. 3 Ann. B. R.]

A Woman was arrested by name of *Minors*, and gave a bail-bond to the sheriff by that name. *Et per Cur.* If one be arrested by a wrong name, and brought into Court, he may plead misnomer; and whatever a bail-bond may do in other cases, in case of a *feme covert*, she may plead, it cannot estop her; for she may plead *non est factum*; *per Cur. Et per Cur. eodem termino* in another case it was said, If *A.* give bond by name of *B.* and he is accordingly sued by that name of *B.* he may plead misnomer, and the other may reply that he made the bond by the name of *B.* and estop him by demanding judgment, if against his own deed he shall be admitted to say his name is *A.* and then he may rejoin and say that he made no such deed; and this he must do without oyer, for if he pray oyer, he admits his name to be *B.*

18. Lawrence *versus* Martin.

[Hill. 4 Ann. B. R.]

Respondens ouster. Hob. 177. Ante 2. 1 Ld. Ray. 533.

AN attorney was sued as administrator; he pleaded in abatement, that he was an attorney *de C. B.* and a *respondens ouster* awarded. *Nota* upon a *respondens ouster*,
no

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