

T E R M
R E P O R T S

IN THE

Court of King's Bench:

BY

CHARLES DURNFORD AND EDWARD HYDE EAST

OF THE TEMPLE, ESQRS. BARRISTERS AT LAW.

IN EIGHT VOLUMES.

VOL. V.

**CONTAINING MICHAELMAS TERM, 33d GEORGE III. 1794
TO TRINITY TERM, 34th GEORGE III. 1794. BOTH INCLUSIVE.**

WITH TABLES OF THE NAMES OF CASES AND PRINCIPAL MATTERS.

A NEW EDITION,

WITH REFERENCES TO THE SUBSEQUENT CASES.

*Si quid novisti rectius istis,
Candidus imperti; si non, his utere mecum.*

HOR.

LONDON:

**PRINTED FOR J. BUTTERWORTH AND SON, FLEET-STREET;
AND J. COOKE, ORMOND-QUAY, DUBLIN.**

1817.

to procure the credit, they would not interfere in a summary way to give relief. And

1793.

The Court, assenting to the general rule, and the application of it by the plaintiff's counsel to the present case,

PAR-
TRIDGE
against
CLARKE.

Discharged the rule (a).

(a) *Vide Waters v. Smith, post. 6 vol. 451.*

JONES against MACQUILLIN.

THE declaration was against the defendant by the Christian names of *James Richard*; to which there was a plea in abatement that he was baptized by the name of *Richard James* and not *James Richard*, and had always since been known by the Christian name of *Richard James*, &c. To which there was a general demurrer, and joinder.

Friday,
April 26th.
Defendant was baptized *Richard James*, and was called in the declaration *James Richard*; this is a misnomer, and may be pleaded in abatement.

Shepherd in support of the demurrer said, that the plea was insufficient, because it did not deny that the defendant had been christened by the names of *James* and of *Richard*, though not in the order in which the plaintiff had stated them. If it were to be taken all as *one* name, there might be some colour for the objection; but the Court would take notice that there were two distinct names, by both of which it appeared that the defendant had been baptized. And this would have appeared still more strongly if this plea had been drawn in the usual form; for it should have stated that the defendant had not been baptized by the names of *James* and *Richard*, which would clearly not have availed. But

Per Curiam.—The objection cannot be got over: the misplacing of the names makes them as different from the real names as the substitution of any other instead of these:

Judgment for the defendant,

DIAS against FREEMAN.

THIS was an action of debt by the plaintiff as assignee of the sheriff of *Middlesex* of a replevin bond. The declaration stated that the plaintiff as bailiff of one *J. Wilkinson*, on, &c. distrained, &c. on *J. Lacey*, in the usual form; and the breach was that *Lacey* did not appear at the county court next after the giving of the bond, according to the con-

Friday,
April 26th.
A defendant in replevin is entitled to an assignment of the replevin bond, if the plaintiff in replevin do not appear

in the county court and prosecute according to the condition. And he may sue on the bond as assignee of the sheriff in the superior courts, though the replevin be not removed out of the county court. [*Willes* 461. 3 M. & S. 180.]

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