

INDEX TO ENGLISH LAW REPORTS,

FROM 1813 TO 1856.

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A GENERAL INDEX to all the points direct or incidental, decided by the Courts of King's and Queen's Bench, Common Pleas, and Nisi Prius, of England, from 1813 to 1856, as reprinted, without condensation in the English Common Law Reports, in 83 vols. Edited by George W. Biddle and Richard C. Murtrie, Esq., of Philadelphia. 2 vols. 8 vo. \$9

References in this Index are made to the page and volume of the English Reports, as well as to Philadelphia Reprint making it equally valuable to those having either series. From its peculiar arrangement and admirable construction, it is decidedly the best and most accessible guide to the decisions of the English Law Courts.

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I. GENERAL RULES.

II. PARTIES TO THE ACTION.

It is sufficient on all occasions after parties have been first named, to describe them by the terms "said plaintiff" and "said defendant." Davison v. Savage 1, 437; 6 Taun. 575. Stevenson v. Hunter, 1, 675; 6 Taun. 406. And see under this head Title, Action; Assumpsit; Bankruptcy; Bills of Exchange; Case; Chose in Action; Co-tenant; Executors; Husband and Wife Landlord and Tenant; Partnership; Replevin; Trespass; Trover.

III. MATERIAL ALLEGATIONS.

Whole of material allegations must be proved. Reece v. Taylor, xxx, 590; 4 N & M, 469.

Where more is stated as a cause of action than is necessary for the gist of the action, plaintiff is not bound to prove the immaterial part. Bromfield v. Jones x, 624; 4 B & C. 380. Erskham v. Posten, xii, 721; 2 C & P, 540. Duke v. Gotling, xxvii, 786; 1 B N C, 588. Pitt v. Williams, xxix, 203; 2 A & P, 841.

And it is improper to take issue on such immaterial allegation. Arundel v Bowman, iv, 103, 8 Taun, 169.

Matter alleged by way of inducement to the substance of the matter, need not be alleged with such certainty as that which is substance. Stoddart v. Palmer, xvi, 212; 4 B & R, 624. Churchhill v. Hunt, xvii, 253; 1 Chit. 480. Williams v. Wilcox, xxxv, 169; 8 A & E. 314. Brunsell v. Robertson, xxxvi, 9 E & E. 840.

And such matter of inducement need not be proved. Crosskeys Bridge v. Rawlings, xxxii, 41; 3 B N C, 71.

Matter of description must be proved as alleged. Wells v. Girling, v, 853; Gow 21. Stoddart v. Palmer, xvi, 212; 4 B & R, 624. Hicketts v. Salwey, xviii, 68; 1 Chit. 104. Trecedale v. Cloment, xvii, 329; 1 Chit. 643.

An action for tort is maintainable though only part of the allegation is proved. Hicketts v. Salwey, xviii, 68; 1 Chit. 104. Williamson v. Anley, xix, 140; 6 Bing. 256. Clarkson v. Lawson, xix, 291; 6 Bing. 487.

Plaintiff is not bound to allege a request, except where the object of the request is to oblige another to do something. Anory v. Brodrick, xviii, 660; 2 Chit. 323.

In trespass for drawing against plaintiff's cart, it is an immaterial allegation who was riding in it. Howard v. Poole, xviii, 483; 2 Chit. 315.

In assumpsit the day alleged for an oral promise is immaterial, even since the new rules. Arnold v. Arnold, xxvii, 47; 3 B N C, 81.

Where the terms of a contract pleaded by way of defence are not material to the purpose for which contract is given in evidence, they need not be proved. Robson v. Fallows, xxviii, 186; 3 B N C, 292.

Distinction between unnecessary and immaterial allegation. Draper v. Garratt, ix, 11; 2 B & C, 2.

On dilatory matters need not be averred. Sharpe v. Abney, xv, 537; 5 Bing, 191.

When allegations in pleadings are divisible. Tapley v. Wamwright, xxvii, 710; 5 B & Ad 395. Hare v. Horton, xxvii, 302; 5 B & Ad. 715. Harlley v. Burkill, xxviii, 925; 6 B N C, 687. Cole v. Creswell, xxxix, 355; 11 A & E, 661. Green v. Steer, xii, 740; 1 Q B, 707.

If one plea be compounded of several distinct allegations, one of which is not itself a defence to the action, the establishing that one in proof will not support the plea. Baillie v. Kell, x, 138; 1 B N C, 438.

But when it is composed of several distinct allegations, either of which amounts to a justification, the proof of one is sufficient. Hill

When is tender a material allegation. Marks v. Lahee, xxvii, 192; 3 B N C, 408. Jackson v. Allway, xvi, 842; 5 M & G, 942.

Matter which appears in the pleadings by necessary implication, need not be expressly averred. Gubovay v. Jackson, xiii, 408; 3 M & G, 960. Jones v. Clarke, xviii, 604; 3 & B, 194.

But such implication must be a necessary one. Galloway v. Jackson, xiii, 495; 3 M & G, 960. Prentice v. Harrison, xiv, 822; 4 Q B, 852.

The declaration against the drawer of a bill must allege a promise to pay Henry v. Burbridge, xxvii, 234; 3 B N C, 601.

In an action by landlord against sheriff under 8 Anne, cap. 14, for removing goods taken in execution without paying the rent, the allegation of removal is material. Smallman v. Pollard, xvi, 300.

In covenant by assignee of lessee for rent arrear, allegation that lessee was possessed of remainder of a term of 22 years, commencing, &c, is material and traversable. Carlisle v. Ingleby, v, 783; 1 B & R, 531.

Minimum of allegation is the maximum of proof required. Francis v. Steward, xvii, 684; 5 Q B, 984, 988.

In error to reverse an outlawry, if material allegation is that defendant was abroad at the issuing of the exigent, and the averment that he so continued until outlawry pronounced need not be proved. Robertson v. Robertson, 4, 165; 6 Taun, 569.

Tender not essential in action for not accepting goods. Boyd v. Lett, 1, 221; 1 C B, 222.

Averment of trespasses in either parts of the same close is immaterial. Wood v. Wedgwood, 1, 271; 1 C B, 273.

Request is a condition precedent in bond to account on request. Davis v. Cary, lxix, 416; 15 Q B, 418.

Corruptly not essential in plea of simoniacal contract, if circumstances alleged show it. Goldham v. Edwards, lxxxi, 435; 16 C B, 437.

Mode by which nuisance causes injury is surplusage. Fay v. Prentice, 1, 827; 1 C B, 828.

Allegation under per quod of mode of injury are material averments of fact, and not inference of law in case for illegally granting a scire facis, and thus depriving plaintiff of his vote. Price v. Belcher, lv, 58; 3 C B, 58.

Where notice is material, averment of facts "which defendant well knew," is not equivalent to averment of notice. Colchester v. Brooke, liii, 539; 7 Q B, 538.

Specimen Sheets sent by mail to all applicants.

NOTICE.

WHEREAS Twenty-five Persons and more have formed themselves into a Horticultural Society, in the County of Hastings, in Upper Canada, by signing a declaration in the form of Schedule A annexed to the Act 20 Vic., cap. 32, and have subscribed a sum exceeding Ten Pounds to the funds thereof, in compliance with the 48th Section of the said Act, and have sent a Duplicate of said declaration written and signed as by law required, to the Minister of Agriculture.

Therefore, I, the Minister of Agriculture, hereby give notice of the formation of the said Society as "The Belleville Horticultural Society," in accordance with the provisions of the said Act.

P. M. VANKOUGHNET,
Minister of Agr.

Bureau of Agriculture and Statistics.
Toronto, dated this 8th day of Feb., 1858.