

Case: pre-1865

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e.g. *Boulton v Jones* (1857) 2 H&N  
564, 157 ER 232

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in the Court of Queen's Bench, and we were desirous to avoid any difference of opinion between the two Courts. The [563] Court of Queen's Bench have considered (d) that the purposes of this Act would be better answered by construing the word "residence" to mean, not the place where a person sleeps but the place where he is chiefly to be found, which in the present case was the place where his employers carried on their business. The Court of Queen's Bench having put that construction on the Act, we think our decision ought to be in accordance with theirs, and the rule therefore will be discharged. On hearing the argument I had myself arrived at a similar conclusion. It is true, there may be occasions when we ought to construe the word "residence" as meaning the place where a man sleeps, but the word does not necessarily have that meaning. The object of the enactment was that information should be given where the witness was to be found, in order that he might answer any inquiries respecting the bill of sale. I must guard against being supposed to decide that the place where a person sleeps would not suffice, it is enough for the present purpose to say that the description in this case is sufficient.

BRAMWELL, B. I am also of opinion that the rule ought to be discharged. No doubt, in ordinary conversation, the word "residence" means the place where a man resides; but for certain purposes the word "abide" has received a construction different from its usual meaning, and the question is whether we ought not for similar reasons to put the same construction on the word "residence" in this act of parliament. I am not altogether satisfied with the reasoning, but I think that this is a case in which the plain meaning of the word may be varied.

WATSON, B., and CHANNELL, B., concurred.  
Rule discharged.

[564] BOULTON v. JONES AND ANOTHER. Nov. 25, 1857.—The defendants, who had been in the habit of dealing with B., sent a written order for goods directed to B. The plaintiff, who on the same day had bought B.'s business, executed the order without giving the defendants any notice that the goods were not supplied by B. Held, that the plaintiff could not maintain an action for the price of the goods against the defendants.

[S. C. 27 L. J. Ex. 117; 3 Jur. (N. S.) 1156; 6 W. R. 107. Discussed, *British Waggon Company v. Lea*, 1880, 5 Q. B. D. 152. Followed, *Grierson, Oldham and Company, Limited v. Forbes, Maxwell and Company, Limited*, 1895, 22 Rettie, 812.]

Action for goods sold. Plea. Never indebted.

At the trial before the Assessor of the Court of Passage at Liverpool, it appeared that the plaintiff had been foreman and manager to one Brocklehurst, a pipe hose manufacturer, with whom the defendants had been in the habit of dealing, and with whom they had a running account. On the morning of the 13th January, 1857, the plaintiff bought Brocklehurst's stock, fixtures, and business, and paid for them. In the afternoon of the same day, the defendant's servant brought a written order, addressed to Brocklehurst, for three 50-foot leather hose 2½ in. The goods were supplied by the plaintiff. The plaintiff's book keeper struck out the name of Brocklehurst and inserted the name of the plaintiff in the order. An invoice was afterwards sent in by the plaintiff to the defendants, who said they knew nothing of him. Upon these facts, the jury, under direction of the Assessor, found a verdict for the plaintiff, and leave was reserved to the defendants to move to enter a verdict for them.

Mellish having obtained a rule nisi accordingly.

M'Oubrey, now shewed cause. It is not denied by the defendants that the goods, for the price of which this action is brought, were the goods of the plaintiff. No one but the plaintiff could have sued for the price of them. By keeping the goods after notice that the plaintiff was the owner, the defendants must be taken to have adopted the contract with him. *Bickerlow v. Burrell* (5 M. & Sel. 385) turned on the point that notice had not been given, before action brought, that the plaintiff was the party really interested. In that case the plaintiff represented himself as agent for another [565] person. In *Humble v. Hunter* (12 Q. B. 310) the plaintiff had allowed her son

(d) The Court of Queen's Bench delivered their judgment in the present term (Nov. 20).