

SECTION I.

GENERAL RULES OF THE SUPREME COURT.

EASTER TERM, 25TH GEO. III.—1785.

*Records and Writs.*

1st. It is ordered, that all the Processes, Records, Rolls, and Judgments of this Court, be made on parchment, according to the usage of the Court of King's Bench in England. (a)

2d. That the Bill issued out of the Court of King's Bench in England, commonly called the Bill of Middlesex, be the first process *ad Respondendum*, where it is to be executed by the Sheriff of the County where the Court sits; and that the first process, going into other Counties, shall be a common *Capias*, (b) in form of the *alias* or *Latitat*, leaving out the words "as before we have commanded you," except where it is actually the *Alias Capias*; the recital of the issuing and returning a Bill being now supposed unnecessary.

*Sheriffs.*

3d. That the Sheriffs indorse their returns (c) on all Processes delivered to them by the day of their returns respectively, (d) and deliver

(a) See Rule Hilary Term 50 Geo. 3.

(b) It is sufficient if the Writ or Process requires the Defendant to answer the Plaintiff in a plea of "*Debt*," instead of "*Trespass*," the usual form.—*Campbell v. Mossop*, Chipman's MS. 68.

(c) A mistake in the indorsement of a Writ by the Sheriff, as to the time he received it, may be amended on application to the Court; but parol evidence is not admissible on a trial to show that the indorsement was a mistake.—*Johnston v. Winslow*, Bert. R. 53. So where an execution was returned by the Sheriff, "Satisfied," but it afterwards turned out that the goods levied upon were not the property of the Defendant, and the amount of them was recovered by the owner from the Sheriff, who was indemnified by the Plaintiff, the Court allowed the execution to be taken off the files, in order that the Sheriff might amend his return.—*Ketchum v. Giberson*, 1 Kerr, 619. If the Sheriff returns "*cepi corpus*," to a Writ issued against two Defendants, it applies to both, and he will be liable to an attachment for not bringing in the bodies, though one of them was never arrested.—*Rex v. Sheriff of Gloucester*, Bert. R. 187.

(d) Before the Rule of Hilary Term, 4 Vict., the mode of proceeding against a Sheriff out of office for not bringing in the body of a Defendant, was by *distringas*.—*Henry v. Murphy*, 1 Kerr, 207. Since this Rule, he may be ruled in the same manner as when in office. See Rule 3 Mich. T., 8 Vict., as to side-bar rules for the return of Writs.