

May 26, 1814.

MILITIA BAL-
LOT.—IN-
SURANCE.

Judgment.

case of any attempt to give effect to it, the Court of Session might, on bill of suspension, give the proper relief.

Judgment of the Court below *reversed*.

Agent for Appellants, GRANT.

Agent for Respondent, CHALMER.

IRELAND.

IN ERROR FROM THE EXCHEQUER CHAMBER.

LOVELAND, on demise of } *Plaintiff in error.*
MACNAMARA - - - - }

LYNCH—*Defendant in Error.*

June 1, 1814.

POPERY
LAWS.—CER-
TIFICATE OF
CONFORMITY.

IN a certificate of conformity under the Popery Act, 2 Anne, cap. 6, it is not necessary to pursue the precise words of the statute, the terms of the act being fully satisfied if the fact be sufficiently certified. Thus, where a certificate was questioned on the ground that it did not state in these precise words,—*that the party had CONFORMED*,—it was held that the certificate, though the word *conformed* was not in it, was sufficient, since it clearly enough certified the fact.

Ejectment in
Exchequer,
T. T. 1792.

EJECTMENT by Plaintiff Loveland against Defendant Lynch, in the Court of Exchequer in Ireland, T. T. 1792. The Defendant claimed to be entitled to the premises in dispute, (lands of Mac-kinish, &c. situate in the county of Clare,) under a

lease founded on the will (dated July 31, 1748) of Sir Thomas Blake, of Menlogh, Galway. The Plaintiff claimed on the ground of a lease (May 27, 1757) made to his lessor's ancestor by Sir Ulick Blake, son of Sir Thomas. The facts, as far as they are material to the point upon which the decision turned in the last resort, are these:—

Sir Thomas Blake,—his father, Sir Walter Blake, being a papist—conformed in 1716, according to stat. 2 Anne, cap. 6, to make his father tenant for life, and to vest in himself the remainder in fee. Sir Ulick Blake, son of Sir Thomas, who had been educated in the popish religion, conceiving his father's conformity to be defective, also conformed in his father's life-time; and, on the presumption that upon his father's death he held the premises in the ejectment in fee, he, in May, 1757, executed a lease, renewable for ever, under which the Plaintiff claimed. His father, Sir Thomas, had made a will, by which he devised his real estates to trustees, to the use of his son, Sir Ulick, for life; remainder to his first and other sons in tail male; remainder to testator's brother, Valentine Blake, for life; remainder to his first and other sons in tail male; remainder to Thomas Blake, of Brendrim, who, on the death of Sir Ulick, in 1766, entered into possession, Sir U. and Valentine Blake having died without issue male. This Thomas Blake, of Brendrim, in 1776, executed the lease under which the Defendant *Lynch* claimed; his title to do so depending on the validity of the devise by Sir Thomas Blake, which depended on the sufficiency of the conformity in 1716.

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2 Anne, cap. 6.
8 Anne, cap. 3.

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TIFICATE OF
CONFORMITY.
Form of the
certificate.

The only question was as to the sufficiency in point of form of the Archbishop's certificate, all the other steps having been indisputably regular. The alleged defect in Sir Thomas Blake's certificate was, that it did not pursue the words of the act, and state in express terms *that he had conformed*.

Nov. 1800.

On trial at bar, in April, 1799, the jury found for Plaintiff in error, the Court of Exchequer being of opinion that Sir Thomas Blake's certificate of conformity was defective; but on error brought in the Exchequer Chamber, this judgment was reversed, upon which last judgment error was brought in the House of Lords.

Cockburne v. Hussey, 1792. Ridg. P. C. 510.—Farrel v. Tomlinson, 5 Bro. P. C. 524.—Swann v. St. Stephen's Hospital, 5 Bro. P. C. 454.—Hobson v. Meade, 6 Bro. P. C. 197.—O'Grady v. Lord Kinsale, 6 Bro. P. C. 284.

For Plaintiff in error it was insisted, that the act 2 Anne, cap. 6, must be strictly complied with; that it was essential that the certificate should state—as Sir Ulick's did—that the party *did conform to the church of Ireland*. That there was nothing on the face of Sir Thomas Blake's certificate that rebutted an occasional conformity; and that such certificates might defeat the object of the law, which was to secure constant, and not occasional conformity. That a certificate of profession of the faith of the church of Ireland by the party was not sufficient, and did not preclude evidence of his still continuing a papist, (*Moore v. Butler*, before Lord Redesdale, 2 Sch. and Lef. 255—263;) that a case had been cited below from Howard's Popery Cases, *Blake v. Blake*, where it was stated, that it was essential to pursue the words of the statute.

For Defendant in error it was contended, that by the statute no particular form was made necessary, and that it was sufficient if the fact were certified.

That the case of *Moore v. Butler* did not apply, as that was a case of relapse after conformity. That *Lord Kitwarden* had said, that Howard's book was one of no authority; and that the question had in fact been already decided, in a case which arose in this very family, and was here on appeal in 1719, (*Blake v. Blake*, 2 Bro. P. C. 350.—5 Bro. new ed. 384,) where the sufficiency of this certificate was assumed as the basis of the proceedings.

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Adam and *Romilly* for Plaintiff in error; *Walton* for Defendant in error.

Lord Redesdale. There were many points in the case, but if their Lordships thought that the certificate could be supported, he apprehended that it would not be necessary to go into the other points. The certificate was as follows:—

Observations
in Judgment.

“ These are to certify, that Thomas Blake, Esq.
“ of the diocese of Tuam, son of Sir Walter Blake,
“ of the city of Dublin, *having made profession of*
“ *the faith and religion of the church of Ireland,*
“ *by law established,* and renounced the errors of
“ the church of Rome, was this day *received into*
“ *the communion of the said church of Ireland,* in
“ the parish church of Headfort, in the said diocese,
“ by me, Edward, Lord Archbishop of Tuam, and
“ that the said Thomas Blake is a protestant. In
“ witness whereof, I have hereunto put my hand
“ and seal, this 23d day of December, Anno Do-
“ mini 1716.

Dec. 23, 1716.
Archbishop of
Tuam's certi-
ficate of Sir
T. Blake's
conformity.

“ EDWARD TUAM. (L. S.)”

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CONFORMITY.

The only con-
sideration was,
whether the
certificate was
sufficient in
point of form.

Certificate of
Sir Ulick
Blake's con-
formity.

There were several other instruments following upon this—his father being a Roman Catholic—to enable him, according to the popery laws then existing, to take the vested remainder in fee in this estate. This certificate was given at no great length of time after the act had passed, and the question was, Whether it did in reality certify the conformity? Did the statute provide any particular form? for the only consideration was, whether the certificate was sufficient in point of form.

Sir Ulick Blake conformed, thinking the conformity of his father not sufficient, and his certificate was in these words:—

“ Charles, by Divine Providence, Lord Arch-
“ bishop of Dublin, Primate and Metropolitan of
“ Ireland, to all whom these presents may con-
“ cern, greeting: We do hereby certify, that Ulick
“ Blake, of the city of Dublin, Esq. hath before us
“ renounced the errors of the church of Rome, and
“ was by our order received into the communion of
“ the church of Ireland, on the 11th day of Fe-
“ bruary, 1748, and that the said Ulick Blake is a
“ protestant, and *doth conform to the church of*
“ *Ireland*, as by law established. In witness whereof,
“ we have caused our manual seal to be affixed to
“ these presents, this 11th day of February, in the
“ year of our Lord 1748 aforesaid.

“ C. DUBLIN. (L. S.)”

The difference consisted in this, that Sir Ulick Blake's certificate stated that he did *conform* to the church of Ireland, as by law established. The other

certificate certified the same thing, though not in the same words, and the statute had prescribed no particular form. It stated, that Thomas Blake, "having made profession of the faith and religion of the church of Ireland by law established, and renounced the errors of the church of Rome, was received *into the communion* of the said church of Ireland," &c.

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The statute prescribed no particular form.

The act to be done was to be done at one time, and the question was, Whether this was not all that was necessary? Conforming, and continuing to conform, were two different things. Then the question was, Whether this certificate did not show that all had been done, which was meant by the word *conform* in the act? Sir T. Blake agreed to the articles of the established church, and he (*Redesdale*) believed this was what was required from persons admitted to orders. They made profession of the faith of the church, and subscribed the 39 articles as evidence of it. The next words were corroborative of the preceding,—“he renounced the errors of the church of Rome;” and then the certificate stated, that he had been “received into the communion of the church of Ireland.” The Archbishop conceived that he had done all that was necessary to show that he conformed.

Moore v. Butler, 2 Sch. and Lef. 255.

On these grounds he thought the certificate sufficient, and then, if their Lordships were of that opinion, no question would arise as to the other points. The possession appeared to have been constantly held under the will of Sir Thomas Blake, and certainly it would be a strong act to hold, after possession for this length of time, that the certificate

Certificate of Sir T. Blake sufficient.

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Blake v. Blake,
2 Bro. P. C.

Blake v. Blake.

was not sufficient. It might be recollected, that a case in this very family had been cited as having come before their Lordships, where, though the conformity was not brought directly into question, the whole proceeding was founded upon his having conformed. A case had been cited from Howard's Popery Laws, where the word *conform* was stated to be necessary. But he was a man of no great eminence in his profession, and whether the account of the case was good or bad, they could not very well know.

It did not seem necessary then to enter into the other points, though they would require consideration unless their Lordships agreed with him in this view of the case. His opinion was, that the judgment of the Exchequer Chamber ought to be affirmed.

Lord Eldon (Chancellor.) He agreed in the opinion, that the judgment ought to be affirmed. The question was, Whether this was a sufficient certificate of conformity. There was no case of authority to show that the certificate must say in express words that the party had conformed. If it certified the fact, that fully satisfied the terms of the act.

If the fact of the conformity were certified, that was sufficient to satisfy the terms of the act.

Judgment.

Judgment *affirmed*.

Agent for Plaintiff in error, WATKINS.

Agents for Defendant in error, MEGGISON and FAIRBANK.