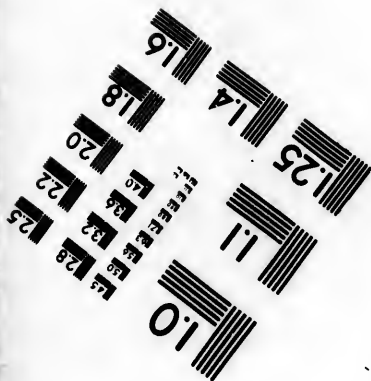
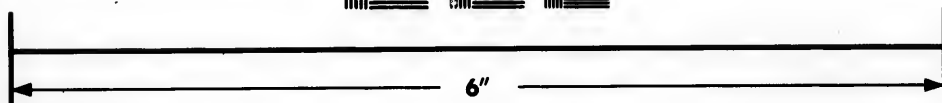
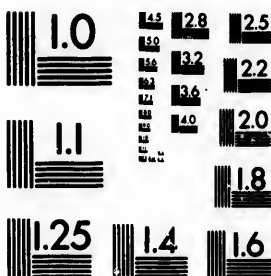


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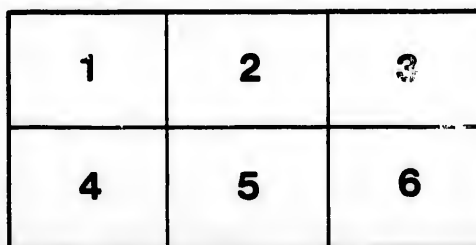
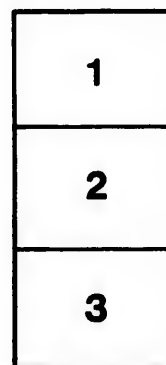
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APPENDIX
TO THE
PRACTICE
OF THE
COURT OF KING'S BENCH
IN PERSONAL ACTIONS, &c.:
WITH THE
FORMS IN REPLEVIN AND EJECTMENT.

THE SECOND EDITION,
CORRECTED AND ENLARGED.

By WILLIAM TIDD, Esq.
OF THE INNER TEMPLE,

LONDON:

PRINTED BY JACQUES AND CO. LOMBARD STREET, WHITE FRIARS;
FOR E. BROOKE AND J. CLARKE, BELL-YARD;
J. BUTTERWORTH, FLEET-STREET; AND
J. COOKE, ORMOND QUAY, DUBLIN.

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P R E F A C E.

IN conducting a suit at law, there are two things to be principally attended to by the practitioner; first, what is to be done; and secondly, the time and manner of doing it: And in the pursuit of this latter object, it will be found, that an adherence to certain established forms is constantly necessary.

These forms chiefly consist of notices, demands, rules of court, summonses and orders, writs and returns, and entries of proceedings. *Notices* are either of an intention to bring an action, or of something done or intended to be done in the course of the suit, such as notices of bail being put in, or declaration filed, or of motion or trial, &c. *Demands* are of something to be given or done by the opposite party, as *oyer* and copy of deeds, &c. Notices and demands pass between the parties or their attorneys, and are not filed or entered of record.

The *rules* of the court may be divided into five classes; first, such as are given by the master, and

PREFACE.

entered with the clerk of the rules ; secondly, such as are given by the clerk of the papers, or clerk of the errors ; thirdly, such as are made out by the clerk of the rules, as a matter of course, on a *precept* or note of instructions given him by the attorneys who apply for them, or on a judge's *fat*, &c. ; fourthly, side-bar rules, or such as were anciently moved by the attorneys at side-bar ; and fifthly, such rules as are, or are supposed to be moved in court, which are either absolute in the first instance, or preceded by a rule to shew cause. The application for these latter rules is made by motion or petition, which is usually founded on an affidavit of the circumstances. Affidavits are also required by act of parliament in certain cases, as to hold to bail, or of the truth of a plea in abatement, &c. The rules of the court are not considered as records, but only remembrances of its proceedings ; and are filed, with the affidavits in support of them, in the office of the clerk of the rules. *Summonses* and *orders* are issued by the judges ; and answer to the rules of the court, the former being in nature of rules to shew cause, and the latter of absolute rules. In general, they are intended to regulate those less important matters, which are not altogether of course, but yet are not of sufficient moment to claim the attention of the court, such as the allowance of further time to plead, &c.

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PREFACE.

Writs are *original* or *judicial*: The former issue out of Chancery, and are calculated for the commencement or removal of actions; the latter are issued by the court in which the actions are prosecuted: And they are either directed to the sheriff, commanding him to bring in the defendant, summon the jury, assist the court in making inquiries, or execute their judgments, &c. or they are addressed to the witnesses in a cause; or to the judges or officers of an inferior court, requiring them to certify a record, &c. Judicial writs are either *mesne*, that is, such as issue between the commencement and termination of the suit, including the jury-process; or *final*, which are issued after judgment, to obtain execution, or for other purposes. Writs are in general obtained as a matter of course, by applying for them, with a *præcipe* or note of instructions, to the proper officer; and when returned, are filed, with the proceedings which have been had under them, in the treasury of the court.

Entries of proceedings are either of the acts of the court, in awarding process, continuing the cause, or giving judgment, &c. or of something done or supposed to be done in court, as of mesne-process and the returns thereto, appearance, bail, warrants of attorney, issues, *posteas*, suggestions,

&c. before judgment, and final process, *committiturs* and satisfaction *after* judgment. These entries are made on parchment rolls, which are docketted, and filed in the treasury of the court, where they remain as evidence of its proceedings.

The following collection of forms was originally made by the author, with the assistance of his friend Mr. *Seth Thompson*; and is intended as an *Appendix* to the Practice of the Court of King's Bench in personal actions, &c. In the present edition, many considerable alterations and additions have been made. The forms are printed in the order they are referred to in the body of the Practice: Some new forms have been added; particularly of proceedings on the statute 8 & 9 W. III. c. 11. § 8: Others have been corrected; and the whole adapted to the present state of the court and its officers. For preventing confusion, by the indiscriminate use of an &c., it should be observed, that where it stands for something intended to be inserted, it is included in a parenthesis; and where the words to be introduced are not obvious, the page is referred to, where they are to be found. To avoid unnecessary repetition, references are occasionally made to other precedents of the same nature; and throughout the whole of the work, as the subject did not admit of novelty, the greatest attention

attention has been paid to selection and arrangement.

But the principal addition which has been made, consists of two new chapters, containing the forms in *replevin* and *ejectment*. In *replevin*, it will be seen, the forms are divided into five parts, as they relate to the following subjects: 1st. The making and conducting of the distress, upon which the *replevin* is founded; 2ndly, the authority for and granting of the *replevin*, by *writ* or *plaint*; 3dly, the removal of the cause from the inferior court, by *pone*, *recordari facias loquelam*, or *accedas ad curiam*, and remanding it by *procedendo*; 4thly, the proceedings in *replevin* in the court above, from the declaration to final judgment and execution, inclusive; and 5thly, the proceedings on the writ of *second deliverance*. In *ejectment*, the forms are arranged in the following order: 1st. notices to quit, &c.; secondly, proceedings at common law, in case of a vacant possession; thirdly, proceedings against the casual ejector in other cases, either at common law, or on the statute 4 *Geo. II. c. 28.* where the tenant or his landlord does not appear, and enter into the common rule to confess lease entry and ouster; and fourthly, proceedings where the tenant or his landlord appears, to final judgment and execution. In this latter chapter, will be

PREFACE.

found many forms of rules never before published, with which the author has been favoured from the Rule-office.

For the convenience of the purchasers of the first edition, the two additional chapters are published, and may be had separately.

TEMPLE,

September 1st, 1804.

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APPENDIX

OF

PRACTICAL FORMS,

&c. &c.

CHAP. I.

There are no Forms referred to in this Chapter.

CHAP. II.

Of the ADMISSTON of ATTORNIES.

ARTICLES of Agreement indented, had, made, concluded and fully agreed upon the — day of —, in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united kingdom of *Great Britain and Ireland* king, defender of the faith, and in the year of our Lord 18— between *A. B.* of — gentleman, one of the attornies of his majesty's courts of King's Bench and Common Pleas at *Westminster*, and a solicitor in the high court of Chancery, of the one part, and *C. D.* of — and *E. F.* son of the said *C. D.* of the other part: Witness that the said *E. F.* of his own free will, and by and with the consent and approbation

(§ 1.)
Articles of
clerkship to
an attorney
and solicitor.

B

CHAP. II. probation of the said *C. D.* his father, hath put, placed and bound himself, and by these presents doth put, place and bind himself clerk to the said *A. B.* to serve him from the day of the date hereof, for and during and until the full end and term of five years from hence next ensuing, and fully to be complete and ended: And the said *C. D.* doth for himself, his heirs, executors and administrators, covenant, promise and agree to and with the said *A. B.* his executors, administrators and assigns, by these presents, in manner following, (that is to say); that the said *E. F.* shall and will well and faithfully serve the said *A. B.* as his clerk, in the profession of an attorney at law and solicitor in Chancery, from the day of the date hereof, for and during the said term of five years: And that he the said *E. F.* shall not, at any time during the said term of five years, cancel, obliterate, spoil, destroy, waste, embezzle, spend or make away with any of the books, papers, writings, monies, stamps, or other property of the said *A. B.* his executors, administrators or assigns, or any of his clients or employers, which shall be deposited in his hands, or intrusted to his custody or possession, or to the care, custody or possession of him the said *E. F.*: And that in case he the said *E. F.* shall act contrary to the last-mentioned covenant, or if he the said *A. B.* his executors, administrators or assigns shall sustain or suffer any loss, damage or prejudice, by the misbehaviour or neglect of the said *E. F.* he the said *C. D.* his executors or administrators shall make good and reimburse him the said *A. B.* the amount or value thereof: And further, that he the said *E. F.* shall and will, from
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time to time, and at all times during the said term of five years, keep the secrets of the said *A. B.* and readily and cheerfully obey and execute his lawful and reasonable commands; and shall not depart, or absent himself from the service or employ of the said *A. B.* at any time during the said term, without his consent first obtained, but shall, from time to time, and at all times during the said term, conduct himself with all due diligence, honesty, sobriety and temperance: And that he the said *C. D.* his executors and administrators shall and will, from time to time, and at all times during the said term of five years, at his and their proper costs, find and provide the said *E. F.* with all and all manner of necessary and becoming apparel and washing, and also physic and surgery in case of sickness. And the said *E. F.* doth hereby, for himself and on his part, consent and agree to and with the said *A. B.* his executors, administrators and assigns, that he the said *E. F.* shall and will truly and honestly serve him the said *A. B.* at all times for and during the said term, as a faithful clerk ought to do, in all things whatsoever, in the manner above specified. In consideration whereof, and of the sum of — *l.* of lawful money of *Great Britain*, by the said *C. D.* to the said *A. B.* in hand well and truly paid, at or before the sealing and delivery of these presents, (the receipt whereof he the said *A. B.* doth hereby acknowledge, and of and from the same and every part thereof, doth acquit, release and discharge the said *C. D.* his executors and administrators, and every of them for ever, by these presents,) he the said *A. B.* for himself, his heirs, executors and administrators, doth covenant, promise

CHAP. II. promise and agree to and with the said *C. D.* his executors and administrators, by these presents, in manner following, (that is to say); that he the said *A. B.* shall and will accept and take the said *E. F.* as his clerk, and shall and will find and provide him: during the said term, with board and lodging: And also that he the said *A. B.* shall and will, by the best ways and means he may or can, and to the utmost of his skill and knowledge, teach and instruct, or cause to be taught and instructed the said *E. F.* in the said practice or profession of an attorney at law and solicitor in Chancery, which he the said *A. B.* now doth, or shall at any time hereafter during the said term; use or practise: And also shall and will, at the expiration of the said term, use his best means and endeavours, at the request, costs and charges of the said *C. D.* and *E. F.* or either of them, to cause and procure him the said *E. F.* to be admitted and sworn an attorney of his majesty's said courts of King's Bench and Common Pleas, or either of them, or any other of his said majesty's courts of law or equity, provided he the said *E. F.* shall have well and faithfully served his said intended clerkship. In witness, (&c.)

(§ 2.)
Affidavit of
execution of
articles.

G. H. of — maketh oath and saith, that by articles of agreement, bearing date the — day of — last past, and made between *A. B.* of — gentleman, one of the attornies of his majesty's courts of King's Bench and Common Pleas at *Westminster*, and a solicitor in the high court of Chancery, of the one part, and *C. D.* of — and *E. F.* son of the said *C. D.* of the other part, the said
E. F.

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E. F. for the considerations therein mentioned, did put, place and bind himself clerk to the said *A. B.* to serve him in the profession of an attorney at law and solicitor in Chancery, from the day of the date of the said articles, for the term of five years from thence next ensuing, and fully to be complete and ended; and which said articles were in due form of law executed by the said *A. B. C. D.* and *E. F.* in the presence of this deponent and *J. K.* of — and that the names of *G. H.* and *J. K.* set and subscribed as witnesses to the due execution thereof, are of the proper handwriting of this deponent and the said *J. K.*

G. H.

Sworn, (§c.)

Notice is hereby given, that *E. F.* of — now under articles of clerkship to *A. B.* of — attorney at law, intends to apply next — term, to be admitted an attorney of his majesty's court of King's Bench. Dated this — day of — 18—. (§ 3.)
Notice of intention to apply for admission as an attorney.

E. F.

E. F. of — gentleman, maketh oath and saith, that he hath really and truly served and been employed by *A. B.* of — gentleman, as his clerk in the practice of an attorney and solicitor, for the full term of five years, pursuant to the articles hereunto annexed: And this deponent further saith, that he did, previous to last — term, affix the name and place of abode of him this deponent, and also the name and place of abode of the said *A. B.* his master, in the King's Bench office, and on the outside of (§ 4.)
Affidavit of service under articles.

CHAP. II. the court of King's Bench in *Westminster-hall*; and that he did also, previous to the same term, likewise enter his name and place of abode, as well as the name and place of abode of the said *A. B.* in the book kept for that purpose, at the chambers of each of the judges of his majesty's court of King's Bench.
Sworn, (*&c.*) *E. F.*

In the King's Bench.

(§ 5.)
Affidavit of
payment of
stamp-duty on
articles.

E. F. of — maketh oath and saith, that by articles of agreement bearing date, (*&c.*) and made and entered into between *A. B.* then and now of — gentleman, one of the attornies, (*&c.*) of the one part, and *C. D.* of — and this deponent of the other part, this deponent did put, place and bind himself clerk to the said *A. B.* to serve him in the profession of an attorney at law and solicitor in Chancery, from the day of the date of the said articles, for the term of five years from thence next ensuing, and fully to be complete and ended: And this deponent further saith, that the said articles were executed on the day they bear date; and that on the — day of — in the year of our Lord 18— the sum of — *l.* was paid in respect of the duty on the said articles; and which articles were on the — day of — inrolled with the proper officer appointed for that purpose in this honourable court: And (in case the person has been admitted in another court) this deponent further saith, that he was on the — day of — in the year of our Lord 18— admitted an attorney in his majesty's court of —.

E. F.

Sworn, (*&c.*)

I *E. F.*

I *E. F.* do swear, (or if a quaker, do affirm,) that **CHAP. II.**
 I will truly and honestly demean myself in the (§ 6.)
 practice of an attorney, according to the best of my Oath or affir-
 knowledge and ability. mission on ad-
 mission.

So help me God.

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CHAP. III.

Of WARRANTS of ATTORNEY, PAUPERS, INFANTS,
and NOTICES of ACTION, &c.

(§ 1.)

Memorandum
of warrant for
plaintiff.

IN the court of King's Bench.

— (to wit). *E. F.* is retained to prosecute
by *A. B.* as his attorney, against *C. D.*

No. — (on) *E. F.* plaintiff's attorney.
the file.) }

[If by an agent to the attorney immediately re-
tained, add, by *G. H.* his agent.]

Entered, or filed of record, this — day of —
in the — year of the reign of king *George* the
Third.

— (Officer's name.)

In the court of King's Bench.

(§ 2.)

The like, for
defendant.

— (to wit). *E. F.* is retained to defend by
C. D. as his attorney, at the suit of *A. B.*

E. F. defendant's attorney.

[If by an agent, add, by *G. H.* his agent.]

Entered, or filed of record, this — day of —
in the — year of the reign of King *George* the
Third.

— (Officer's name.)

In the court of King's Bench.

(§ 3.)

The like, on a
cognovit, &c.

— (to wit). *E. F.* is retained to enter up judg-
ment on a *cognovit actionem*, (or warrant of at-
torney to acknowledge judgment, as the case may
require.)

OF PAUPERS.

require,) dated on the — day of — at the suit **CHAP. III.**
of *A. B.* against *C. D.* *E. F.* Attorney.

[If by an agent, add, by *G. H.* his agent.]

Entered, or filed of record, (as the case may require) this — day of — in the — year of the reign of king *George the Third.*

— (Officer's name),

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

A. B. of — maketh oath and saith, that he (§ 4.)
is not worth five pounds in the world, (save and except his wearing apparel, and the matter in question in this cause). Affidavit to be admitted to sue in forma pauperis.

Sworn, (&c.)

A. B.

To the Right Honourable *Edward Lord Ellenborough*, Lord Chief Justice of his Majesty's Court of King's Bench. (§ 5.) Petition thereon.

The humble petition of *A. B.*

Sheweth,

That the said defendant is justly indebted unto your petitioner, in the sum of — *l.* for the work and labour of your petitioner, done for the said defendant at his request; and your petitioner hath commenced an action against him for the same, but finds himself unable (or hath not yet commenced any action against him for the same, being unable) to carry on the said cause, on account of his extreme poverty, as appears by the affidavit hereto annexed.

Your

CHAP. III. Your petitioner therefore most humbly prays, that he may be admitted to prosecute his said action *in formá pauperis*, and that *E. F.* Esquire may be assigned to him as his counsel, and *G. H.* Gentleman as his attorney, to prosecute his said suit.

And your petitioner shall ever pray, &c.

(§ 6.)
Opinion of
counsel.

I humbly conceive, that the said petitioner hath good cause of action against the above-named *C. D.* and humbly consent to be his counsel.

E. F.

A. B. plaintiff,
and
C. D. defendant.

In the King's Bench.
To the Right Honourable *Edward* Lord *Ellenborough*, Lord Chief Justice of his Majesty's Court of King's Bench.

(§ 7.)
Petition by an
infant, to be
admitted to
sue by *prochein
ami*,

The humble petition of *A. B.* the plaintiff in this cause;

Sheweth,

That your petitioner has, as he is advised, good cause of action against the above-named *C. D.* for a breach of promise of marriage, and that your petitioner has lately commenced an action in this honourable court against the said *C. D.* for the same; but in regard that your petitioner is an infant, under the age of twenty-one years, to wit, of the age of —

Your petitioner therefore humbly prays your lordship, to admit him to prosecute the said action by *E. F.* of — your petitioner's next friend.

And your petitioner shall ever pray, &c.

I do

I do hereby consent and agree, that the above-named *A. B.* shall be at liberty to prosecute this action, by me as his next friend, according to the prayer of the above petition. Witness my hand this — day of — 18—.

CHAP. III.

(§ 8.)

Consent of
prochain ami,

Witness *G. H.*

E. F.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

G. H. of — maketh oath and saith, that *A. B.* the above-named plaintiff, did on the — day of — instant, duly sign the petition hereunto annexed, in the presence of this deponent: And this deponent further saith, that at the same time he was present, and did see *E. F.* the person mentioned in the prayer of the said petition, duly sign the consent or agreement thereunder written, as the next friend of the said *A. B.*

(§ 9.)
Affidavit of
signature of
petition and
consent.

Sworn, (&c.)

G. H.

IT is ordered by the court, that *E. F.* be admitted to prosecute for *A. B.* who is under the age of twenty-one years, against *C. D.* a certain action of trespass on the case, (or as the action is,) in the court of the lord the king before the king himself, as the next friend of the said *A. B.* during his minority.

(§ 10.)
Rule of court
thereupon.

By the Court.

IT is ordered by the court, that *G. H.* be admitted to defend for *C. D.* who is under the age of twenty-one years, at the suit of *A. B.*, a certain action

(§ 11.)
Rule of court
for the admis-
sion of a guar-
dian for defen-
dant.

I do

CHAP. III. action of trespass on the case, (or as the action is,) in the court of the lord the king before the king himself, as the guardian of the said *C. D.* during his minority. By the Court.

(§ 12.)
General admission to prosecute and defend, &c.

E. F. is admitted to prosecute and defend for *A. B.* who is under the age of twenty-one years, all and all manner of actions, suits and controversies whatsoever, in the court of the lord the king before the king himself, as the next friend and guardian of the said *A. B.* during his minority. Admitted the — day of — 18—.

Ellenborough.

To *C. D.* Esquire, one of his majesty's justices of the peace in and for the county of —.

SIR,

(§ 13.)
Notice of action to a justice, by the party, for false imprisonment.

You having, on or about the — day of — last, as one of his majesty's justices of the peace in and for the said county of —, caused me to be apprehended, and unlawfully committed to a certain common gaol or prison called — in and for the same county, and to be there imprisoned, and kept and detained in prison there, without any reasonable or probable cause whatsoever, for a long space of time, to wit, for the space of — then next following; I do therefore, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a writ of — to be sued out of his majesty's court of King's Bench at *Westminster* against you, at my suit, for the said imprisonment.

imprisonment, and shall proceed against you there- CHAP. III.
upon according to law. Dated this — day of
— 18—.

Yours, &c.

A. B.

E. F. of — attorney for the within-named *A. B.* Indorsement
thereon.

To *C. D.* Esquire, one of his majesty's justices, (§ 14.)
(&c.)

Sir,

You having, on or about the — day of —
last, as one of his majesty's justices of the peace in
and for the said county of —, caused *A. B.* of
— to be apprehended, (&c.) I do therefore, as
the attorney of and for the said *A. B.* in this behalf,
according to the form of the statute in such case
made and provided, hereby give you notice, that I
shall, at or soon after the expiration of one calen-
dar month from the time of your being served with
this notice, cause a writ of — to be sued out of
his majesty's court of King's Bench at *Westminster*
against you, at the suit of the said *A. B.* for the said
imprisonment, and shall proceed against you there-
upon according to law. Dated, (&c.)

(Indorsement, as before.) Your's, &c.

E. F.

Attorney for the said *A. B.*

To *C. D.* and *E. F.* officers of his majesty's
Customs. (§ 15.)

You having, on or about the — day of
— last, as officers of his majesty's customs, un-
lawfully seized and taken possession of a certain
brig or vessel called —, together with her tackle,
apparel,

The like, to
custom-house
officers, by the
party, for seiz-
ing a brig, &c.

CHAP. III. apparel, furniture and stores, of and belonging to me *A. B.* of — and being of a large value, to wit, of the value of — *l.* and from thence hitherto unlawfully kept and detained the said brig or vessel, and her tackle, apparel, furniture and stores aforesaid, and converted and disposed thereof to your own use; I do therefore, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a writ of — to be sued out of his majesty's court of King's Bench at *Westminster* against you, at my suit, for the said trespass, and shall proceed against you thereupon according to law. Dated, (&c.)

(Indorsement, as before.) Your's, &c.

A. B.

(§ 16.)

The like, to excise officers, by the attorney, for seizing goods.

To *C. D.* and *E. F.* officers of his majesty's Excise.

You having, on or about the — day of — last, as officers of his majesty's excise, unlawfully seized, taken, and carried away a large quantity, to wit, two hundred pounds weight of soap, belonging to *A. B.* of — and being of a large value, to wit, of the value of — *l.* and converted and disposed thereof to your own use; I do therefore, as the attorney of and for the said *A. B.* in this behalf, according to the form of the statute in such case made and provided, hereby give you notice, that I shall, at or soon after the expiration of one calendar month from the time of your being served with this notice, cause a writ of — to be sued out of his majesty's

majesty's court of King's Bench at *Westminster*, **CHAP. III.**
 against you, at the suit of the said *A. B.* for the said
 trespass, and shall proceed against you thereupon
 according to law. Dated, (&c.)

(Indorsement, as before.)

Your's, &c.

E. F.

Attorney for the said *A. B.*

To *C. D.* and *E. F.* officers of his majesty's Ex- (§ 17.)
 cise.

I do hereby, according to the form of the sta-
 tute in such case made and provided, give you no-
 tice, that I shall, by my attorney Mr. *E. F.* of —
 at or soon after the expiration of one calendar month
 from the time of your being served with this notice,
 cause a writ of — to be sued out of his majesty's
 court of King's Bench at *Westminster*, against you,
 at my suit; for that you the said *C. D.* and *E. F.*
 on the — day of — last, with force and arms,
 seized and laid hold of my horse, of a large price,
 which was then passing in and along the king's
 highway, and drawing my cart, of a large value,
 wherein I was then riding and going in and about my
 lawful and necessary affairs and business; and with-
 out my licence or consent, and against my will, stop-
 ped and detained me and my said horse and cart for
 a long space of time, to wit, for the space of —,
 during which I not only lost and was deprived of the
 use and benefit of my said horse and cart, but was
 hindered and prevented from doing and transacting
 my lawful and necessary affairs and business: And
 also for that you the said *C. D.* and *E. F.* on the said
 — day of — last, with force and arms, seized
 and

The like, by
 the party, ano-
 ther way, for
 stopping and
 detaining the
 plaintiff's
 horse and cart,
 &c.

CHAP. III. and took my said horse and cart, and kept and detained the same against my will, for another long space of time, to wit, for the space of — during which I lost and was deprived of the use and benefit of my said horse and cart: And also for that you the said *C. D.* and *E. F.* on the said — day of — last, with force and arms, assaulted, beat, bruised, wounded and ill-treated me, and imprisoned me, and kept and detained me in prison, without any reasonable or probable cause whatsoever, for a long space of time, to wit, for the space of — contrary to the laws and customs of this realm, and against my will; and rent, tore, damaged and spoiled my cloaths, of a large value, which I then had on and wore: And other wrongs to me did, to my great damage, and against the peace of our lord the now king. Dated, (&c.)

(Indorsement, as before.)

Your's, &c.

A. B.

(§ 18.)
Demand on a
constable, of
the perusal
and copy of a
warrant.

I do hereby, as the attorney of and for *A. B.* of —, according to the form of the statute in such case made and provided, demand of you, the perusal and copy of the warrant, by virtue or under colour whereof you did, on or about the — day of — last, apprehend the said *A. B.* and carry and convey him in custody, to and before *G. H.* esquire, one of his majesty's justices of the peace in and for the county of —. Dated, (&c.)

Yours, &c.

E. F.

Attorney for the said *A. B.*

To Mr. *C. D.*

To Mr.

I do hereby, as the attorney of and for *A. B.* CHAP. III.
of — according to the form of the statute in (§ 19.)
such case made and provided, demand of you the The like, on a
perusal and copy of the warrant of commitment and gaoler.
detainer, under which you received into your custody
the said *A. B.* on or about the — day of — last,
and kept and detained him in custody for the space of
— then next following. Dated, (&c.)

Yours, &c.

E. F.

Attorney for the said *A. B.*

To Mr. *C. D.*

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CHAP. IV.

*Of the BILL of MIDDLESEX and LATITAT; and
SUBSEQUENT PROCESS thereon.*

(§ 1.)
*Queritur, or
plaint in tres-
pass.*

Middlesex, (to wit). A. B. complains of C. D.
For that the said *C. D.* on the — day of —
in the — year of the reign of our lord the now
king, with force and arms, &c. broke and entered
the close of the said *A. B.* at — in the county
aforesaid; and other wrongs to him did, to the da-
mage of the said *A. B.* of — l. and against the
peace of our said lord the now king, &c.

John Doe,
and
Richard Roe.
Pledges to prosecute,

(§ 2.)
*Attachment
thereon.*

The sheriff is commanded, that he attach *C. D.*
so that he be before our lord the king at *West-*
minster, on — next after — to answer *A. B.* of
a plea of trespass, and that he have there then this
precept.

By Bill. *Way.*

(§ 3.)
*Return of
attachatus est.*

The within named *C. D.* is attached b } *E. F.*
pledges - - - - - } *G. H.*
The answer of — sheriff.

(§ 4.)
*Return of
nilii habet.*

The within-named *C. D.* hath nothing in my bai-
liwick, by which he can be attached.
The answer of — sheriff.
Middle-

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Roe, &c
return).

—
trespass

Middlesex, (to wit). Bill for *A. B.* against *C. D.* CHAP. IV.
returnable on — next after —. (§ 5.)

E. F. attorney. *Præcipe* for
bill of Middle-
sex, not bail-
able.
— 18—.

Middlesex, (to wit). The sheriff is command- (§ 6.)
ed to take *C. D.* and *Richard Roe*, if they be Bill of Middle-
found in his bailiwick, and them safely keep, so that sex, not bail-
he may have their bodies before the lord the king at able.
Westminster, on — next after —, to answer
A. B. of a plea of trespass; and that he have there
the. this precept.

By Bill. *Way.*

E. F. Temple,
Plaintiff's attorney (or agent).
— 18—.

(§ 7.)
Indorsement
thereon.

Middlesex, (to wit). *Alias* (or *pluries*) bill for (§ 8.)
A. B. against *C. D.* returnable on — next *Præcipe* for
after —. bill of Middle-
sex.

E. F. attorney.
— 18—.

Middlesex, (to wit). The sheriff is command- (§ 9.)
ed, as *before* he was (or as *oftentimes* before he *Alias* or *pluries*
hath been) commanded, to take *C. D.* and *Richard* Bill of Middle-
Roe, &c. (as in the bill of *Middlesex*, altering the sex.
return).

— (to wit). *Latitat* for *A. B.* against *C. D.* (§ 10.)
trespass, returnable on — next after —. *Præcipe* for *la-*
titat, not bail-
able.

E. F. attorney.
— 18—.

CHAP. IV.

(§ 11.)
Latitat, not
 bailable.

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded our sheriff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, at a certain day now past, to answer *A. B.* of a plea of trespass; and our said sheriff of *Middlesex* at that day returned to us, that the said *C. D.* and *Richard Roe* were not found in his bailiwick; whereupon, on the behalf of the said *A. B.* it is sufficiently testified in our court before us, that the said *C. D.* and *Richard Roe* do run up and down and secrete themselves in your county: Therefore we command you, that you take them, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after — to answer the said *A. B.* of the plea aforesaid, and have there then this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign. *Way.*

Indorsement thereon, as before, p. 19.

(§ 12.)
Præcipe for
alias or *pluries*
capias, not bail-
 able.

— (to wit). *Alias* (or *pluries*) *capias* for *A. B.* against *C. D.* trespass, returnable on — next after —.

E. F. attorney.

— 18—.

(§ 13.)
Alias or *pluries*
capias, not bail-
 able.

George the Third, &c. To the sheriff of — greeting: We command you, as *before* (or “as *oftentimes* before”) we have commanded you, that you take *C. D.* and *Richard Roe*, if they shall be found in your bailiwick, and them safely keep, so that

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that you may have their bodies before us at *West-* **CHAP. IV.**
minster, on — next after — to answer *A. B.* of
 a plea of trespass; and have there then this writ.
 Witness, (&c.)

Middlesex, (to wit). Bill for *A. B.* against *C. D.* (§ 14.)
 Case, for — *l.* on promises, (or as the action is,) *Præcipe* for
 returnable on — next after —. bailable bill of
Middlesex.

E. F. attorney,
 —18—.

Oath for — *l.* by affidavit filed.

Middlesex, (to wit). The sheriff is commanded (§ 15.)
 to take *C. D.* and *Richard Roe*, if they shall be *Bailable bill of*
 found in his bailiwick, and them safely keep, so *Middlesex*.
 that he may have their bodies before the lord the
 king at *Westminster*, on — next after — to
 answer *A. B.* of a plea of trespass, and also to a bill
 of the said *A. B.* to be exhibited against the said
C. D. for — *l.* upon promises, according to the
 custom of the court of the sa. lord the king, be-
 fore the king himself; and that he have there then
 this precept. By Bill. *Way*.

Bail by affidavit for — *l.* (§ 16. a.)
E. F. Temple, Indorsement
 — 18—. thereon.

Middlesex, (to wit). *Alias* (or *pluries*) bill for *A. B.* (§ 16. b.)
 against *C. D.* Case, for — *l.* on promises, (or *Præcipe* for
 as the action is,) returnable on — next after *bill of Middle-*
 —. *sex, bailable.*

E. F. attorney,
 —18—.

Oath for — *l.* by affidavit filed.

CHAP. IV. *Middlesex*, (to wit). The sheriff is commanded, as before he was (or "as oftentimes before he hath been") commanded, to take *C. D.* and *Richard Roe*, &c. (as in the bill of *Middlesex*, altering the return).

(§ 17.)
Alias or pluries
bill of Middle-
sex, bailable.

(§ 18.) *Middlesex*, (to wit). *Non omittas* bill for *A. B.* against *C. D.* Case, for — *l.* on promises, (or as the action is), returnable, (&c.)

Precept for non
omittas bill of
Middlesex.

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

(§ 19.) *Middlesex*, (to wit). The sheriff is commanded, that he omit not by reason of any liberty in his county, but that he enter the same, and take *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass, and also to a bill, &c. (as before.)

Non omittas
bill of Middle-
sex.

By Bill. *Way.*

Indorsement as before, p. 21.

(§ 20.) —, (to wit). *Latitat* for *A. B.* against *C. D.* Case, for — *l.* on promises, returnable on — next after —.

Precept for
bailable *latitat*.

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

George

George the Third, (S.c.) To the sheriff of — CHAP. IV.
 greeting: Whereas we lately commanded our she- (§ 21.)
 riff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his baili- Bailable lati-
 wick, and them safely keep, so that he might have tat.
 their bodies before us at *Westminster*, at a certain
 day now past, to answer *A. B.* of a plea of trespass,
 and also to a bill of the said *A. B.* to be exhibited
 against the said *C. D.* for — *l.* upon promises, ac-
 cording to the custom of our court before us; and
 our said sheriff of *Middlesex* at that day returned to
 us, that the said *C. D.* and *Richard Roe* were not
 found in his bailiwick; whereupon, on behalf of the
 said *A. B.* it is sufficiently testified in our said
 court before us, that the said *C. D.* and *Richard*
Roe do run up and down, and secrete themselves in
 your county: Therefore we command you, that you
 take them, if they shall be found in your bailiwick,
 and safely keep them, so that you may have their
 bodies before us at *Westminster*, on — next after
 — to answer the said *A. B.* of the plea and to the
 bill aforesaid; and have there then this writ. Wit-
 ness *Edward* Lord *Ellenborough*, at *Westminster*,
 the — day of — in the — year of our reign.

Way.

Bail by affidavit for — *l.*

E. F. Temple,

Plaintiff's attorney (or agent).

— 13—

(§ 22.)

Indorsement
thereon.

— (to wit). *Alias* (or *pluries*) *capias* for *A. B.* (§ 25.)
 against *C. D.* Case, for — *l.* on promises, *Præcipe* for
 C 4 (or *alias* or *pluries*
capias, bailable.

CHAP. IV. (or as the action is,) returnable on — next after

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

(§ 24.)

*Præcipe for
alias or pluries
capias, bailable.*

George the Third, (&c.) To the sheriff of — greeting: We command you, as before (or “as oftentimes before”) we have commanded you, that you take *C. D.* and *Richard Roe*, if they shall be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after — to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* against the said *C. D.* for — *l.* upon promises, according to the custom of our court before us to be exhibited; and have there then this writ. Witness, (&c.)

(§ 25.)

*Præcipe for
non omittas
capias, bailable.*

— (to wit.) *Non omittas capias* for *A. B.* against *C. D.* Case, for — *l.* on promises, (or as the action is,) returnable, (&c.)

E. F. attorney.

— 18—.

Oath for — *l.* by affidavit filed.

(§ 26.)

*Non omittas
capias, bailable.*

George the Third, (&c.) To the sheriff of — greeting: We command you, that you omit not by reason of any liberty in your county, but that you enter the same, and take *C. D.* and *Richard Roe*, &c. (as in the *alias* or *pluries capias*.)

(§ 27.)

*Præcipe for
latitat, into a
county-palatine.*

County-palatine of —, (to wit.) *Latitat* for *A. B.* against *C. D.* &c. (as for a common *latitat*).

George

George the Third, (&c.) To — greeting: CHAP. IV.
 Whereas we lately commanded our sheriff of *Middlesex*, that he should take *C. D.* and *Richard Roe*, if they should be found in his bailiwick, and them safely keep, so that he might have their bodies before us at *Westminster*, at a certain day now past, to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, according to the custom of our court before us; and our said sheriff of *Middlesex* at that day returned to us, that the said *C. D.* and *Richard Roe* were not found in his bailiwick; whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* and *Richard Roe* do run up and down, and secrete themselves in our said county-palatine of —: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and to be directed to the sheriff of our said county-palatine, you command the said sheriff, (or, if in *Durham*, that by our writ under the seal of your bishoprick to be duly made, and directed to the sheriff of the county of *Durham*, you cause the said sheriff to be commanded,) that he take the said *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before us at *Westminster*, on — next after — to answer the said *A. B.* of the plea and to the bill aforesaid; and have there then this writ.
 Witness, (&c.)

(§ 28.)
Latitat into a county-palatine. For the direction of this writ, *vide post*, p. 28.

And

CHAP. IV.

(§ 29.)
*Ac-ti-ōm in
 assumpsit, at
 the suit of exe-
 cutors.*

And also to a bill of the said *A.* and *B.* as ex-
 cutors of the last will and testament of *E. F.* de-
 ceased, to be exhibited against the said *C. D.* for
 — *l.* upon promises, according to the custom of
 the court of the said lord the king before the king
 himself (in a bill of Middlesex; or in a *latitat*, ac-
 cording to the custom of our court before us.)

♦ (§ 30.)
 The like, at
 the suit of ad-
 ministrators.

And also to a bill of the said *A.* and *B.* as ad-
 ministrators of all and singular the goods, chat-
 tels and credits, which were of *E. F.* deceased, at
 the time of his death, who died intestate, to be ex-
 hibited against the said *C. D.* for — *l.* upon pro-
 mises, according, (&c.)

(§ 31.)
 The like, at
 the suit of
 assignees of a
 bankrupt.

And also to a bill of the said *A.* and *B.* as as-
 signees of the estate and effects of *E. F.* a bank-
 rupt, according to the force, form and effect of the
 several statutes concerning bankrupts, to be ex-
 hibited against the said *C. D.* for — *l.* upon pro-
 mises, according, (&c.)

(§ 32.)
 In covenant.

And also to a bill of the said *A. B.* to be ex-
 hibited against the said *C. D.* for breach of cove-
 nant, to the damage of the said *A. B.* of — *l.* ac-
 cording, (&c.)

(§ 33.)
 In debt on
 bond, &c.

And also to a bill of the said *A. B.* to be ex-
 hibited against the said *C. D.* for — *l.* debt, ac-
 cording, (&c.)

And

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* in a plea of debt on recognizance, according, (&c.)

CHAP. IV.

(§ 34.)

In debt on recognizance.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* in debt on statute, according, (&c.)

(§ 35.)

In debt on statute.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for detaining the goods and chattels (or “deeds and writings”) of the said *A. B.* to the value of — *l.* according, (&c.)

(§ 36.)

In detinue.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for converting and disposing of the goods and chattels of the said *A. B.* to the value of — *l.* according, (&c.)

(§ 37.)

In trover.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for taking and carrying away the goods and chattels of the said *A. B.* to his damage of — *l.* according, (&c.)

(§ 38.)

In trespass, *de bonis asportatis*.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for a certain trespass and assault, committed by the said *C. D.* on the said *A. B.* to his damage of — *l.* according, (&c.)

(§ 39.)

In trespass and assault.

And also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for assaulting, and having criminal conversation with *E.* the wife of the said *A. B.* to his damage of — *l.* according, (&c.)

(§ 40.)

In crim. con.

To

CHAP. IV. To the sheriff (or sheriffs) of our city (or town and county of the town) of —.

(§ 41.)

Direction to the sheriff or sheriffs of a city, or town and county.

And note; the cities of *Canterbury*, *Exeter*, *Litchfield*, and *Worcester*, and the towns of *Kingston-upon-Hull*, *Newcastle upon-Tyne*, *Poole*, and *Southampton*, have only one sheriff; but the cities of *Bristol*, *Chester*, *Coventry*, *Gloucester*, *Lincoln*, *London*, *Norwich*, and *York*, and the town of *Nottingham*, have two sheriffs.

(§ 42.)

The like, to the coroner.

To the coroner of our city of *London*, (or coroners of our county of —).

(§ 43.)

The like, to a county-palatine.

To our chancellor of our county-palatine of *Lancaster*, or to his deputy there.

To our chamberlain of our county-palatine of *Chester*, or his deputy.

To the reverend father in God — by divine permission lord bishop of *Durham*, or to his chancellor there.

(§ 44.)

The like, to the cinque-ports.

To our constable (or lieutenant) of our castle of *Dover*, or to his deputy there.

(§ 45.)

The like, to *Berwick*.

To the mayor and bailiffs of our borough of *Berwick-upon-Tweed*.

As

As yet of — term, in the — year of the reign of king *George* the Third. Witness *Edward* Lord *Ellenborough*.

Middlesex, (to wit.) The sheriff is commanded that he take *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before the lord the king at *Westminster*, on — next after —, to answer *A. B.* of a plea of trespass; and that the said sheriff have there then this precept.

By Bill. *Way.*

At which day, before our lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* and *Richard Roe*, in the plea aforesaid; and the sheriff, to wit, — and — sheriff of *Middlesex* aforesaid, now here returns, that the said *C. D.* and *Richard Roe* are not, nor is either of them, found in his bailiwick; and the said *C. D.* and *Richard Roe* do not come. Therefore, as before, the said sheriff is commanded, that he take the said *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before our said lord the king at *Westminster*, on — next after — to answer to the said *A. B.* of the plea aforesaid: The same day is given to the said *A. B.* there, &c.

Middlesex, (to wit.) Entry of bill of *Middlesex*, between *A. B.* plaintiff, and *C. D.* defendant, returnable on, (S.c.) Roll —.

CHAP. IV.
(§ 46.)

Entry of a bill of *Middlesex* on the roll, to save the statute of limitations, and award of *alias*.

Award of *alias*.

(§ 47.)
Docket paper.

As

CHAP. IV.

(§ 48.)

Entry of *lati-*
ent, and award
of *alias* and
pluries capias.

As yet of — term, in the — year of the reign of king *George* the Third. Witness *Edward* Lord *Ellenborough*.

England, (to wit). Our lord the king sent to his sheriff of — his writ close in these words, to wit, *George* the Third, &c. (here copy the *latitat*). At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that the said *C. D.* is not found in his bailiwick; and the said *C. D.* does

Award of *alias*.

not come: Therefore, as before, the said sheriff is commanded, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before our said lord the king at *Westminster*, on — next after —, to answer the said *A. B.* of the plea aforesaid; the same day is given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff of — aforesaid hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore the said sheriff is commanded (as oftentimes before he hath been commanded) that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before our said lord the king at *Westminster*, on — next after —, to answer the said *A. B.* of the plea aforesaid; the same day is given to the said *A. B.* there, &c.

Continuance
by *viccomes*
non misit breve.

Award of *plu-*
ries.

CHAP. V.

Of the ORIGINAL WRIT, and PROCESS thereon, PREVIOUS to the CAPIAS.

— (to wit). **COMMAND C. D.** late of — (§ 1.)
 that justly and without delay he keep with *A. B.* the *Præcipe for an*
 covenant or (covenants) made by the said *C. D.* with *original writ in*
 the said *A. B.* according to the force, form and ef- *covenant.*
 fect of a certain indenture, (or deed-poll, or arti-
 cles of agreement, as the case may be,) in that be-
 half made between them, as it is said; and unless,
 &c.

George the Third, by the grace of God of the (§ 2.)
 united kingdom of *Great Britain and Ireland* king, *Original writ*
 defender of the faith, to the sheriff of — greet- *thereon.*
 ing: **COMMAND C. D.** late of — that justly and
 without delay he keep with *A. B.* the covenant (or
 covenants) made by the said *C. D.* with the said
A. B. according to the force, form and effect of a
 certain indenture, (or deed-poll, or articles of agree-
 ment,) in that behalf made between them, as it is
 said: and unless he shall so do, and if the said *A. B.*
 shall make you secure of prosecuting his claim, then
 summon by good summoners the said *C. D.* that he
 be before us, on — wheresoever we shall then be
 in *England*, to shew wherefore he hath not done it;
 and

CHAP. V. and have there the names of the summoners, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

(§ 3.) — (to wit). Command *C. D.* late of — that
Præcipe for an original writ in debt. justly and without delay he render to *A. B.* the sum of — *l.* of good and lawful money of *Great Britain*, which he owes to, and unjustly detains from him, as it is said; and unless, &c.

(§ 4.) *George* the Third, (&c.) To the sheriff of —
Original writ thereon. greeting: Command *C. D.* late of — that justly and without delay he render to *A. B.* the sum of — *l.* of good and lawful money of *Great Britain*, which he owes to, and unjustly detains from him, as it is said: and unless he shall so do, and if the said *A. B.* shall make you secure of prosecuting his claim, then summon by good summoners the said *C. D.* that he be before us, on — wheresoever we shall then be in *England*, to shew wherefore he hath not done it; and have there the names of the summoners, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

For the form of the original writ and process against a peer or member of the House of Commons, see the Practice, p. 111, 12. (*g*); or if the action be against a corporation, insert their proper style, as “the mayor and commonalty and citizens of the city of *London*,” &c.; or if against hundredors, call them, “the men inhabiting within the hundred of — in your county.”

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— (to wit). If *A. B.* make you secure, &c. CHAP. V.
 then put by gages and safe pledges *C. D.* late of (§ 5.)
 — that he be before our lord the king, on — *Præcipe* for an
 wheresoever our said lord the king shall then be in original writ,
England, to shew, For that wheréas, &c. (here set in case.
 out the cause of action, as in a declaration,) to the
 damage of the said *A. B.* of — *l.* as it is said, &c.

George the Third, (&c.) To the sheriff of — (§ 6.)
 greeting: If *A. B.* shall make you secure of prosec- Original writ
 uting his claim, then put by gages and safe pledges thereon.
C. D. late of — that he be before us, on —
 wheresoever we shall then be in *England*, to shew,
 For that whereas, &c. (as in the *præcipe*, to the
 words “as it is said”); and have there the names
 of the pledges, and this writ. Witness ourself at
Westminster, the — day of — in the — year
 of our reign.

George the Third, (&c.) To the sheriff of — (§ 7.)
 greeting: Put by gages and safe pledges *C. D.* late *Pone or attach-*
 of — that he be before us, on — wheresoever ment, on an
 we shall then be in *England*, to answer to *A. B.* of original writ,
 a plea that he keep with him the covenant, (&c.) or in covenant or
 that he render to him, &c. (as in the original writ, debt.
 to the words “as it is said,”) and to shew wherefore
 he was not before us at *Westminster*, on — as he
 was summoned; and have there the names of the
 pledges, and this writ. Witness *Edward* Lord *El-*
lenborough, at *Westminster*, the — day of — in
 the — year of our reign.

Kenyon.

D

The

CHAP. V. The within-named *C. D.* is attached by pledges, (§ 8.) *E. F.* and *G. H.* (or has nothing in my bailiwick, by Sheriff's return thereto. which he can be attached).

(§ 9.)
Testatum pone
or attachment.

George the Third, (&c.) To the sheriff of — greeting: Put by gages and safe pledges *C. D.* late of — that he be before us on — wheresoever we shall then be in *England*, to answer to *A. B.* of a plea, &c. (as in the *pone*, to the words “as it is said”); and whereupon our sheriff of — returned to us on, &c. (the return of the *pone*) last past, that the said *C. D.* had nothing in his bailiwick, by which he could be attached: whereas it is testified in our same court before us, that the said *C. D.* hath sufficient in your bailiwick, by which he may be attached; and have there the names of the pledges, and this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

Kenyon.

(§ 10.)
Distringas on
an original
writ.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain *C. D.* late of — by all his lands and chattels in your bailiwick, so that neither he, nor any one for him, do lay hands on the same, until you shall receive from us another command in that behalf, and that you answer to us for the issues of the same, so that you have his body before us on — wheresoever we shall then be in *England*, to answer to *A. B.* of a plea, for that whereas, &c. (in case; or in covenant, of a plea that he keep, &c. or in debt, of a plea that he render, &c. as in the original, to the words

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words "as it is said,") and to hear his judgment thereupon of many defaults; and have there this writ. Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

CHAP. V.

Kenyon.

George the Third, (&c.) To the sheriff of — (§ 11.)
greeting: We command you, as *before*, (or as *oftentimes*) we have commanded you, that you distrain, (*&c.*)

Alias or pluries distringas.

George the Third, (&c.) To the sheriff of — (§ 12.)
greeting: We command you, that you distrain *C. D.* late of, &c. (as in the *distringas*, altering the return, to the words "many defaults"); and whercupon our sheriff of — returned to us on, &c. (the return of the *distringas*) last past, that the said *C. D.* had nothing in his bailiwick, by which he could be distrained: whereas it is testified in our same court before us, that the said *C. D.* hath sufficient lands and chattels in your bailiwick, by which he may be distrained; and have there this writ. Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

Testatum distringas.

Kenyon.

A. B. } Upon reading the several writs of *distringas* issued in this cause, it is ordered,
C. D. } that the defendant upon notice, (&c.) shall on — shew cause why the issues returned upon the said several writs of *distringas* should not be sold, and the monies arising from the sale thereof should not be forthwith brought into court, and why

(§ 13.)
Rule nisi for the sale of issues.

CHAP. V. it should not be referred to the Master to tax the plaintiff his costs, occasioned by his issuing out the said several writs; and why the costs, when taxed, should not be paid out of the monies so brought into court, and why the surplus of the said money, after payment of the said costs, should not be retained in court, until the purpose of the said writs be answered. On the motion of Mr. —.

By the Court.

TABLE

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TABLE

CHAP. V.

(§ 14.)

TABLE OF TERMS AND RETURNS.

HILARY TERM.

- Returns by original.
1. In eight days of Saint Hilary.
 2. In fifteen days of Saint Hilary.
 3. On the morrow of the Purification.
 4. In eight days of the Purification.

- Returns by bill, and attachment of privilege.
1. On ——— next after eight days of Saint Hilary.
 2. On ——— next after fifteen days of Saint Hilary.
 3. On ——— next after the morrow of the Purification.
 4. On ——— next after eight days of the Purification.

EASTER TERM.

1. In fifteen days of Easter.
2. In three weeks after Easter.
3. In one month after Easter.
4. In five weeks from Easter-day.
5. On the morrow of the Ascension.

1. On ——— next after fifteen days of Easter.
2. On ——— next after three weeks from the day of Easter.
3. On ——— next after one month from the day of Easter.
4. On ——— next after five weeks from the day of Easter.
5. On ——— next after the morrow of the Ascension.

TRINITY TERM.

1. On the morrow of the holy Trinity.
2. In eight days of the holy Trinity.
3. In fifteen days of the holy Trinity.
4. In three weeks after the holy Trinity.

1. On ——— next after the morrow of the holy Trinity.
2. On ——— next after eight days of the holy Trinity.
3. On ——— next after fifteen days of the holy Trinity.
4. On ——— next after three weeks of the holy Trinity.

MICHAELMAS TERM.

1. On the morrow of All Souls.
2. On the morrow of St. Martin.
3. In eight days of St. Martin.
4. In fifteen days of Saint Martin.

1. On ——— next after the morrow of All Souls.
2. On ——— next after the morrow of Saint Martin.
3. On ——— next after eight days of Saint Martin.
4. On ——— next after fifteen days of Saint Martin.

CHAP. V. In Chancery.

A. B. plaintiff,
Between and
C. D. defendant.

(§ 15.) To the right honorable the Master of the Rolls.
The humble petition of *A. B.* plaintiff;
Sheweth,

Petition to the
Master of the
Rolls, for origi-
nal writ.

That your petitioner in — term (or vacation) last, commenced an action at law against the above-named *C. D.* late of — in his majesty's court of Common Pleas at *Westminster*, in a plea of trespass on the case, to his damage of — *l.* (or as the plea is), wherein your petitioner hath laid his venue in the county of —; and judgment hath been obtained in such action, in — term last past, for — *l.* damages and — *l.* costs (or according to the fact;) whereupon the said defendant hath brought his writ of error, returnable in his majesty's court of King's Bench, on — wheresoever, (&c.) but no further proceedings have been had thereon.

That your petitioner hath not as yet sued out any original writ to warrant the said judgment; and he is advised, that it is necessary the same should be sued out, to warrant the said judgment: But the time for applying for the same in the ordinary course being expired, the cursitor of the said county cannot make out the same, without your honor's order for that purpose.

Your petitioner therefore humbly prays your honor, to grant unto him an order, that the cursitor for the said county of — may issue an original writ in this cause, out of his majesty's high court of Chancery;

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Chancery, returnable in his said majesty's court of CHAP. V.
Common Pleas, on — in — term last.

And your petitioner shall ever pray, &c.

A. B.

— 18—. (§ 16.)

Be it so; and let the petitioner pay the defendant *Fiat* thereon.
his costs in error, in case he shall not, after having
had notice of this order, further prosecute his said
writ of error; and hereof give notice forthwith.

W. Grant.

— the — day of —, in the — year (§ 17.)
of the reign of his majesty king *George* the Order thereon.
Third, 18—. Between *A. B.* plaintiff and
C. D. defendant.

Upon consideration this day had by the right
honourable the master of the Rolls, of the humble
petition of the plaintiff, setting forth that the pe-
titioner having in — term (or vacation) last past,
commenced an action, &c. (reciting the petition):
It is thereupon ordered, that the cursitor of the said
county of — do issue an original writ in this
cause, out of this court, returnable in his majesty's
court of Common Pleas, on — in — term last
past: And it is further ordered, that the petitioner
pay the defendant his costs in error, in case the de-
fendant shall not, after having had notice of this
order, further prosecute his said writ of error; and
hereof notice is to be given forthwith.

CHAP. VI.

Of the BILL and PROCESS against MEMBERS of the HOUSE of COMMONS.

(§ 1.) *Way.*

Beginning and conclusion of a bill against a member of the House of Commons.

— term, in the — year of the reign of King *George* the Third.

— (to wit.) *A. B.* complains of *C. D.* esquire, having privilege of parliament, of a plea of trespass on the case, &c. (or as the plea is): For that whereas, &c. (omitting the charge of fraud and deceit in the breach in *assumpsit*, and concluding as follows)

And the said *A. B.* prays the process of our lord the king, to be made to him thereupon against the said *C. D.* according to the form of the statute in such case made and provided; and it is granted to him, &c.

Pledges to prosecute, { *John Doe,*
and
Richard Roe.

(§ 2.)

Beginning of a bill against several defendants, one of them being a member, and the others in custody of the marshal.

— (to wit.) *A. B.* complains of *C. D. E. F.* and *G. H.* the said *C. D.* having privilege of parliament, and the said *E. F.* and *G. H.* being in the custody of the marshal of the *Marshalsea* of our lord the now king, before the king himself, of a plea of trespass on the case, &c. (or as the plea is): For that whereas, &c. (to the end of the bill, concluding as before.)

— (to

— (to wit). Writ of summons for *A. B.* CHAP. VI. against *C. D.* esquire, having privilege of parliament. Case, for — *l.* upon promises, (or as the action is) returnable on — next after —. (§ 3.)
Præcipe for writ of summons.

E. F. attorney.

— 18 —.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you cause to be summoned *C. D.* esquire, having privilege of parliament, that he be before us at *Westminster*, on — next after — to answer *A. B.* of a plea of trespass on the case, to the damage of the said *A. B.* of — *l.* (or as the plea is), as he shall be able reasonably to shew, that thereof he ought to answer; and have there then this writ. Witness *Edward Lord Ellenborough, (&c.)* (§ 4.)
Writ of summons.

Way,

George the Third, (&c.) To the sheriff of — greeting: We command you, that you cause to be summoned, &c. (as in the writ of summons to the word “answer,” and then as follows): And whereupon our sheriff of — at a certain day now past returned to us at *Westminster*, that the said *C. D.* had nothing in his bailiwick, by which he could be summoned; whereas it is testified in our said court before us, that the said *C. D.* may be summoned in your bailiwick; and have there then this writ. Witness, (&c.) Testatum summons.

— (to wit). *Distringas* for *A. B.* against *C. D.* esquire, having privilege of parliament. Case, for — (§ 5.)
Præcipe for *distringas*.

(to

CHAP. VI. for — l. upon promises, (or as the action is,) returnable on — next after —.

E. F. attorney.

— 18—.

(§ 6.)
Distringas.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you *distrain* C. D. esquire, having privilege of parliament, by all his lands and chattels in your bailiwick, so that neither he, nor any one for him, do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues thereof, so that he be before us at *Westminster*, on — next after — to answer A. B. in a plea of trespass on the case upon promises, to the damage of the said A. B. of — l. (or as the plea is), and to hear his judgment thereupon of many defaults; and have there then this writ. Witness, (&c.)

Way.

(§ 7.)
*Alias or pluries
distringas.*

George the Third, (&c.) To the sheriff of — greeting: We command you, as *before*, (or as *oftentimes* before) we have commanded you, that you *distrain*, &c. (as before).

(§ 8.)
*Testatum dis-
tringas.*

George the Third, (&c.) To the sheriff of — greeting: We command you, that you *distrain*, &c. (as in the *distringas* to the words, "many defaults," and then as follows): And whereupon our sheriff of — at a certain day now past, returned to us at *Westminster*, that the said C. D. had nothing in his bailiwick, by which he could be *distrained*; whereas

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it is testified in our said court before us, that the said *C. D.* hath sufficient lands and chattels in your bailiwick, by which he may be distrained; and have there then this writ. Witness, (&c.)

CHAP. VI:

Way. As yet of — term, in the — year (§ 9.)

of the reign of king *George* the
Third. Witness *Edward* Lord *El-*
lenborough.

Entry of a bill
and process
against a mem-
ber of the
House of Com-
mons, to save
the statute.

— (to wit). *Be it remembered*, that on —
next after — in this same term, before our lord
the king at *Westminster*, comes *A. B.* by *E. F.* his
attorney, and brings into the court of our said lord
the king, before the king himself now here, his cer-
tain bill against *C. D.* esquire, having privilege of
parliament, of a plea of trespass on the case, &c.
(or as the plea is); and there are pledges for the
prosecution thereof, to wit, *John Doe* and *Richard*
Roe; which said bill follows in these words, (that is
to say): — (to wit). *A. B.* complains of *C. D.*
esquire, &c. (here copy the bill, to the words “and
therefore he brings his suit, &c.” and then proceed
as follows): And the said *A. B.* prays the process of
our said lord the king, to be made to him thereupon
against the said *C. D.* according to the form of the
statute in such case made and provided; and it is
granted to him, &c. whereby the sheriff of —
is commanded, that he cause to be summoned the
said *C. D.* having privilege of parliament, that he
be before our said lord the king at *Westminster*, on
— next after — to answer the said *A. B.* of a
plea of trespass on the case, to the damage of the
said *A. B.* of — l. (or as the plea is), as he shall
be

CHAP. VI. be able reasonably to shew that thereof he ought to answer; and that the said sheriff have there then the writ of our said lord the king, to him thereupon directed; the same day is given to the said *A. B.* there, &c. At which day before our said lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his attorney, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of — now here returns that the said *C. D.* hath not any thing in his bailiwick whereby he can be summoned, and the said *C. D.* doth not come.

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CHAP. VII.

Of the CAPIAS by ORIGINAL, and PROCESS of OUT-LAWRY.

GEORGE the Third, (&c.) To the sheriff of — greeting: We command you, that you take *Capias ad respondendum.* **C. D.** late of — if he be found in your bailiwick, and him safely keep, so that you may have his body before n — wheresoever we shall then be in *England*, to answer *A. B.* in a plea, for that whereas, &c. (in case; or in covenant, of a plea that he keep, &c. or in debt, of a plea that he render, &c. as in the original, to the words “ a . . . is said, ”) and have there this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign.

Kenyon.

Bail by affidavit for — l.

E. F. Temple,

Plaintiff's attorney (or agent).

— 18 —

(§ 2.)

Indorsement thereon.

If the defendant is not to be arrested, the usual notice to appear must be put at the end of the *capias*, or other process with which the defendant is served,

George

CHAP. VII. *George the Third, (&c.)* To the sheriff of —
 (§ 3.) greeting: We command you, as *before* (or as *often-*
Alins or pluries times) we have commanded you, that you take, (&c.)
capias.

(§ 4.) *George the Third, (&c.)* To the sheriff of —
Testatum ca- greeting: We command you, that you take *C. D.*
piaus. late of, &c. (as in the *capias*, altering the return,
 to the words "as it is said"); and whereupon our
 sheriff of — returned to us at a certain day now
 past, that the said *C. D.* was not found in his baili-
 wick: whereas it is *testified* in our same court be-
 fore us, that the said *C. D.* lurks and wanders up
 and down in your county; and have there this writ.
 Witness, (&c.)

(§ 5.) *George the Third, (&c.)* To the sheriff of —
Non omittas ca- greeting: We command you, that you do not omit
pias. by reason of any liberty of the bailiff of the hundred
 of — in your county, but that you take *C. D.* late
 of — if he be found in your bailiwick, and him
 safely keep, so that you have his body before us on
 — wheresoever we shall then be in *England*, to
 answer *A. B.* in a plea, for that whereas, &c. (as
 in the previous process); and have there this writ.
 Witness, (&c.)

(§ 6.) *George the Third, (&c.)* To the sheriff of —
Erigi facias. greeting: We command you, that you cause *C. D.*
 late of — to be demanded from county-court to
 county-court, (or, if in *London*, from husting to
 husting,) until, according to the law and custom of
England,

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England, he be outlawed, if he doth not appear; and if he doth appear, then that you take him, and cause him to be safely kept, so that you may have his body before us on — wheresoever we shall then be in *England*, to answer to *A. B.* of a plea, &c. (as in the previous process, to the words “ as it is said”); and whereupon you returned to us on, &c. (the return of the *pluries*) last past, that the said *C. D.* was not found in your bailiwick; and have there this writ. Witness *Edward* Lord *Ellenborough*, (&c.)

By virtue of this writ to me directed, at my county-court held at — in and for the county of — on — the — day of — (or if in *London*, “ at the husting of pleas of land, holden in the *Guildhall* of the city of *London*, on — next after —”) in the year within-written, the within-named *C. D.* was a first time demanded, and did not appear: And at my county-court held at — aforesaid, on — the — day of — in the year aforesaid, (or at the husting, &c.) the said *C. D.* was a second time demanded, and did not appear: And at my county-court held at — aforesaid, on — the — day of — in the year aforesaid, (or at the husting, &c.) the said *C. D.* was a third time demanded, and did not appear: And at my county-court held at — aforesaid, on — the — day of — in the year aforesaid, (or at the husting, &c.) the said *C. D.* was a fourth time demanded, and did not appear: And at my county-court held at — aforesaid, on — the — day of — in the year aforesaid, (or at the husting, &c.) the said *C. D.* was a fifth time demanded, and did not appear:

(§ 7.)
Sheriff's return
thereto.

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(&c.)

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CHAP. VII. *pear*: Therefore by the judgment of — Esquire and — Esquire, coroners of our sovereign lord the king for the county aforesaid, the said *C. D.* according to the law and custom of *England*, is outlawed.

The answer of — sheriff.

If all the county-courts or hustings are not holden in the time of the same sheriff, the return is as follows:

By virtue of this writ to me directed, &c. (stating the county-courts or hustings at which the defendant was demanded, in the time of the preceding sheriff, and concluding his return with "The answer of — Sheriff," then proceed on a new line, as follows):

This writ, as above indorsed, was delivered to me the under-named present sheriff, (or us the under-named present sheriffs,) by the above-named late sheriff, at his going out of office.

At my county-court, &c. (stating the county-courts or hustings at which the defendant was demanded, in the time of the succeeding sheriff, and concluding his return thus):

The answer, (&c.)

(§ 8.)
Allocatur exigent.

George the Third, (&c.) To the sheriff of — greeting: We command you, that allowing those — county-courts, (or if in *London*, those — hustings,) at which *C. D.* late of — was demanded, and did not appear, as you returned to us on, &c. (the return of the *exigent*) last past, you cause the said *C. D.* to be further demanded at your next county court, (or husting, if only one return is wanting,

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wanting, or if more than one, "from county-court to county-court," or "from husting to husting," until, according to the law and custom of *England*, he be outlawed, if he doth not appear, &c. (as in the *exigent*, altering the return, to the words "as it is said"); and have there this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*, the — day of — in the — year of our reign. (The return of the *exigent*, if in term; if not, the *quarto die post*.)

CHAP. VII.

George the Third, (&c.). To the sheriff of — (§ 9.)
greeting: Whereas by our writ, we lately commanded you, that you should cause *C. D.* late of — to be demanded from county-court to county-court, (or if in *London*, from husting to husting,) until, according to the law and custom of *England*, he should be outlawed, if he did not appear; and if he did appear, then that you should take him, and cause him to be safely kept, so that you might have his body before us on — wheresoever we should then be in *England*, to answer *A. B.* of a plea, &c. (as in the *exigent*; to the words "as it is said"): Therefore we command you, that in pursuance of the statute made in the thirty first year of the reign of the Lady *Elizabeth* late Queen of *England*, you cause the said *C. D.* to be proclaimed upon three several days, according to the form of that statute, one of which proclamations shall be made at or near the most usual door of the church of the parish where the said *C. D.* is dwelling, that he render himself unto you, so that you may have his body before us, at the aforesaid time, whereso-

Writ of proclamation.

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ever

CHAP. VII. ever we shall then be in *England*, to answer to the said *A. B.* of the plea aforesaid; and have there this writ. Witness, (&c.)

(§ 10.)
Writ of foreign
proclamation.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ, we lately commanded our sheriff of — that he should cause *C. D.* late of — to be demanded from county-court to county-court, (or if in *London*, from husting to husting,) until, according to the law and custom of *England*, he should be outlawed, if he did not appear; and if he did appear, then that he should take him, and cause him to be safely kept, so that he might have his body before us on — wheresoever we should then be in *England*, to answer to *A. B.* of a plea, &c. (as in the *exigent*, to the words “ as it is said”): Therefore we command you, that in pursuance of the statute made in the thirty-first year of the reign of the Lady *Elizabeth* late Queen of *England*, you cause the said *C. D.* to be proclaimed upon three several days, according to the form of that statute, one of which proclamations shall be made at or near the most usual door of the church of the parish where the said *C. D.* is dwelling, that he render himself to our sheriff of — so that he may have his body before us, at the aforesaid time, wheresoever we shall then be in *England*, to answer to the said *A. B.* of the plea aforesaid; and have there this writ. Witness, (&c.)

(§ 11.)
Return to writ
of proclamation.

By virtue of the within writ to me directed, I caused the within-named *C. D.* to be proclaimed three several days, according to the effect of the within-

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within-mentioned statute, as it is within command. CHAP. VII.
ed me.

The answer of — sheriff.

(Or more special, thus:) By virtue of the within writ to me directed, at my county-court held at — in and for the county of — on — the — day of — (or if in *London*, “at the husting of pleas of land, holden in the *Guildhall* of the city of *London*, on — next after —”) in the year within-written, I caused the said *C. D.* to be proclaimed a first time: And at the general Quarter Sessions of the Peace held at — aforesaid, on — the — day of — in the year aforesaid, I caused the said *C. D.* to be proclaimed a second time: And at the most usual door of the church of the parish of — being the parish where the said *C. D.* is dwelling, on *Sunday* the — day of — in the year aforesaid, immediately after divine service, one month at the least before the within-named *C. D.* was demanded a fifth time, I caused the said *C. D.* to be proclaimed a third time, that he should render himself unto me, (or if a foreign proclamation, “unto the sheriff of —”) as within it is commanded me.

(§ 12.)
The like, another way.

The answer of — sheriff:

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ, we lately commanded you, that you should cause *C. D.* late of — to be demanded from county-court to county-court, (or if in *London*, from husting to husting,) until, according to the law and custom of *England*,

(§ 13.)
Supersedas to the exigent, quia improvidet, &c.

CHAP. VII. he should be outlawed, if he did not appear; and if he did appear, then that you should take him, and cause him to be safely kept, so that you might have his body before us, on — wheresoever we should then be in *England*, to answer to *A. B.* of a plea, &c. (as in the *exigent*, to the words, “as it is said”): But because the said *C. D.* before the issuing (or return) of our said writ of *exigent*, appeared in our court before us by — his attorney, and often offered himself to answer the said *A. B.* of the plea aforesaid, so that our said writ did not duly issue thereupon against the said *C. D.*; therefore we command you, that you altogether cease any further demanding the said *C. D.* or outlawing, taking, or any way molesting him, on that occasion; and have there this writ. Witness, (&c.)

(§ 14.)
Sheriff's return
to the *exigent*
thereupon.

I have altogether ceased from executing this writ, having received his majesty's writ of *supersedeas* for that purpose.

The answer of — sheriff.

(§ 15.)
General *capias*
utlagatum.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you do not omit by reason of any liberty of your county, but that you take *C. D.* late of — being outlawed in your said county, (or in the county where the outlawry was,) on — the — day of — (or in *London*, on — next after —) last past, at the suit of *A. B.* of a plea, &c. (and if the writ issue into a different county from that in which the defendant was outlawed, say, “as our sheriff of — returned to us at *Westminster*, at a certain day now past,”)

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past,") if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever we shall then be in *England*, to do and receive what our court before us shall consider of him in this behalf; and have there this writ. Witness, (&c.)

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you cause the said sheriff to be commanded, that he do not omit by reason of any liberty of his county, but that he take *C.D.* late of — being outlawed, (&c.) if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us, on — wheresoever we shall then be in *England*, to do and receive what our court before us shall consider of him in this behalf; and have there this writ. Witness, (&c.)

(§ 16.)

The like, in a county-palatine.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you do not omit by reason of any liberty of your county, but by the oath of good and lawful men of your said county, you diligently inquire what goods and chattels, lands and tenements, *C.D.* late of — hath, or had in your bailiwick the — day of — last past, or at any time afterwards, on which day he was outlawed in your county, (or in the county where the outlawry was,) at the suit of *A.B.* in a plea of, (&c.) as you have lately returned to us, (or if the writ

(§ 17.)

Special capias
ullagatum.

CHAP. VII. issues into a different county from that in which the defendant was outlawed, say, "as our sheriff of— returned to us at *Westminster*, at a certain day now past,") and by their oath cause the same to be extended and appraised, according to the true value thereof; and what you find by that inquisition, take into our hands, and cause to be safely kept, so that you answer to us for the true value and issues thereof; and having so extended and appraised the same, what you shall have done thereupon, make known to us, on — wheresoever we shall then be in *England*, distinctly and plainly, under your seal, and the seals of those by whose oath you shall have made that extent and appraisement: And for that the said *C. D.* so being outlawed, conceals himself, and runs up and down in your county, in contempt of us, and in prejudice of our crown, as we are informed: We command you, that you take the said *C. D.* wheresoever he shall happen to be found in your bailiwick, as well within liberties as without, and keep him safely, so that you may have his body before us, at the aforesaid time, wheresoever we shall then be in *England*, to do and receive what our said court before us shall consider of him in this behalf; and have there this writ. Witness, (&c.)

(§ 18.)
Return.

The execution of this writ appears in a certain inquisition to this writ annexed.

(§ 19.)
Inquisition.

— (to wit). An inquisition indented, taken at — in the county of — on the — day of — in the — year of the reign of our sovereign lord

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lord *George* the Third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before me — sheriff of the said county, by virtue of the king's writ to me directed, and to this inquisition annexed, upon the oath of *E. F. G. H.* &c. (setting out the names of all the jurors,) honest and lawful men of my bailiwick, who being sworn and charged to inquire of all such matters and things as in the said writ are mentioned and contained, on their oath say, that *C. D.* in the said writ to this inquisition annexed mentioned, on —, on which day he was outlawed in the said county, (or in the county of — or in *London*,) at the suit of *A. B.* in a plea, (&c.) whereof he is convicted, was and yet is seised in his demesne as of fee, (or for the term of his life,) of and in one messuage and one close of pasture, with the appurtenances, called or known by the name of — situate, lying and being in the parish of — in the county aforesaid, containing by estimation — acres of land, and now in the tenure or occupation of — of the clear yearly value of — *l.* in all issues, beyond reprises; and also of and in one other close of pasture, (&c.) All and singular which said premises with the appurtenances above specified, I the said sheriff, by virtue of the said writ, on the said day of taking this inquisition, have taken and caused to be seised into the hands of our said lord the now king, as by the said writ I am commanded: And the jurors aforesaid, upon their oath aforesaid, further say, that the said *C. D.* at the time of the outlawry aforesaid, or at any

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time

CHAP. VII. time afterwards, had no other or more lands or tenements, nor hath he any goods or chattels in my bailiwick, which can be seised or taken into his majesty's hands, by virtue of the said writ, to the knowledge of the jurors aforesaid. In witness whereof, as well I the said sheriff, as the jurors aforesaid, have to this inquisition set our seals, the day and year, and at the place first above-mentioned.

If the defendant has goods; say, "that the said *C. D.* on the said — was and yet is possessed, as of his own proper goods and chattels, of and in the several goods and chattels particularly mentioned and set forth in the schedule or inventory thereof hereunto annexed, which said goods and chattels are worth, to be sold, the sum of — *l.* all which said goods and chattels, I the said sheriff, by virtue of the said writ, on the day of taking this inquisition, have seized and taken into his said majesty's hands, as by the said writ I am commanded," (*&c.*)

(§ 20.)
Venditioni exponas.

George the Third, (*&c.*) To the sheriff of — greeting: Whereas by a certain inquisition indented, taken before you, at — in your county, on, (*&c.*) by virtue of our writ of special *capias utlagatum*, under the seal of our court of King's Bench, to you the said sheriff directed, whereby we commanded you to inquire what goods and chattels, lands and tenements, *C. D.* late of — had in your bailiwick, the — day of — then last past, or at any time afterwards, on which day he was outlawed in your said county, at the
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suit of *A. B.* in a plea of, (*Sc.*) it was found by the oath of *E. F.* and other good and lawful men of your said county, that *C. D.* in the said writ named, on the — day of — then last, on which day he became outlawed, and on the day of taking the said inquisition, was possessed, as of his own proper goods and chattels, of and in the several goods and chattels particularly mentioned and expressed in the schedule or inventory thereof herunto annexed, which said goods and chattels were worth, to be sold, the sum of — *l.*; all which said goods and chattels you the said sheriff, by virtue of our said writ, on the day of taking the said inquisition, did seize and take into our hands, as by the said writ and inquisition taken thereupon, transcribed into our court of Exchequer, and there remaining in the custody of our remembrancer, more fully appears: And we being desirous to be satisfied of the value of the said goods and chattels in the said inquisition mentioned, as is just, command you, that you sell, or cause to be sold, the said goods and chattels, and every part thereof, for the best price that can be got for the same, and at the least for the said sum of — *l.* at which they were so appraised as aforesaid, so that you have the sum of money arising by such sale, before the barons of our Exchequer at *Westminster*, the — day of this instant — then and there to be paid to our use; and that you make then and there distinctly and plainly appear to our said barons, all that you shall do concerning the premises; and have then there this writ. Witness Sir *Archibald Macdonald* knight, at

CHAP. VII.

CHAP. VII. at *Westminster*, the — day of — in the — year of our reign.

By the said transcript, and by the Barons.

(§ 21.)
Return there-
to.

By virtue of this writ to me directed, I have caused the goods and chattels in the schedule or inventory hereunto annexed mentioned, to be sold for the sum of — *l.* being the best price I could get for the same; which money I have before the barons of the king's Exchequer at *Westminster*, on the day within-mentioned, ready to be paid to his majesty's use, according to the command thereof.

The answer of — sheriff.

(§ 22.)
Petition to the
lords of the
treasury, for a
lease of the
outlaw's lands.

To the right honourable the lords commissioners of his majesty's treasury.

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of — being justly indebted to your petitioner in the sum of — *l.* for goods sold, (&c.) your petitioner commenced an action against the said *C. D.* for the recovery thereof, wherein he has proceeded to outlawry; and that by virtue of a certain writ of special *capias utlagatum*, issued upon the return of the writ of *exigi facias*, against the said *C. D.* directed to the then sheriff of —, *E. F.* Esquire, then sheriff of the said county of — returned to the said writ of special *capias utlagatum* to him directed, an inquisition indented; taken at — in the said county, on the — day of — in the year of our Lord 18—, by which it was found, amongst other things, that the said *C. D.* on — on which day he was outlawed at the suit of your petitioner,

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petitioner, was seised in his demesne as of fee, (or CHAP. VII.
 for the term of his life,) of and in one messuage and
 one close of pasture with the appurtenances, called
 or known by the name of — situate, lying and
 being in the parish of — in the county aforesaid,
 containing by estimation — acres of land, and
 then in the tenure or occupation of — of the
 clear yearly value of — *l.* in all issues, beyond
 reprises, and also of and in one other close of pas-
 ture, &c. (as in the inquisition); and that the said
 sheriff, by virtue of the said writ, on the said day of
 taking that inquisition, had taken and caused to be
 seised into the hands of our said lord the now king,
 all and singular the said premises with the appur-
 tenances, as by the said writ he was commanded;
 as by the return of the said writ of special *capias*
utlagatum, now remaining of record in his majesty's
 court of Exchequer, may more fully and at large
 appear: And your petitioner further sheweth unto
 your lordships, that the said outlawry still remains
 in full force and effect, not vacated, superseded,
 reversed, or annulled; and that your petitioner's
 said debt, and the expences which he has necessarily
 been put to in prosecuting the said *C. D.* to out-
 lawry, amount to a large sum of money, that is to
 say, to the sum of — *l.* and upwards, and that
 no part thereof has been paid or satisfied to your
 petitioner. Wherefore your petitioner humbly
 prays your lordship's favour and interposition, that
 by and with the consent of his majesty's attorney-
 general in this behalf obtained, a lease may be
 made to your petitioner, by and from his majesty's
 court of Exchequer, whereby your petitioner may
 be

CHAP. VII. be enabled to levy, take, collect and receive the issues and profits of the said outlaw's lands and tenements, so found by the said inquisition; to the value thereof respectively appraised and extended, till such time as sufficient thereout shall be made, collected and levied, to satisfy your petitioner's said debt, costs and charges, or until such time as the said *C. D.* shall cause the said outlawry, so had in due form of law against him, to be reversed or annulled. And your petitioner, as in duty bound, shall ever pray, &c.

A. B.

(§ 25.)
The like, to be satisfied out of the produce of his goods.

To the right honourable the lords commissioners of his majesty's treasury.

The humble petition of *A. B.*

Sheweth,

That *C. D.* late of — being justly indebted to your petitioner in the sum of —*l.* for goods sold, &c. (as the fact is,) your petitioner commenced an action against the said *C. D.* for the recovery thereof, wherein he has proceeded to outlawry.

That a writ of special *capias ullagatum* having issued against the said *C. D.* out of his majesty's court of King's Bench at *Westminster*, at the suit of your petitioner, an inquisition was taken thereon by the sheriff of — whereby certain goods and chattels to the value of —*l.* mentioned in the said inquisition, were by the said sheriff seized and taken into his majesty's hands; which writ and inquisition being transcribed into his majesty's court of Exchequer at *Westminster*, a writ of *venditioni exponas* duly issued out of the said court, whereon the

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the said sheriff hath returned, that he has by virtue thereof caused the goods and chattels in the said last writ mentioned to be sold, for the sum of — *l.* being the best price he could get for the same; which money he had before the barons of the king's Exchequer at *Westminster*, on the day in the said last writ mentioned, ready to be paid to his majesty's use, and which money now remains in the hands of the said sheriff. CHAP. VII.

That your petitioner's said debt, and the expences he has been at in the said proceedings, greatly exceed the sum so remaining in the sheriff's hands; and as his majesty is not concerned in interest, but his name only made use of by your petitioner, for the recovery of his said debt.

Your petitioner therefore most humbly prays your lordships, that his majesty's attorney-general may be authorized to consent, on behalf of his majesty, that the said sum of — *l.* may be paid to your petitioner, towards satisfaction of his said debt and costs.

And your petitioner, as in duty bound, shall ever pray, &c.

Whitehall Treasury Chamber, (S 24.)
— day of — 18.—

Reference
thereon, to
their solicitors

The right honourable the lords commissioners of his majesty's treasury are pleased to refer this petition to — esquire, (solicitor to the treasury,) who is to consider the same, and report to their lordship's a true state of the petitioner's case, together with his opinion what is fit to be done therein.

These

CHAP. VII. These are to certify, that in — term, in the
 (§ 25.) — year of the reign of his present majesty king
 Certificate of *George* the Third, a transcript of an outlawry was
 clerk in court. returned and filed in this court, against *C. D.* late
 of — outlawed in — at the suit of *A. B.* in a
 plea of trespass on the case, (or as the plea is,) by
 which transcript it appears, that several goods and
 chattels of the said *C. D.* were seized into his ma-
 jesty's hands by — Esquire, then sheriff of the
 said county of — by virtue of a special *capias ut-
 lagatum*, in the said transcript specified; and I fur-
 ther certify, that a writ of *venditioni exponas* has is-
 sued for selling the said goods and chattels so
 seized, whereon the said sheriff hath returned, that
 he hath sold the same for the sum of —*l.*

(§ 26.)
 Affidavit of
 plaintiff's debt
 and costs.

In the King's Bench.

A. B. plaintiff,

Between and

C. D. defendant.

A. B. of — maketh oath and saith, that the
 above-named *C. D.* is justly and truly indebted
 unto this deponent in the sum of —*l.* according
 to the annexed account, and also in the further sum
 of —*l.* for costs paid to Mr. — this deponent's
 solicitor, in prosecuting the outlawry in this cause
 against the said *C. D.*

(§ 27.)
 Report on re-
 ference.

To the right honourable the lords commissioners
 of his majesty's treasury.

May it please your lordships,

In humble obedience to your lordships com-
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dered of the annexed petition of *A. B.* setting forth, that *C. D.* &c. (reciting the whole of the petition).

And I do most humbly certify to your lordships, that I have received satisfaction as to the truth of all the allegations in the said petition contained, as well by sight of the several records thereby referred to, and a certificate of the said outlawry's being transcribed into the office of his majesty's remembrancer of the Exchequer, signed by Mr. — one of the attornies of that office, as by the affidavit of the petitioner, whereby it appears to me, that the said *C. D.* is justly indebted to the petitioner in the sum of — *l.* for goods sold, (&c.)

And it appearing by the affidavit of the said petitioner, that his said debt, with the several charges he has been already put to in outlawing the said *C. D.* do exceed the sum levied by the sheriff; and as the petitioner must still necessarily be put to a further expence, I am most humbly of opinion, that it may be proper for your lordships to send your warrant to his majesty's attorney-general, authorizing him to consent to an order of his majesty's court of Exchequer, for — esquire, the present sheriff of the county of — to pay over the said sum of — *l.* now remaining in his hands, after deducting the sheriff's poundage for levying the same, and other incidental charges, unto the petitioner for his own use, towards satisfaction of his said debt and costs, whenever a motion shall be made in the said court of Exchequer for that purpose.

All

CHAP. VII. All which is nevertheless most humbly submitted to your lordships superior judgment.

— 18 —

(§ 28.)

Warrant for the attorney-general to consent to an order for payment of the money.

GEORGE R.

WHEREAS we are given to understand, that there is remaining in the hands of — esquire, the present sheriff of the county of — the sum of — *l.* for so much money levied by him on the several goods belonging to *C. D.* which were seized into our hands, by virtue of an inquisition taken by virtue of a writ of *capias ulagatum*, issued out of our court of King's Bench, against the said *C. D.* at the suit of *A. B.* for the recovery of a debt due and owing to him from the said *C. D.*: And whereas it further appears by reports, certificates, and other proper testimonies, which the commissioners of our treasury have laid before us, that the debt due and owing to the said *A. B.* from the said *C. D.* together with the costs which he hath been put to in carrying on the said prosecution against the said *C. D.* for recovery of the said debt, doth exceed the said sum of — *l.* remaining in the hands of the said sheriff as aforesaid: To the end, therefore, that the said *A. B.* may have and receive some recompence and satisfaction towards his said debt, and the charges he hath been put to it in suing for the same; our will and pleasure is, and we do hereby authorize and direct you to consent and agree, that so much of the said sum of — *l.* as doth or shall remain in the hands of the said sheriff, after deducting the usual poundage for levying the same, be paid over to the said *A. B.* towards satisfaction of his said

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said debt and costs accordingly, whenever he by his counsel learned in the law shall think fit to move our court of Exchequer for an order for that purpose; and we do also authorize and direct you to do, or cause to be done, such further or other acts, as our said court of Exchequer upon such motion shall or may judge necessary for rendering our intentions herein most firm, valid and effectual; and for so doing, this shall be your warrant. Given at our court at *Saint James's*, the — day of — in the — year of our reign. By his majesty's command.

To our trusty and well-beloved the }
 honorable *Spencer Percival*, our }
 attorney-general. }
 —. }
 —. }
 —. }

— the — day of — 18—. (§ 29.)

Between the king and *C. D.* outlawed at the suit of *A. B.* upon an outlawry. Upon the motion of Mr. — of counsel for *A. B.* informing the court, that the said *C. D.* having been prosecuted to an outlawry by the said *A. B.* upon an action of trespass on the case, in his majesty's court of King's Bench, a writ of special *capias utlagatum* thereupon issued against the said defendant, under the seal of the said court, directed to the sheriff of —; by virtue whereof, the said sheriff seized by inquisition several goods and chattels belonging to the said defendant, appraised at —*l.*; and further informing the court, that the said writ of *capias utlagatum* and inquisition being transcribed into this court, a writ of *venditioni exponas*, under the seal of this court, issued on the — day of — last, for selling the said goods, returnable the — day of —,

Order for the sheriff to pay the money to the prosecutor.

CHAP. VII. at which time, — esquire, the present sheriff of — returned the said writ, and certified that he had sold the said goods and chattels for the said sum of —*l.* It was therefore prayed by the said Mr. — that the said — esquire, or his under-sheriff, might forthwith pay to the said *A.B.* or his order, the said sum of —*l.* towards satisfaction of the debt due from the said defendant to the said prosecutor: Whereupon, and on hearing the honorable *Spencer Percival*, his majesty's attorney-general, consenting thereto on the behalf of his majesty, it is ordered by the court as prayed, the said sheriff first deducting out of the said —*l.* the usual poundage.

(§ 30.)
Subpœna.

George the Third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith. To — esquire, sheriff of our county of —, or to his under-sheriff, greeting: We command you, that laying aside all excuses, you obey, fulfil and perform all and every matter and thing specified in an order of our court of Exchequer at *Westminster*, made in a cause in our said court depending between us and *C.D.* outlawed at the suit of *A.B.* upon an outlawry; the tenor of which order, for your fuller information therein, is hereto annexed; and this you are not to omit, under the penalty of one hundred pounds, which we shall cause to be levied upon your goods and chattels, lands and tenements, for our use, if you neglect this our command. Witness Sir *Archibald Macdonald* knight, at *Westminster*, the — day of — in the — year

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— year of our reign. By the said order made CHAP. VII.
the same day, and by the said barons.

England, (to wit). *George* the Third, (&c.) To our justices assigned to hold pleas before us, greeting: Because in the record and proceedings, and also in the pronouncing of the outlawry against *C. D.* late of — in a plea of, (&c.) whereon he is outlawed in the county of — (or, in *London*,) lately pronounced, and before us returned, as it is said, manifest error hath intervened, to the great damage of him the said *C. D.* as by his complaint we have understood: We being willing the error, if any hath been, should be duly corrected, and full and speedy justice done to the said *C. D.* in this behalf, command you, that if the outlawry aforesaid be returned before us, then the record and proceedings aforesaid being inspected, you further cause to be done thereupon, for the annulling of the outlawry aforesaid, what of right and according to the law and custom of *England*, shall be meet to be done. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

(§ 31.)

Writ of error
for reversing
an outlawry.

Afterwards, to wit, on — next after — in this same term, before the lord the king at *Westminster*, comes the said *C. D.* by — his attorney, and immediately says, that in the pronouncing of the outlawry aforesaid, there is manifest error in this, to wit, that the said writ of *exigi facias* is insufficient, invalid, and void in law; therefore in that there is manifest error; there is also error in this, to wit, &c. (assigning the errors): And the said *C. D.* prays the

(§ 32.)

Assignment of
errors.

CHAP. VII. writ of the lord the king, to warn the said *A. B.* to be before the said lord the king, to hear the record and proceedings aforesaid; and it is granted to him, &c.

(§ 33.)
Special entry
of process to
outlawry, plea
of no procla-
mation, and
outlawry re-
versed there-
upon.

— (to wit). *A. B.* by — his attorney, offered himself on the fourth day against *C. D.* late of — of a plea, &c. (as in the *capias*, to the words “as it is said,”) and the said *C. D.* did not come: Therefore, as before, the sheriff was commanded; that he should take the said *C. D.* if, &c. and the sheriff thereupon returned, that he was not found, &c. Therefore, as oftentimes, let the said *C. D.* be taken, that he be before our lord the king on — wheresoever, &c. At which day before our said lord the king at *Westminster* came the said *A. B.* by his attorney aforesaid, and offered himself on the fourth day against the said *C. D.* of the plea aforesaid; and the said *C. D.* did not come: Therefore, as oftentimes, it was commanded to the sheriff, that he should take the said *C. D.* if, &c. and the sheriff returned that he was not found, &c. Therefore the sheriff was commanded, that he should cause the said *C. D.* to be demanded from county-court to county-court, (or in *London*, from husting to husting), until he should be outlawed, if he did not appear; and if, &c. then that he should take him, and him safely keep, so that he might have his body before our lord the king on — wheresoever, &c. to answer the said *A. B.* of the plea aforesaid: It was also commanded to the sheriff, that in pursuance of the statute in such case made and provided, he should cause the said *C. D.* to be proclaimed upon three several

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several days, according to the form of that statute, CHAP. VII. that he should render himself to the said sheriff, so that he might have his body before our lord the king at the aforesaid time, to answer to the said *A. B.* of the plea aforesaid: And be it known, that the writ of our said lord the king thereupon, on, &c. (the teste of the *exigent*) in this same term, was delivered of record to the deputy sheriff of the county aforesaid, in due form of law to be executed, &c. At which said — before our said lord the king at *Westminster*, came the said *A. B.* by his attorney aforesaid; and the sheriff of —, namely —, returned, that at the county-court held at — in and for the county of —, on — the — day of — (or in *London*, at the husting of pleas of land, holden at the *Guildhall* of the city of *London*, on — next after —) in the year, (&c.) the said *C. D.* was a first time demanded, and did not appear: And at the county-court (or husting), &c. (as in the return,) and he did not appear: Therefore the said *C. D.* is outlawed: And afterwards, to wit, on — then next following, before our said lord the king at *Westminster*, comes the said *C. D.* *in his own proper person, and renders himself to the prison of the marshal of the court of our said lord the king, before the king himself here, on occasion of the outlawry aforesaid**; and immediately says, that no writ of our said lord the king of proclamation, according to the form of the

* This was necessary before the statute 4 & 5 W. & M. c. 18. § 3. when it was necessary that the defendant should appear in person to reverse an outlawry: Since the above statute, the form is as follows: "Afterwards, (&c.) comes the said *C. D.* by — his attorney, and immediately says," (&c.)

CHAP. VII. the statute of the thirty first year of the reign of the Lady *Elizabeth*, late Queen of *England*, in that case made and provided, issued against the said *C. D.* in the plea aforesaid, whereby the outlawry aforesaid, against the said *C. D.* in form aforesaid pronounced and had, is by the said statute void, and of no force or effect in law; and this he is ready to verify, wherefore he prays judgment, and that the outlawry aforesaid against him the said *C. D.* in form aforesaid pronounced and had, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost on occasion of the said outlawry: And the said *C. D.* according to the form of the statute in that case made and provided, finds sufficient bail, to wit, *E. F.* of — and *G. H.* of —. And now here at this day come the bail aforesaid, and each of them for himself severally acknowledges to owe to the said *A. B.* — *l.* which said several sums of — *l.* they grant, and each of them for himself grants, shall be made of their and each of their lands and chattels, and levied to the use of the said *A. B.*, on condition, that the said *C. D.* shall appear and answer the said *A. B.* to a new original writ, by the said *A. B.* to be prosecuted for the cause in the said writ mentioned, and shall pay the condemnation which shall be recovered, if the said *A. B.* shall prosecute his suit within two terms, &c. Whereupon the aforesaid writ being seen, and the file of writs of the return of the said writ of *exigi facias* being searched for the proclamation aforesaid, it manifestly appears to the same court now here, that the allegation of the said *C. D.* above made for his discharge from the outlawry aforesaid is true:

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Therefore it is considered, that the outlawry aforesaid against the said *C. D.* in form aforesaid pronounced and had, be revoked, and that the said *C. D.* be discharged from the outlawry aforesaid, and be in no-wise molested or aggrieved on that occasion, but go thereof quit, and that the said *C. D.* be restored to all things which he hath lost on occasion of the outlawry aforesaid, &c. CHAP. VII.

George the Third, (&c.) To the sheriff of ——— (§ 34.)
 greeting: Whereas by our writ we lately commanded you, that you should not omit by reason of any liberty of your county, but by the oath of honest and lawful men, &c. (reciting the writ of special *capias utlagatum*, to the words, “to do and receive what our court before us should consider of him in that behalf,”) And because it sufficiently appears to us of record, in our court before us, that the outlawry aforesaid is reversed for want of proclamations, according to the form of the statute in that case made and provided; and that the said *C. D.* thereupon came here into our court before us, and found sufficient bail to answer to the said *A. B.* upon a new original writ to be brought by the said *A. B.* within two terms next after the reversal of the outlawry aforesaid, and to satisfy the condemnation, if the said *C. D.* should be convicted: Therefore we command you, that if you have taken the goods and chattels of the said *C. D.* by virtue of the writ aforesaid, you cause them to be re-delivered to the said *C. D.* without delay: We also command you, that you wholly cease from taking the said *C. D.* attaching, imprisoning, or in any-wise molesting him on the occasion aforesaid; *Supersedes upon the reversal of an outlawry, for want of proclamations.*

CHAP. VII. aforesaid; and if you have taken him on that occasion, and no other, then that you cause him to be set at liberty without delay, at your peril. Witness, (*&c.*)

(§ 35.) *George* the Third, (*&c.*) To the sheriff of —
Otherwise, by greeting: Whereas by our writ, we lately commanded
consent of the you, *&c.* (as in the preceding form, to the words
plaintiff's at- "consider of him in that behalf,") And because the
torney, on the said *C. D.* by the assent of the attorney of the said
defendant's *A. B.* came into our court before us, and found
putting in bail. sufficient bail to answer to the said *A. B.* of the plea
 aforesaid, and to satisfy the said *A. B.* all damages,
 costs and charges in that behalf to be recovered, if it
 should happen that the said *C. D.* should be convicted
 in the plea aforesaid, and did not satisfy the
 said damages, costs and charges, or render himself
 to the prison of the marshal of the *Marshalsea* of our
 court before us on that occasion: Therefore we
 command you, *&c.* (as in the preceding form, to the
 end).

(§ 36.) That his majesty's hands be removed from the
Judgment in possession of the premises in the inquisition men-
the exchequer, tioned; and that the said *C. D.* (the outlaw or re-
on the reversal presentative) be restored to his possession thereof,
of an outlawry, together with the rents, issues and profits thereof,
or death of the which have not as yet been answered to his said
outlaw. majesty; and (in case a lease has been granted) that
 the said lease in form aforesaid made, be void and of
 no effect; and that as well the said — late sheriff
 of the county of — as all others who have been,
 now are, or hereafter shall be sheriffs of the said
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county, shall be discharged in their accounts towards his said majesty, his heirs and successors, as well of the rents and profits of the said premises, as of the said annual rent of — which have not been answered to his said majesty; and lastly, that the said *C. D.* as to the said premises, may be dismissed the court, by reason of the said confession, and other the premises.

George the Third, (*Sc.*) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us, by our writ, impleaded *C. D.* late of — of a plea, (*Sc.*) as it is said; and the said *C. D.* because he did not appear in our court before us, to answer the said *A. B.* thereupon, according to the law and custom of *England*, was put in *exigent* in your county to be outlawed, and was on that occasion outlawed, as appears to us of record: And we, being moved with pity, have pardoned the aforesaid outlawry, and granted to him our firm peace thereupon; nevertheless, so that he stand rightly in our court before us, in respect of this outlawry, according to the form of the statute in such case made and provided: And because it is necessary and expedient before the said *C. D.* quietly withdraws from our court before us, that the said *A. B.* be warned: Therefore we command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us on — wheresoever we shall then be in *England*, to prosecute further his plea aforesaid against the said *C. D.* if he will, and further to do and receive what our court before us shall consider of him in this behalf; and have there the names of those

(§ 37.)
Scire facias,
 upon the pardon of an outlawry by the king.

CHAP. VII. those by whom you shall so make known to him, and this writ. Witness, (&c.)

(§ 38.)
Scire facias
 upon the par-
 don of an out-
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 tute.

George the 7 hird, (&c.) To the sheriff of ——— greeting: Whereas by our writ we lately commanded you, that you should not omit by reason of any liberty of your county, but that you should take *C. D.* late of ——— being outlawed at ——— in your county, on ——— at the suit of *A. B.* of a plea, (&c.) if he should be found in your bailiwick, and him safely keep, so that you might have his body before us on ——— wheresoever we should then be in *England*, to do and receive what our court before us should consider of him in that behalf: But because by a certain act, made in our parliament holden at *Westminster* in the county of *Middlesex*, on ——— the said outlawry against the said *C. D.* in form aforesaid pronounced and had, was pardoned to the said *C. D.*; nevertheless, so that the said *C. D.* prosecute in our court before us our writ of *scire facias* to warn the said *A. B.* of the plea aforesaid, if the said *A. B.* will complain against him; and because it is expedient and necessary that the said *A. B.* for his interest in this behalf be warned, before any further proceedings are had for discharging the said *C. D.* of the outlawry aforesaid: Therefore we command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us on ——— wheresoever we shall then be in *England*, to prosecute his plea aforesaid against the said *C. D.* if he shall be willing; and have there the names of those by whom you shall so make known to him, and this writ. Witness, (&c.)

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At which said — before our said lord the king **CHAP. VII.**
 at *Westminster*, came the said *C. D.* in his proper (§ 39.)
 person; and the sheriff of the county aforesaid, to **Return there-**
 wit, — esquire, by virtue of the said writ to him **to.**
 thereupon directed, returned, that he by *E. F.* and
G. H. honest and lawful men of his bailiwick, had
 made known to the said *A. B.* to be before our lord
 the king at the day aforesaid, wheresoever, &c. to
 prosecute his plea against the said *C. D.*; and the
 said *A. B.* although at that day solemnly called and
 so warned, did not come, but made default: There-
 fore he and his pledges to prosecute, to wit, *John*
Doe and *Richard Roe*, are thereupon in mercy, &c.
 and let the said *C. D.* go thereof without day, &c.
 and let the pardon of our lord the king, according to
 the form of the aforesaid statute, be allowed to the
 said *C. D.* &c.

CHAP. VIII.

*Of the NOTICE to APPEAR to PROCESS not BAIL-
ABLE; and AFFIDAVITS to hold to BAIL.*

Mr. C. D,

(§ 1.)
Notice to ap-
pear to process
not bailable.

YOU are served with this process, to the intent that you may by your attorney appear (if against man and wife, say, "for yourself and — your wife,") in his majesty's court of King's Bench at *Westminster*, at the return thereof, being the — day of — next, (or instant,) in order to your defence in this action.

E. F. Temple,
— 18—.

(§ 2.)
Affidavit of
debt, for mo-
ney lent.

In the King's Bench.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent in the sum of — *l.* for money lent and advanced by this deponent to the said *C. D.* and at his request: And this deponent further saith, that no offer has been made to pay the said sum of — *l.* or any part thereof, in any note or notes of the Governor and Company of the Bank of *England*, expressed to be payable on demand.

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Sworn at the bill of *Middlesex* office, (or king's bench office, or filacer's office, as the case may be,) this — day of — 18— before — (the officer's name): Or if in the country, " at — the — day of — 18— before — a commissioner."

If the plaintiff be a — his affirmation is as follows, *viz.*

A. B. of — being one of the people called Quakers, solemnly affirms, that *C. D.* is justly indebted to this affirmant in the sum of — *l.* for money lent and advanced by this affirmant to the said *C. D.* at his request. (§ 3.)
Affirmation of a quaker.

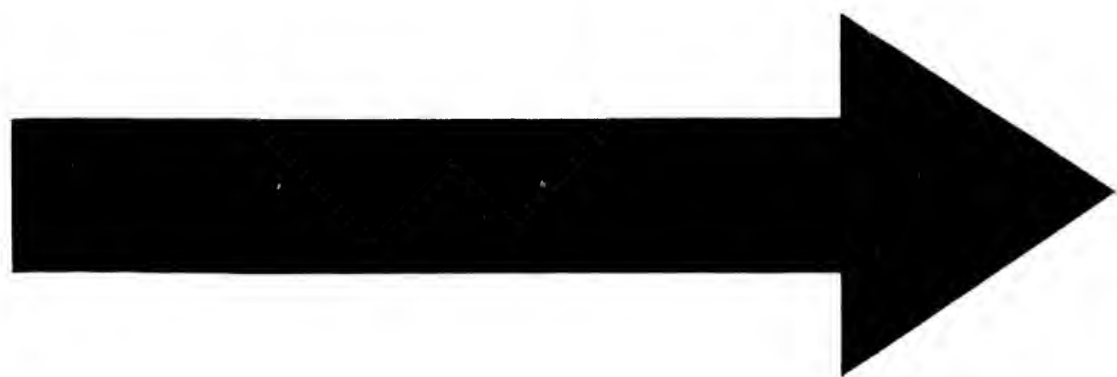
If the person who makes the affidavit be the wife or servant of the plaintiff, the affidavit is in the following form:

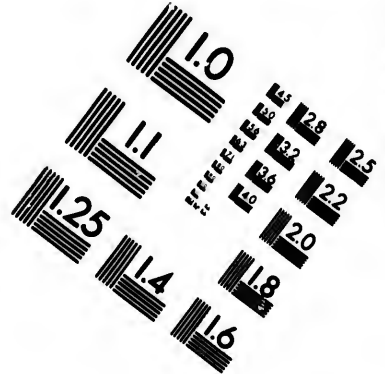
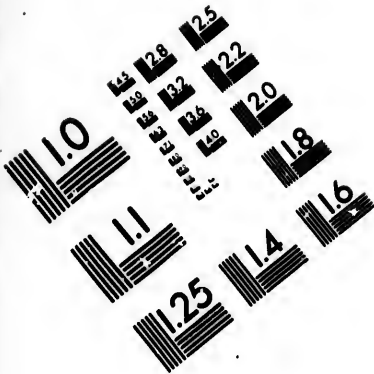
E. F. wife of *A. B.* of — (or *E. F.* of — servant to *A. B.*) maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* in the sum of — *l.* for money lent and advanced by the said *A. B.* to the said *C. D.* at his request. (§ 4.)
Affidavit of debt by a wife or servant.

For money paid, laid out and expended by this deponent for the said *C. D.* at his request. (§ 5.)
For money paid.

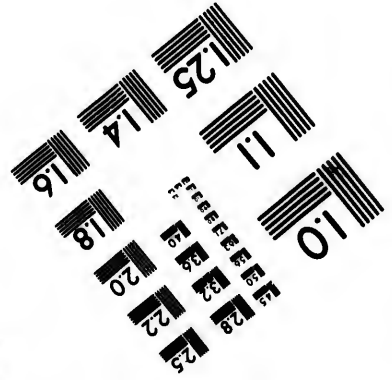
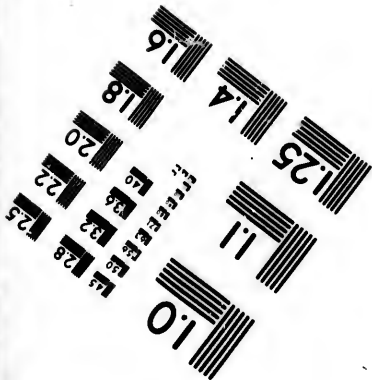
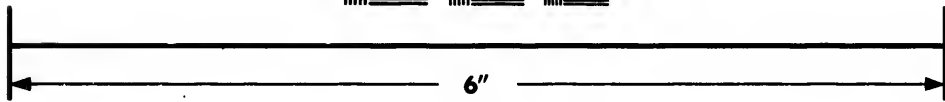
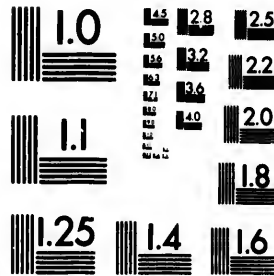
For money had and received by the said *C. D.* to and for the use of this deponent. (§ 6.)
Money had and received.

For





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CHAP. VIII. For money lent and advanced, and paid laid out and expended by this deponent to and for the use of the said *C. D.* and at his request; and for other money had and received by the said *C. D.* to and for the use of this deponent.

(§ 7.)
Money lent, laid out, and had and received.

(§ 8.)
Interest of money.
For money due and payable from the said *C. D.* to this deponent, for interest upon and for the forbearance of divers large sums of money, lent and advanced by this deponent to the said *C. D.* (or due and payable from the said *C. D.* to this deponent,) and by this deponent forborne for divers long spaces of time now elapsed; at the request of the said *C. D.*

(§ 9.)
Account stated.
For so much money due from the said *C. D.* to this deponent, upon the balance of an account stated and settled between this deponent and the said *C. D.*

(§ 10.)
Work and labour.
For work and labour, done and performed by this deponent for the said *C. D.* and at his request.

(§ 11.)
The like, by plaintiff and his servants, with horses, &c.
For work and labour, done and performed by this deponent and his servants, and with his horses, carts and carriages, for the said *C. D.* and at his request.

(§ 12.)
For work and labour, and materials.
For work and labour done and performed, and materials found and provided, by this deponent for the said *C. D.* and at his request.

(§ 13.)
Servant's wages.
For wages due and payable from the said *C. D.* to this deponent, for the service of this deponent, done

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done and performed as the hired servant of the said **CHAP. VIII.**
C. D. and on his retainer.

For work and labour, done and performed by this deponent as a surveyor, in and about the drawing of divers plans, elevations and sections of buildings, and the surveying and superintending the erection thereof, and in and about the admeasurement and valuation of certain works, and the payment of certain workmen's bills, for the said **C. D.** and in and about other the business of the said **C. D.** and at his request.

(§ 14.)

Work and labour as a surveyor.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent as a surgeon and apothecary, for the said **C. D.** and at his request, in and about the healing and curing of the said **C. D.** (and divers other persons,) of divers diseases, disorders and maladies, under which they had respectively laboured and languished; and for divers medicines and other necessary things, found and provided, administered, delivered and applied by this deponent on those occasions, for the said **C. D.** and at his like request.

(§ 15.)

The like, as a surgeon and apothecary.

For work and labour, care diligence and attendance, done performed and bestowed by this deponent, as the attorney and solicitor of and for the said **C. D.** and on his retainer, in and about the prosecuting, defending and soliciting of divers causes, suits and businesses for the said **C. D.** and for certain fees due and of right payable to this deponent in respect thereof.

(§ 16.)

The like, as an attorney, and for fees, where a suit is carried on.

For

CHAP. VIII. For work and labour, care diligence and attendance, done performed and bestowed by this deponent, in and about the drawing, copying and engrossing of divers deeds and writings for the said *C. D.* and in and about other the business of the said *C. D.* and at his request.

(§ 17.)
The like, for drawing deeds, &c.

(§ 18.) For goods, &c. sold and delivered. For goods (or a horse, &c.) sold and delivered by this deponent to the said *C. D.* and at his request.

(§ 19.) Goods bargained and sold to defendant, and delivered to a third person. For goods bargained and sold by this deponent to the said *C. D.* and by virtue of that bargain and sale delivered to one *E. F.* at the request of the said *C. D.*

(§ 20.) For money agreed to be paid on an exchange of horses. For somuch money, which the said *C. D.* promised and agreed to pay to this deponent, together with a certain horse of him the said *C. D.* in exchange for a certain horse of this deponent.

(§ 21.) Necessaries found and provided. For meat, drink, washing, lodging, and other necessaries, found and provided by this deponent for the said *C. D.* and at his request.

(§ 22.) Medicines, &c. For divers medicines, and other necessary things, found and provided, administered, delivered and applied by this deponent, as an apothecary, for the said *C. D.* (and divers other persons) at his request.

(§ 23.) Hire of horses, &c. For the use and hire of divers horses mares and geldings, and of divers chaises and other carriages, (or of certain lighters and other vessels, or of certain household goods and furniture,) let to hire and delivered

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delivered by this deponent to the said *C. D.* and at **CHAP. VIII.**
his request.

For horsemeat, stabling, care and attendance, (§ 24.)
found provided and bestowed by this deponent, for **Horsemeat,**
in and about the feeding and keeping of divers **&c.**
horses, mares and geldings, for the said *C. D.* at
his request.

For the agisting, depasturing and keeping of (§ 25.)
divers cattle, by this deponent for the said *C. D.* and **Agistment of**
at his request. **cattle.**

For freight, primage and average, due and pay- (§ 26.)
able from the said *C. D.* to this deponent, upon for **Freight, &c.**
and in respect of certain goods, carried and con-
veyed by this deponent, in and on board of a cer-
tain ship or vessel, for the said *C. D.* and at his re-
quest.

For the use of a certain ship or vessel of this de- (§ 27.)
ponent, (or whereof this deponent is master,) re- **Demurrage.**
tained and kept by the said *C. D.* with certain goods
and merchandizes aboard thereof on demurrage, for
a long space of time now elapsed, at the request of
the said *C. D.*

For the lighterage of certain goods, carried and (§ 28.)
conveyed in certain lighters and other vessels of **Lighterage.**
this deponent, for the said *C. D.* and at his request.

For a certain messuage or tenement and premises (§ 29.)
with the appurtenances, of this deponent, by him **Freehold pre-**
G bargained **mises bargain-**
ed and sold.

CHAP. VIII. bargained sold and released to the said *C. D.* at his request.

(§ 30.) For certain messuages, (&c.) of this deponent, by him bargained sold and surrendered to the said *C. D.* at his request.

Copyhold premises surrendered.

(§ 31.) For certain messuages, (&c.) of this deponent, by him bargained sold and assigned to the said *C. D.* at his request, for the remainder of a certain term of years therein.

Leasehold premises assigned.

(§ 32.) For the use and occupation of a certain dwelling-house, (or of a certain dwelling-house, farm and lands,) with the appurtenances, of this deponent, held and enjoyed by the said *C. D.* as tenant thereof to this deponent, for — now elapsed.

Use and occupation of a house, &c.

(§ 33.) For the use and occupation of divers rooms and apartments, in and parcel of a certain dwelling-house of this deponent, held and enjoyed by the said *C. D.* as tenant thereof to this deponent, for — now elapsed.

The like, of rooms.

(§ 34.) On a promissory note, drawn by the said *C. D.* payable to this deponent, on demand (or at a certain day now past).

On a promissory note, payee against drawer.

(§ 35.) As indorsee of a promissory note, drawn by the said *C. D.* payable to one *E. F.* or order, at a certain day now past, and by him indorsed to this deponent.

Indorsee against drawer.

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On a bill of exchange, drawn by one *E. F.* upon **CHAP. VIII.**
and accepted by the said *C. D.* payable to this de- (§ 36.)
ponent, at a certain day now past. On a bill of
exchange,
payee against
acceptor.

On a bill of exchange drawn by the said *C. D.*
upon one *E. F.* and payable to this deponent, at a
certain day now past. Payee against
drawer. (§ 37.)

As indorsee of a bill of exchange, drawn by one
E. F. upon and accepted by the said *C. D.* payable Indorsee
to the said *E. F.* or his order, at a certain day now against accep-
past, and by him the said *E. F.* indorsed to this de- tor. (§ 38.)
ponent.

As indorsee of a bill of exchange, drawn by the
said *C. D.* on one *E. F.* payable to the order of the Indorsee
said *C. D.* at a certain day now past, and by him against draw-
er. (§ 39.)
the said *C. D.* indorsed to this deponent.

For principal and interest due on a bond, bearing
date, (§c.) and made and entered into by the said (§ 40.)
C. D. to this deponent, in the penal sum of — *l.* On a money-
bond.
conditioned for the payment of — *l.* and interest,
at a certain day now past.

For the arrears of a certain annuity, due to this
deponent, upon and by virtue of a bond, bearing (§ 41.)
date, (§c.) and made and entered into by the said On an annui-
ty-bond.
C. D. to this deponent, in the penal sum of — *l.*
conditioned for the payment of the sum of — *l.*
a year to this deponent, by the said *C. D.* during
the life of the said *C. D.*.

CHAP. VIII. — indebted to *E. F.* in trust for this deponent, in the sum of — *l.* for principal and interest due on a bond, bearing date, (*Sc.*) and made and entered into by the said *C. D.* to the said *E. F.* in the penal sum, (*Sc.*) and which bond hath been since duly assigned by the said *E. F.* to this deponent.

(§ 42.)
By the assignee of a bond.

(§ 43.)
The like, another way.

A. B. of — and *C. D.* of — severally make oath and say; and first, this deponent *A. B.* for himself saith, that *E. F.* did by his bond, bearing date, (*Sc.*) become bound unto this deponent in the penal sum of — *l.* conditioned for the payment of the sum of — *l.* and interest, at a certain day now past; and this deponent further saith, that he did by indenture, bearing date, (*Sc.*) for a good and valuable consideration, assign, transfer and set over unto the said *C. D.* the said bond, and all monies due and to grow due thereon; and that he this deponent hath not received the said sum of — *l.* and interest, or any part thereof, either before or since the said assignment: And this deponent *C. D.* for himself saith, that the said *E. F.* is justly indebted unto the said *A. B.* in trust for this deponent, as assignee as aforesaid, in the sum of — *l.* for principal and interest due on the said bond.

(§ 44.)
For costs on an order of *nisi prius*, made a rule of court.

A. B. of — maketh oath and saith, that by an order made at the assizes held at — in and for the county of, — on — the — day of — 18— before the honourable — one of the barons of his majesty's court of Exchequer, and — one of the justices of his majesty's court of Common

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mon Pleas at *Westminster*, justices appointed to hold the assizes in and for the said county of —, in a certain cause then depending in his majesty's court of King's Bench at *Westminster*, wherein this deponent was plaintiff, and *C. D.* was defendant, it was ordered, that the trial of the said cause should be put off until the then next assizes, on payment of costs by the said *C. D.*; and that the said order should be made a rule of his said majesty's court of King's Bench, if the justices of the same court should so please: And this deponent further saith, that the said order hath been since made a rule of his said majesty's court of King's Bench, and that the costs of this deponent have been taxed thereon, at the sum of — *l.* and that the said *C. D.* is justly and truly indebted unto this deponent, in the said sum of — *l.* for the costs aforesaid, upon and by virtue of the said first-mentioned order.

Upon and by virtue of a judgment of this honourable court, (or of the court of —,) for the said sum of — *l.* recovered by this deponent, against the said *C. D.* in — term last past,

(§ 45.)

On a judgment.

By virtue of a certain judgment, recovered by this deponent, in this honourable court, against the said *C. D.* as administrator of *E. F.* deceased, in — term last past; and that the sheriff of — to a writ of *feri facias* issued upon the said judgment, hath returned *nulla bona*, and a *devastavit* by the said *C. D.* of the effects of the said *E. F.* deceased, to the amount of the said sum of — *l.* (the sum sworn to.)

(§ 46.)

The like, on a *devastavit* returned against an administrator.

CHAP. VIII.

(§ 47.)

For penalties
on the lottery
act.

A. B. of — maketh oath and saith, that *C. D.* did, on the — day of — last past, receive of *E. F.* divers sums of money, in consideration whereof he the said *C. D.* agreed to repay to the said *E. F.* divers other sums of money, on certain chances and events, relative to the drawing of certain tickets in a certain *English* lottery established by act of parliament, contrary to the form of the statute in such case made and provided; and the said *C. D.* hath thereby incurred — pecuniary penalties of 50*l.* each: And that this deponent intends forthwith to commence an action in this honourable court, against the said *C. D.* for the recovery of the said penalties.

(§ 48.)

By one of several partners,
for goods sold.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and *E. F.* in the sum of — *l.* for goods sold and delivered by this deponent and the said *E. F.* to the said *C. D.* and at his request.

(§ 49.)

By a surviving
partner, for
goods sold.

For goods sold and delivered by this deponent and one *E. F.* in his life-time, now deceased, and whom this deponent hath survived, to the said *C. D.* and at his request.

(§ 50.)

By baron and
feme, for
work and labour,
and materials.

E. the wife of *A. B.* of — maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* and this deponent, in the sum of — *l.* for work and labour done and performed, and materials found and provided, by this deponent, before her intermarriage with the said *A. B.* for the said *C. D.* and at his request.

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E. the wife of *A. B.* of — maketh oath and saith, that *C. D.* is justly and truly indebted to the said *A. B.* and this deponent his wife, in the sum of — *l.* for the arrears of a certain annuity or yearly sum of — *l.* upon and by virtue of a certain bond, bearing date, (&c.) and made and entered into by the said *C. D.* to this deponent, whilst she was sole and unmarried, in the penal sum of — *l.* conditioned for the payment to this deponent of the said annuity or yearly sum of — *l.* free from all deductions and abatements whatsoever, for and during the term of the natural lives of the said *C. D.* and *G. H.* and the life of the longest liver of them.

CHAP. VIII.

(§ 51.)

The like, on a bond, for the arrears of an annuity.

A. B. of — maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent and one *B. C.* as assignees of the estate and effects of *E. F.* a bankrupt, in the sum of — *l.* for goods sold and delivered by the said *E. F.* before he became bankrupt, to the said *C. D.* and at his request, as appears by the books of account of the said *E. F.* in the possession of this deponent and the said *B. C.* and as he this deponent verily believes.

(§ 52.)

By the assignees of a bankrupt, for goods sold.

A. B. of — one of the assignees of the estate and effects of *E. F.* a bankrupt, maketh oath and saith, that *G. H.* did by his bond, bearing date, (&c.) become bound to *J. K.* in the sum of — *l.* conditioned for the payment of — *l.* and interest, at a certain day now past: And this deponent further saith, that the said *J. K.* did, by indenture bearing date, (&c.) for a good and valuable consideration, assign, transfer and set over the said

(§ 53.)

The like, on a bond assigned to the bankrupt.

CHAP. VIII. bond, and all monies due and to grow due thereon to the said *E. F.* who hath since become bankrupt; and that he this deponent and *C. D.* are assignees of the estate and effects of the said *E. F.*: And this deponent further saith, that the said *G. H.* paid to the said *E. F.* before he became bankrupt, the sum of — *l.* in part of the money due on the said bond, by the condition thereof, but that the said *G. H.* hath not paid the residue thereof, either to this deponent, or, as he believes, to the said *J. K.* or the said *E. F.* or the said *C. D.*; and that there is now due and owing on the said bond, by the condition thereof, the sum of — *l.* for principal and interest, in which sum the said *G. H.* is now justly and truly indebted unto this deponent and the said *C. D.* as assignees as aforesaid.

(§ 54.)
By a surviving
assignee, on a
judgment.

A. B. of — who hath survived *B. C.* which said *A. B.* and *B. C.* in the life-time of the said *B. C.* were assignees of the estate and effects of *E. F.* a bankrupt, according to the force form and effect of the several statutes concerning bankrupts, maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent, as surviving assignee as aforesaid, in the sum of — *l.* upon and by virtue of a judgment of this honourable court, for the said sum of — *l.* recovered by this deponent, as surviving assignee as aforesaid, against the said *C. D.*

(§ 55.)
By an executor,
for goods
sold.

A. B. of — executor of the last will and testament of *E. F.* deceased, maketh oath and saith, that *C. D.* is justly and truly indebted to this deponent,
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as executor as aforesaid, in the sum of — *l.* for goods sold and delivered by the said *E. F.* in his life-time to the said *C. D.* as appears by the books of the said *E. F.* and as he this deponent verily believes.

A. B. of — one of the executors of the last will and testament of *E. F.* deceased, maketh oath and saith, that *C. D.* is justly and truly indebted unto this deponent and *G. H.* as executors of the last will and testament of the said *E. F.* in the sum of — *l.* upon and by virtue of a judgment of this honourable court, for the said sum of — *l.* recovered by the said *E. F.* in his life-time against the said *C. D.*; and which said judgment is still in full force and unsatisfied, as appears by the record of the said judgment, and as he this deponent verily believes.

(§ 56.)

By executors, on a judgment recovered by the testator.

That *C. D.* has in his possession, and unjustly detains from this deponent, a certain indenture of lease of this deponent, bearing date, (&c.) and made between the said *C. D.* of the one part, and this deponent of the other part; and which said indenture is of the value of — *l.* and upwards to this deponent, who hath demanded the same.

(§ 57.)

In detinue,

That *C. D.* hath possessed himself of divers goods and chattels of this deponent, of the value of — *l.* which he hath refused to deliver to this deponent, and hath converted the same to his own use.

(§ 58.)

In trover, for goods.

That

CHAP. VIII. That *C. D.* hath possessed himself of a certain promissory note of this deponent, bearing date, (&c.) whereby one *E. F.* promised to pay — after the date thereof, to this deponent or order, — *l.* for value received, which said note is still unpaid; and the said *C. D.* hath refused to deliver the said note to this deponent, and hath converted the same to his own use.

(§ 59.)
The like, for a promissory note.

(§ 60.) That *C. D.* hath possessed himself of a certain bond or writing obligatory of this deponent, bearing date, (&c.) and made and entered into by one *E. F.* to this deponent, in the penal sum of — *l.* conditioned for the payment of — *l.* and interest as therein mentioned, which said bond or writing obligatory is still wholly unsatisfied; and the said *C. D.* hath refused to deliver the said bond or writing obligatory to this deponent, and hath converted the same to his own use.

(§ 61.) *A. B.* of — late a mariner on board the ship — whereof *C. D.* was master and commander, and *E. F.* of — late carpenter on board the said ship, severally make oath and say; and first, this deponent *A. B.* for himself saith, that on or about the — day of — last, whilst the said ship was lying in the harbour of — the said *C. D.* came into the steerage of the said ship, where this deponent then was, and without any provocation whatever laid hold of this deponent by the collar, and with great force and violence knocked him down, &c. (here describe the circumstances of the assault): And this deponent *E. F.* for himself saith, that he was present at the

For an assault on board a ship.

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the time when the said *C. D.* so came into the steer- CHAP. VIII.
age of the said ship as aforesaid; and did see the
said *C. D.* assault and ill-treat the said *A. B.* in man-
ner by him above set forth; and that he this depon-
ent did not hear or see the said *A. B.* say or do any
thing to the said *C. D.* to merit or deserve such ill-
treatment: And this deponent *A. B.* for himself fur-
ther saith, that he hath been informed and verily
believes, that the said *C. D.* is a person in good cir-
cumstances, and well able to make this deponent sa-
tisfaction for the said ill-treatment; and he hath
also been informed and verily believes, that the said
C. D. will soon depart this realm; and that unless
he shall be held to bail, this deponent may be de-
prived of that remedy to which he thinks himself
entitled by the laws of this country.

Sworn, (&c.)

CHAP. IX.

Of the ARREST.

(§ 1.)
Warrant to
arrest.

— (to wit). *E. F.* esquire, sheriff of the county aforesaid, to the keeper of the gaol of the said county, and also to *G. H.* and *J. K.* my bailiffs in the said county, greeting: By virtue of a precept called a bill of *Middlesex*, (or of a writ of our sovereign lord the king to me directed,) I command you, and every of you, jointly and severally, that you or one of you take *C. D.*, if he shall be found in my bailiwick, and him safely keep, so that I may have his body before the lord the king at *Westminster*, on — next after — (or by original, “on — wheresoever our said lord the king shall then be in *England*,”) to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C, D.* for — *l.* upon promises, (or as the *ac-etiam* is,) according, &c. (or by original, “to answer *A. B.* of a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.*” or as the plea is); hereof fail not, as you will answer at your peril. Given under the seal of my office, this — day of — 18—.

By the same sheriff.

Bail for — *l.*
L, M. attorney.

Writ

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Writ dated the — day of — 18—. CHAP. IX.

Beware the defendant is not privileged or protected.

This warrant is allowed for one defendant and no more; and to be executed by no bailiffs but those who have given the said sheriff security.

CHAP. X.

Of the BAIL-BOND.

(§ 1.)
Bail-bond to
the sheriff.

KNOW all men by these presents, that we *C. D.* of — *E. F.* of — and *G. H.* of — are held and firmly bound to — esquire, sheriff of the county of — in the sum of — *l.* (double the sum indorsed on the writ) of lawful money of *Great Britain*, to be paid to the said sheriff, or his certain attorney, executors, administrators or assigns; for which payment well and truly to be made, we bind ourselves, and each of us for himself, in the whole, our and every of our heirs, executors and administrators, firmly by these presents: Sealed with our seals. Dated the — day of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united Kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

The condition of this obligation is such, that if the above-bounden *C. D.* do appear before our sovereign lord the king at *Westminster*, on — (or by original “on — wheresoever, &c.”) to answer *A. B.* of a plea of trespass, and also to a bill, &c. (as in the *ac-etiam*,) according, &c. (or by original, “to answer *A. B.* of a plea of, &c.” as the plea is,) then

then this obligation to be void, otherwise to remain in full force and virtue. **CHAP. X.**

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CHAP. XI.

Of APPEARANCE, and BAIL to the ACTION.

(§ 1.) — (to wit.) Appearance for *C. D.* at the suit of *A. B.* to a *capias* returnable, (&c.)
E. F. attorney.
Præcipe for appearance, by original.

(§ 2.) — (to wit.) The sheriff was commanded, that he should take *C. D.* late of — if, &c. and him safely keep, so that he might have his body before our lord the king on — wheresoever, &c. to answer to *A. B.* of a plea, &c. (as in the *capias*, to the words “ as it is said.”) And the said *C. D.* by *E. F.* his attorney, prays that his appearance thereupon may be recorded by the court here; and it is recorded, &c.
Entry of common appearance, by original.

(§ 3.)
Common bail-piece.

— term, in the — year of the reign of King *George* the Third.

Way.

— (to wit.) *C. D.* having been served with process, is delivered to bail to

John Doe, of — yeoman,
and

Richard Roe, of the same
place yeoman,

E. F. attorney, at the suit of *A. B.*

— 18—.

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If common bail be filed by the plaintiff according to the statute, these words should be written on the bail-piece, "Filed according to the statute." **CHAP. XI.**

In the King's Bench.

A. B. plaintiff, (§ 4.)
and Affidavit of
C. D. defendant. service of
 process.

G. H. of — clerk to *E. F.* gentleman, attorney for the above-named plaintiff, maketh oath and saith, that he this deponent did on the — day of — instant, personally serve the above-named defendant with a true copy of a bill of *Middlesex*, (or *latitat*, &c.) which appears to this deponent to have been regularly issued out of this honourable court, against the said defendant, at the suit of the above plaintiff, and returnable on — next after —, under which said copy was written an *English* notice to the said defendant, of the intent of such service, pursuant to the statute in such case made and provided.

Sworn, (&c.)

G. H.

H

— term,

CHAP. XI.

(§ 5.)

Special bail-
piece.

— term, in the — year of the reign
of King *George* the Third.

Way.

— (to wit). *C. D.* is delivered to bail
upon a *cepi corpus*, to

E. F. of —

and

G. H. of —at the suit of *A. B.*Oath — *l.**J. K.* attorney,

— 18—.

(§ 6.)

Folger's entry
of special bail,
by original.

— (to wit). *Capias*, *C. D.* late of — at
the suit of *A. B.* of a plea of trespass on the case, to
the damage of the said *A. B.* of — *l.* (or as the
plea is).

Bail, *E. F.* of — and *G. H.* of —Defendant himself in — *l.*Each of the bail in — *l.**J. K.* attorney for defendant.

(§ 7.)

Recognizance
of bail.

You do jointly and severally undertake, that if
C. D. shall be condemned in this action, at the suit
of *A. B.*, he shall satisfy the costs and condemnation,
or render himself to the custody of the marshal of
the *Marshalsea*, or you will do it for him.

Are you content?

In

In the King

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Sworn, (

In the King

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To Mr. —
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In the King's Bench.

A. B. plaintiff, CHAP. XI.
and (§ 8.)

C. D. defendant. Affidavit of
bail, put in be-
fore a commis-
sioner in the
country.

J. K. of — maketh oath and saith, that the
recognizance of bail or bail-piece hereunto annexed,
was duly acknowledged by *E. F.* of — and *G. H.*
of — before — esquire, the commissioner who
took the same, in this deponent's presence, the —
day of — last past.

J. K.

Sworn, (&c.)

In the King's Bench.

A. B. plaintiff, (§ 9.)

and

Notice of bail
being put in.

C. D. defendant.

Take notice, that special bail was this day put in
(if by original, say, "put in with the filacer") for the
defendant in this cause, before the Honourable Mr.
Justice — at his chambers in *Serjeant's-Inn, Chan-
cery-lane, London*; and the names and additions of
such bail are — of — and — of —.
Dated the — day of — 18—.

Your's, &c.

E. F. attorney for defendant.

— (attorney's residence).

To Mr. — attorney
for plaintiff.

If the bail are the same as to the sheriff, then add,
"and they are the same, as are bail to the sheriff."

CHAP. XI.

(§ 10.) In the King's Bench.

Notice of the bail-piece and affidavit being filed.

A. B. plaintiff, and

C. D. defendant.

Take notice, that the bail-piece in this cause, with the affidavit of the due taking thereof, was this day filed with the Honourable Mr. Justice — at his chambers in *Serjeant's-Inn, Chancery-lane, London*. Dated the — day of — 18—.

Your's, &c.

J. K. agent for defendant.

To Mr. L. M. agent for plaintiff.

(§ 11.) In the King's Bench.

Affidavit of notice of bail, when not excepted to, to be indorsed on bail-piece, in order to file same.

A. B. plaintiff, and

C. D. defendant.

G. H. of — clerk to E. F. gentleman, attorney for the above-named defendant, maketh oath and saith, that he this deponent did on the — day of — last, serve Mr. — the plaintiff's attorney with a notice in writing, purporting that the within-named bail were on the — day of — put in for the defendant in this cause, before, (&c.)

G. H.

Sworn, (&c.)

(§ 12.)

Entry of exception to bail.

I except against these bail.

E. F. plaintiff's attorney — 18—.

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In the King's Bench. *A. B.* plaintiff, **CHAP. XI.**
 and (§ 13.)
C. D. defendant. Notice of ex-
 ception.

Take notice, that I have excepted against the bail put in for the defendant in this cause.

E. F. plaintiff's attorney.
 — 18—.

In the King's Bench. *A. B.* plaintiff, (§ 14.)
 and Notice of justi-
C. D. defendant. fication, by
 same bail.

Take notice, that the bail put in for the defendant in this cause, and of whom you have already had notice, will on — next justify themselves in open court, at *Westminster-hall*, in the county of *Middlesex*, as good bail for the said defendant.

Dated this — day of — 18—.

Your's, &c.

E. F. attorney for defendant.

To Mr. *G. H.* attorney
 for plaintiff.

If the bail were put in before a commissioner, the notice should express that they will justify themselves "by affidavit."

In the King's Bench. *A. B.* plaintiff, (§ 15.)
 and Notice of ad-
C. D. defendant. ding one bail,
 and justifying.

Take notice, that *E. F.* of — will on — next be added to the bail already put in for the defendant in this cause, and that he, together with *G. H.* one of the bail already put in for the said defendant, and of whom you have before had notice, will at

CHAP. XI. the same time justify themselves in open court, at Westminster-hall, in the county of Middlesex, as good bail for the said defendant. Dated the — day of — 18—.

Your's, &c.

J. K. attorney for defendant.

To Mr. L. M. attorney
for plaintiff.

§ 6.)
Notice of ad-
ding and justi-
fying different
bail.

In the King's Bench,

A. B. plaintiff,

and

C. D. defendant.

Take notice, that E. F. of — and G. H. of — will on — next be added to the bail already put in for the defendant in this cause, and at the same time will justify themselves in open court, at Westminster-hall, in the county of Middlesex, as good bail for the said defendant. Dated the — day of — 18—.

Your's, &c.

J. K. attorney for defendant.

To Mr. L. M. attorney
for plaintiff.

(§ 17.)
Affidavit of
justification of
bail, put in be-
fore a commis-
sioner in the
country.

In the King's Bench.

A. B. plaintiff,

and

C. D. defendant.

E. F. of — and G. H. of — bail for the de-
fendant in this cause, severally make oath and say;
and first, this deponent E. F. for himself saith, that
he is a housekeeper in — aforesaid, and that he
this deponent is worth the sum of — l. (double the
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plaintiff i
Mr. J. K.
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sum sworn to,) over and above what will pay all his debts: And this deponent *G. H.* for himself saith, that he is a housekeeper in — and is worth the sum of — *l.* over and above what will pay all his debts.

CHAP. XI.

Sworn, (&c.)

*E. F.**G. H.*

In the King's Bench.

A. B. plaintiff,

(§ 18.)

and

Affidavit of
service of no-
tice of justifi-
cation.*C. D.* defendant.

G. H. of — clerk to *E. F.* gentleman, attorney for the defendant in this cause, maketh oath and saith, that he this deponent did on the — day of — instant, personally serve Mr. — the plaintiff's attorney, with a true copy of the notice hereunto annexed. (If the notice be served on the clerk or servant of the plaintiff's attorney, say, "serve Mr. — the plaintiff's attorney in this cause, with a true copy of the notice hereunto annexed, by delivering the same to the clerk (or servant) of the said — at his house (or chambers) in —.")

G. H.

Sworn, (&c.)

In the King's Bench.

A. B. plaintiff,

(§ 19.)

and

Affidavit to
oppose bail.*C. D.* defendant.

E. F. of — clerk to Mr. *G. H.* attorney for the plaintiff in this cause, maketh oath and saith, that Mr. *J. K.* attorney for the defendant in this cause, having served the said *G. H.* with notice of justifi-

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ing

CHAP. XI. ing bail in this action, he this deponent, by the order and directions of the said *G.H.* inquired into the sufficiency of the bail intended to be justified for the said defendant; and saith, that *L.M.* one of the said bail hath been a bankrupt, and hath not yet obtained his certificate, as this deponent hath been informed and verily believes.

E. F.

Sworn, (&c.)

(§ 20.)
Rule for the
allowance of
bail.

A. B. } Upon reading the affidavit of *G.H.* it is
v. } ordered, that the bail put in for the de-
C. D. } fendant in this cause, who have this day
justified themselves in court, be allowed, and (if by
bill) the bail-piece filed. Upon the motion of Mr.

By the Court.

(§ 21.)
Entry of re-
cognizance of
bail, by bill.

As yet of — term, (the term of which the declaration is intituled) in the — year of the reign of King *George* the Third. Witness *Edward* Lord *Ellenborough*.

— (to wit). Be it remembered, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by — his attorney, and brings into the court of our said lord the king, before the king himself, now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king, before the king himself, of a plea of trespass on the case, (or as the plea is,) and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard*

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Entry
G. H. ba
plaintiff.

chard Roe; which said bill follows in these words, CHAP. XI.
 that is to say: — (to wit). *A. B.* complains of
C. D. &c. (here copy the declaration to the end,
 omitting the pledges, and proceed on a new line as
 follows): And the said *C. D.* by — his attorney,
 comes and defends the wrong and injury when, &c.
 And thereupon *E. F.* of — and *G. H.* of —
 come into the court of our said lord the king before
 the king himself now here, in their proper persons,
 and become pledges and bail; and each of them be-
 comes pledge and bail for the said *C. D.*, that if the
 said *C. D.* shall happen to be convicted at the suit of
 the said *A. B.* in the plea aforesaid, then the said
 bail consent, and each of them consents, that all
 such damages (or in debt, that as well the said debt,
 as all such damages) as shall be adjudged to the
 said *A. B.* in that behalf, shall be made of their, and
 each of their lands and chattels, and levied to the
 use of the said *A. B.*, if it shall happen that the
 said *C. D.* shall not pay the said damages, (or in
 debt, the said debt and damages,) or render himself
 to the prison of the marshal of the marshalsea of our
 said lord the king, before the king himself, on that
 occasion.

The entry (or further entry) of *J. K.* gentleman,
 one, &c. of — term, — *George* the third. (§ 22.)
 Docket-paper.

Entry of recognizance of bail, by *E. F.* and
G. H. bail of *C. D.* defendant, at the suit of *A. B.*
 plaintiff. Roll.—

As

CHAP. XI.

(§ 23.)

Entry of re-
cognizance of
bail, by origi-
nal.

As yet of — term, (the term wherein the process upon which the defendant was arrested was returnable,) in the — year of the reign of King *George* the Third. Witness *Edward* Lord *Ellenborough*.

— (the county or city where the bail was put in,) (to wit.) The sheriff was commanded, that he should take *C. D.* late of — if he should be found in his bailiwick, and him safely keep, so that he might have him before the lord the king on — wheresoever the said lord the king should then be in *England*; to answer *A. B.* &c. (as in the *capias*, to the words, “as it is said;” and if there was an *alias*, proceed as follows): Whereupon the sheriff of — to wit, — esquire, did return to the said lord the king, before the king himself, that the said *C. D.* was not found in his bailiwick: And thereupon the said sheriff was commanded, as before, that he might have him before the said lord the king on — wheresoever the said lord the king should then be in *England*, to answer the said *A. B.* in the plea aforesaid: At which day, that is to say, on — before the said lord the king at *Westminster*, the said *A. B.* comes in his proper person, and offers himself on the fourth day against the said *C. D.* in the plea aforesaid; and the said *C. D.* by — his attorney also comes, and defends the wrong and injury when, &c. And thereupon at the same day *E. F.* of — and *G. H.* of — come here into the court of the said lord the king, before the king himself at *Westminster*, in their proper persons, and become pledges and manucaptors, and each of them by himself becomes pledge and manucaptor, for the said

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said *C. D.*, and acknowledge themselves to owe, CHAP. XL
 and each of them doth acknowledge himself to owe,
 to the said *A. B.* the sum of — *l.* and do submit
 and grant for themselves and their heirs, and each
 of them doth submit and grant for himself and his
 heirs, that the said sum of — *l.* shall and may be
 made of their, and each of their, lands and chattels,
 and levied to and for the use of the said *A. B.* in
 case the said *C. D.* shall happen to be convicted in
 the plea aforesaid, at the suit of the said *A. B.* and
 if the said *C. D.* shall not pay and satisfy unto the
 said *A. B.* all such damages, costs and charges (or
 in debt, as well the said debt or sum of — *l.* as all
 such damages, costs and charges) as shall be ad-
 judged to the said *A. B.* in the plea aforesaid, or
 render himself to the custody of the marshal of the
 marshalsea of the lord the king before the king him-
 self, on that occasion.

Kenyon.

A. B. plaintiff,

(§ 24.)

and

Entry or mi-
 nute of render
 and commit-
 ment.

C. D. defendant.

In the King's Bench.

— (to wit). *C. D.* the above defendant did
 this — day of — 18—. render himself (or was
 rendered) in discharge of his bail, at the suit of the
 above plaintiff, and was thereupon committed by
 Mr. Justice — to the custody of the marshal, &c.
 there to remain until, &c.

In

CHAP. XI.

(§ 25.)
Notice of render.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

Take notice, that the above defendant did this day render himself (or was this day rendered) in discharge of his bail, at the suit of the above plaintiff, and was thereupon committed by Mr. Justice — to the custody of the marshal, &c. there to remain until, &c. Dated the — day of — 18—.

Your's, &c.

To Mr. *G. H.* attorney
for plaintiff.

E. F. attorney for
defendant (or for
the bail, as the
case is).

(§ 26.)
Affidavit of
service of notice
of render.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

G. H. of — clerk to *E. F.* gentleman, attorney for the defendant's bail in this cause, maketh oath and saith, that he this deponent did on the — day of — instant, personally serve Mr. — the plaintiff's attorney, with a true copy of the notice hereunto annexed; (and if the service was on his clerk or servant, add, "by delivering the same to the clerk (or servant) of the said Mr. — at his house (or chambers) in — in the county of —.")

G. H.

Sworn, (&c.)

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CHAP. XII.

Of the PROCEEDINGS against SHERIFFS, to compel them to return the WRIT, and bring in the BODY.

A. B. } IT is ordered, that — and — sheriffs (§ 1.)
 v. } of *London*, shall within four days next Rule to return writ.
C. D. } after notice of this rule, to be given to their secondaries, (or that — sheriff of the county of — shall within — days next after notice of this rule, to be given to his under-sheriff,) peremptorily return the writ of — issued between the parties.

In the King's Bench.

A. B. plaintiff, (§ 2.)
 and Affidavit of service of rule to return the writ, &c.
C. D. defendant.

A. B. of — maketh oath and saith, that he did on the — day of — instant, personally serve Mr. — who acts as deputy secondary of the compters, (if in *London*; or if in *Middlesex*, Mr. — who acts as deputy-sheriff of the county of *Middlesex*; or if in any other county, Mr. — who acts as under-sheriff for the county of —) with a true copy of the rule hereunto annexed, and at the same time shewed him the said original rule: (Or if the rule be not personally served, say, that “ he “ did on the — day of — instant, serve Mr.
 “ —

CYAP. XII. “ — who acts as deputy secondary, (&c.) with a true copy of the rule hereunto annexed, by delivering a copy of the said rule to a clerk in the office of the said deputy secondary, (&c.) situate at — and at the same time shewing the said original rule to such clerk.”) And this deponent further saith, that he has this day searched at the office of the *custos brevium* of this honourable court, for the return of the writ of — issued in this cause, but that no such writ was then filed there.

A. B.

Sworn, (&c.)

(§ 3.) The within-named *C. D.* is not found in my bailiwick.
Return of *non est inventus.*

The answer of — sheriff.

(§ 4.) I have taken the within-named *C. D.* whose body I have ready, as within I am commanded.
Cepi corpus, et paratum habeo.

The answer, (&c.)

(§ 5.) I have taken the within-named *C. D.* whose body I have ready, as within I am commanded; but the within-named *E. F.* is not found in my bailiwick.
Cepi corpus as to one defendant, and non est inventus as to another.

The answer, (&c.)

(§ 6.) By virtue of this writ to me directed, I made my certain warrant in writing, under my seal of office, to *E. F.* and *G. H.* my bailiffs, jointly and severally, to take and arrest the within-named *C. D.* by virtue of which warrant the said *E. F.* and *G. H.* afterwards and before the return of the said writ, to wit, on the — day of — last, at — in my county, and

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and within my bailiwick, took and arrested the within-named *C. D.* according to the exigency of the said writ, and safely kept him in their custody, until *G. II.* of — and divers other persons to my said bailiffs unknown, on — at — aforesaid, with force and arms, assaulted and ill-treated my said bailiffs, and the said *C. D.* out of the custody of my said bailiffs then and there rescued, and the said *C. D.* then and there with force and arms rescued himself, and escaped out of the custody of my said bailiffs, against the peace of our lord the now king: And afterwards, the said *C. D.* is not found in my bailiwick.

The answer, (&c.)

By virtue, (&c.) I took the within-named *C. D.* and safely kept him in his majesty's prison in and for the said county, until afterwards, to wit, on — by virtue of a certain other writ of our said lord the now king to me directed, and to this writ annexed, I caused the said *C. D.* to be delivered out of the said prison; wherefore I cannot have the body of the said *C. D.* before our said lord the king, at the day and place within contained, as within I am commanded.

(§ 7.)
Discharge on
supersedeas.

The answer, (&c.)

By virtue, (&c.) I took the within-named *C. D.* and safely kept him, (&c.) until afterwards, to wit, on — I received his said majesty's writ of *habeas corpus cum causa*, commanding me to have the body of the said *C. D.* before the right honourable *Edward Lord Ellenborough*, his said majesty's chief-justice,

(§ 8.)
Delivery over
on *habeas corpus.*

CHAP. XII. justice, assigned to hold pleas in the court of our lord the now king; before the king himself, at his chambers situate in *Serjeant's-Inn, Chancery-Lane, London*, immediately after the receipt of that writ: by virtue of which said writ, and in obedience thereto, I had the body of the said *C. D.* with the said last-mentioned writ, and the return of the within cause, mentioned in a certain schedule thereunto annexed, before his said majesty's chief-justice, at his chambers aforesaid, on the — day of — last, who then received of me the body of the said *C. D.* and committed him to the prison of the marshal of the marshalsea of our said lord the king, before the king himself, and altogether discharged and exonerated me from further keeping the said *C. D.* wherefore I cannot have the body of the said *C. D.* before our said lord the king, at the day and place within- contained, as within I am commanded.

The answer, (&c.)

(§ 9.)
Languidus in prison.

By virtue, (&c.) I have taken the within-named *C. D.* who remains in his majesty's prison of — under my custody, so weak and infirm, that without great peril and danger of his life, I cannot have his body before the lord the king, at the day and place within contained, as within I am commanded.

The answer, (&c.)

(§ 10.)
*Mandavi baili-
vo, &c.*

By virtue, (&c.) I have made my mandate to the bailiff of the liberty of — to take and arrest the within-named *C. D.* which said bailiff hath the full return of all writs and process, and the execution of the same, within the liberty aforesaid, so that

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that no execution of this writ can be made by me within the said liberty; which said bailiff hath not as yet given me any answer thereto. (Or hath answered, "that the within-named *C. D.* is not found in his bailiwick;" or "that he hath taken the within-named *C. D.* whose body he hath ready.")

The answer, (&c.)

George the Third, (&c.) To the sheriff of ——— (§ 11.)
greeting: We command you, that you *distrain* *G. H.* bailiff of our liberty of ——— in your county, *Distringas bal-*
by all his lands and chattels in your bailiwick, so *livum.*
that neither he, nor any one for him, do lay hands on the same, until you receive another command from us in that behalf; and that you answer to us for the issues thereof, so that you have before us at *Westminster*, on ——— next after ——— (or by original, on ——— wheresoever we shall then be in *England*;) the body of *E. F.* by him taken, and in our prison under his custody detained, as by your return heretofore by you sent into our court before us you have charged the said bailiff, to answer to *A. B.* of a plea of trespass, and also to a bill, &c. (or by original, the body of *E. F.* late of ——— whom by our command the said *G. H.* lately took, as you returned to us at *Westminster*, on ——— last past, to answer to *A. B.* of a plea of, &c.) and for the said *G. H.* to hear his judgment thereupon of many defaults; and have there then (or, by original, "have there") this writ. Witness, (&c.)

CHAP. XII. The sheriff was commanded, that he should
 (§ 12.) take *C. D.* late of — if, &c. and him safely
 keep, so that he might have his body before the
 lord the king on — last past, wheresoever, &c.
 to answer to *A. B.* of a plea, (&c.) And now here
 at this day, comes the said *A. B.* by *E. F.* his
 attorney, and offers himself on the fourth day
 against the said *C. D.* of the plea aforesaid; and
 the said *C. D.* does not come: And the sheriff re-
 turns, that he hath made his mandate to *G. H.* bai-
 liff of the liberty of — in the county aforesaid,
 who has the return of all writs and process and
 the execution of the same within the liberty
 aforesaid, and within which the execution of that
 writ by him the said sheriff could not be made;
 which said bailiff gave this answer to the said sheriff,
 that he had taken the body of the said *C. D.* whose
 body he would have here at this day. And because
 the said bailiff hath not the body of the said *C. D.*
 here at this day; therefore the said bailiff is in
 mercy, and amerced by the court of our lord the
 king here to — *l.* and it is commanded to the
 sheriff, that he distrain the aforesaid bailiff by all
 his lands, &c. and that he answer, &c. so that he
 have before the lord the king, on — wheresoever,
 &c. the body of the said *C. D.* whom, &c. to an-
 swer to the said *A. B.* of the plea aforesaid, &c.

(§ 13.)
 Rule to bring
 in the body.

A. B. } It is ordered, that — and — sheriffs
 v. } of *London*, shall within four days next
C. D. } after notice of this rule to be given to
 their secondaries, (or that — sheriff of the county
 of — shall within — days next after notice of
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Sworn, (&

this rule to be given to his under-sheriff,) peremp- CHAP. XII.
torily bring into court the body of the defendant.

In the King's Bench.

A. B. plaintiff,

(§ 14.)

and

C. D. defendant.

Affidavit of
service of rule
to bring in the
body, &c.

E. F. of — clerk to *G. H.* gentleman, attorney for the plaintiff in this cause, maketh oath and saith, that he this deponent did on the — day of — instant, personally serve Mr. — who acts as deputy-secondary of the compters, (if in *London*; or if in *Middlesex*, Mr. — who acts as deputy-sheriff of the county of *Middlesex*; or if in any other county, Mr. — who acts as under-sheriff of the county of —) with a true copy of the rule hereunto annexed, and at the same time shewed him the said original rule. (Or if the rule be not personally served, say, that “ he did on the — “ day of — instant, serve Mr. — who acts “ as deputy secondary, (&c.) with a true copy “ of the rule hereunto annexed, by delivering a “ copy of the said rule to a clerk in the office of “ the said deputy secondary, (&c.) situate at — “ and at the same time shewing the said original “ rule to such clerk.”) And this deponent further saith, that no bail above has been put in for the defendant in this cause, (or that bail above was put in, (&c.) but that the same is not perfected).

E. F.

Sworn, (&c.)

1 2

George

CHAP. XII. *George the Third, (&c.)* To the coroner of the county of — greeting: We command you, that you attach *C. D.* sheriff of our said county, so that you may have him before us, on — to answer to us, for certain trespasses and contempts done and committed in our court before us; and have there this writ. Witness, (&c.)

(§ 15.)
Attachment against the sheriff, for not bringing in the body.

By the Court.

Templer.

Indorsement. By rule of court. *E. F.* clerk in Court,

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CHAP. XIII.

Of the PROCEEDINGS by and against ATTORNIES.

GEORGE the Third, (&c.) To the judges of our court of our palace of *Westminster*, and to every of them, greeting: Whereas according to the custom of our court before us at *Westminster*, hitherto used and approved of in the same, the attornies of our same court before us, whilst they are prosecuting or defending suits and actions therein for their clients, ought not, nor have they from time immemorial been used to be compelled, to answer before any of our justices or officers, or other secular judges whatsoever, upon any pleas, complaints or demands, which do not particularly relate to us, (pleas of freehold, feionics and appeals excepted,) save only before us, by bill exhibited in our said court before us, and not by writ: And whereas we have lately received information, by the complaint of *A. B.* gentleman, one of the attornies of our said court, that several ill-disposed persons, intending to disquiet the said *A. B.* have issued forth and prosecuted out of our court of our palace of *Westminster*, one or more writ or writs, returnable before you in the same court, or one or more precept or precepts, returnable in our said court before you or one of you, against the said

(§ 1.)
Writ of privilege.

CHAP. XIII. *A. B.* and threaten to arrest and detain him in your custody thereupon, in suits that do not relate to us, or pleas of freehold, felonies or appeals, whereby the said *A. B.* is unable to attend his said office as an attorney, upon several affairs and suits depending in our said court before us; which if it be permitted, will not only take away, and be in derogation and diminution of the jurisdiction of our said court before us, and the liberties and privileges thereof, but also to the great detriment of the said *A. B.* and his clients: And because we are willing that the jurisdictions, privileges and customs, for so long time used and approved in our said court before us, should be inviolably kept and preserved; we command you, and every of you, that you desist from taking the said *A. B.* into your custody, upon any writ or writs, precept or precepts; and if the said *A. B.* be detained in your custody by any writ or writs, precept or precepts, other than such as particularly relate to us, (pleas of freehold, felonies and appeals only excepted,) that then you discharge the said *A. B.* out of your custody, and suffer him to go at large, as you will answer the contrary at your peril; and that you inform the party or parties, plaintiff or plaintiffs in the plaint or complaints, that he, she or they may prosecute his, her, or their action or actions, suit or suits, in our court before us, by bill to be exhibited to us in our said court before us at *Westminster*, against the said *A. B.* if he, she or they shall think it expedient so to do. Witness, (*&c.*)

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George the Third, (&c.) To the commissioners appointed for carrying into execution the several acts of parliament hereinafter enumerated, that is to say, an act, &c. (here enumerate the acts, as in the warrant of appointment,) and particularly to *E. F. G. H.* and *J. K.* three of the said commissioners, greeting: Whereas it hath been shewn to us, on behalf of *A. B.* one of the attornies of our court before us, that whereas he is one of the attornies of our said court before us, and prosecutes and defends divers suits and businesses of and for many of our liege subjects prosecuting and defending in our said court before us, as their attorney; and that according to the liberties and privileges of the said court, from time whereof the memory of man is not to the contrary used and approved of, no attorney of the same court ought to be appointed or compelled to take upon him any office or service, to be exercised or performed elsewhere than in our court aforesaid, whereby he may be withdrawn from his due attendance in our said court: Nevertheless, you or some of you, contriving to aggrieve the said *A. B.* have appointed or intend to appoint him to the office of one of the collectors of the several taxes, rates and duties, under the management of the commissioners for the affairs of taxes, within the town and hamlet of — in the lower division of the hundred of — in the county of —, which office, as we are informed, will require his constant residence there; and which, if it be permitted, would tend to the manifest loss and damage of the said *A. B.* and many of our liege subjects, whose attorney he is in the court aforesaid: Wherefore the said

CHAP. XIII.

(§ 2.)

The like, to discharge an attorney from the office of collector of taxes.

CHAP. XIII. *A. B.* has humbly besought us to provide him a proper remedy in this behalf; and we being willing that the liberties and privileges of our said court should be inviolably observed, command you and every of you, that without regard to the aforesaid appointment of the said *A. B.* you or some of you cause to be appointed another fit person to the said office, and that you or some of you without delay exonerate and discharge the said *A. B.* from the said office, and that you altogether cease and abstain from proceeding against him for not taking upon him the same, as you will answer the contrary at your peril. Witness, (&c.)

(§ 3.) — Attachment of privilege for *A. B.* gentleman, one, &c. against *C. D.* returnable on — next after —.

Præcipe for attachment of privilege, not bailable.

A. B. in person.
— 18—.

(§ 4.) — *George* the Third, (&c.) To the sheriff of — greeting: We command you, that you attach *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after —, to answer *A. B.* gentleman, one of the attornies of our court before us, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, of a plea of trespass; and have there then this writ. Witness *Edward* Lord *Ellenborough*, at *Westminster*,

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reign.

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Oath for

George
greeting:
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ster *A. B.*
court, &c.
also to a
against the
(or as the
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Witness *E-*
ster, the
reign.

Bail by
A. B.

George
We comm

ster, the — day of — in the — year of our CHAP. XIII.
reign.

Way.

— Attachment of privilege for *A. B.* gentle- (§ 5.)
man, one, &c. against *C. D.* Case for — *l.* on *Præcipe* for a
promises, (or as the action is,) returnable on — bailable at-
next after — attachment of
privilege.

A. B. in person.

— 18—.

Oath for — *l.* by affidavit filed.

George the Third, (&c.) To the sheriff of — (§ 6.)
greeting: We command you, that you attach *C. D.* Attachment of
if he shall be found in your bailiwick, and him privilege, bail-
safely keep, so that you may have his body before able.
us at *Westminster*, on — next after —, to an-
swer *A. B.* gentleman, one of the attornies of our
court, &c. (as before,) of a plea of trespass, and
also to a bill of the said *A. B.* to be exhibited
against the said *C. D.* for — *l.* upon promises,
(or as the action is,) according to the custom of our
court before us; and have there then this writ.
Witness *Edward Lord Ellenborough*, at *Westmin-*
ster, the — day of — in the — year of our
reign.

Way.

Bail by affidavit for — *l.*

A. B. in person.

— 18—.

(§ 7.)

Indorsement
thereon.

George the Third, (&c.) To — greeting: (§ 8.)
We command you, that by our writ under the seal Attachment
of privilege,
of into a county-
palatine.

CHAP. XIII. of our said county-palatine to be duly made, and to be directed to the sheriff of the same county, you command the said sheriff, that he attach *C. D.* and *Richard Roe*, if they shall be found in his bailiwick, and them safely keep, so that he may have their bodies before us at *Westminster*, on — next after — to answer *A. B.* gentleman, one of the attornies, &c. (as before).

(§ 9.)
Entry of attachment of privilege on the roll, to save the statute.

As yet of — term, in the — year of the reign of king *George* the Third. Witness
Edward Lord *Ellenborough*.

England, (to wit). Our lord the king sent to his sheriff of — his writ close in these words, to wit: *George* the Third, &c. (here copy the attachment of privilege, and then proceed as follows).

At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of — now here returns, that the said *C. D.* is not found in his bailiwick.

(§ 10.)
Beginning of a declaration, at the suit of an attorney.

Way. — term, in the — year of the reign of King *George* the Third.
— (to wit). *A. B.* gentleman, one of the attornies of the court of our lord the now king before the king himself, being present here in court in his own person, according to the liberties and privileges of the said court, for such attornies and other officers of the court aforesaid, from time immemorial used and approved of in the same court, complains

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plains of *C. D.* being in the custody of the marshal CHAP. XIII.
of the marshalsea of our said lord the king before
the king himself: For that whereas, (&c.)

Way. — term, in the — year of the (§ 11.)
reign of King *George* the Third. Beginning of a
bill, against an
attorney.
— (to wit). *A. B.* complains of *C. D.* gentle-
man, one of the attornies of the court of our lord
the now king before the king himself, being pre-
sent here in court in his own person, of a plea of
trespass on the case, &c. (or as the plea is): For
that whereas, (&c.)

— (to wit). *A. B.* gentleman, one of the (§ 12.)
attornies of the court of our lord the now king be- The like, by
one attorney
against ano-
ther.
fore the king himself, being present here in court
in his own person, complains of *C. D.* gentleman,
one other of the attornies of the said court of our
said lord the king before the king himself, being
also present here in court in his own person, of a
plea of trespass on the case, &c. (or as the plea is):
For that whereas, (&c.)

— (to wit). *Be it remembered*, that on the (§ 13.)
— day of — in the — year of the reign of The like, where
the cause of
action arises,
and the bill is
filed, in vaca-
tion.
our lord the now king, (a day after the cause of
action accrued,) *A. B.* brought into the office of
the clerk of the declarations of the court of our
said lord the king before the king himself, accord-
ing to the course and practice of the same court,
his certain bill against *C. D.* gentleman, one of the
attornies, &c. (as before), and filed the same bill
as of — term, in the — year of the reign of
our

CHAP. XIII. our said lord the king; which said bill follows in these words, (that is to say): — (to wit). *A. B.* complains of *C. D.* gentleman, one of the attornies, (&c.)

The like,
against the
marshal.

— (to wit). *A. B.* complains of *C. D.* esquire, marshal of the marshalsea of our lord the now king, before the king himself, present here in court in his own person, of a plea that he render, &c. (or as the plea is). For that whereas, (&c.)

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CHAP. XIV.

Of the BILL against PRISONERS, in the actual or supposed CUSTODY of the MARSHAL, &c.

There are no Forms referred to in this Chapter.

CHAP. XV.

Of the REMOVAL of PRISONERS by HABEAS CORPUS; and of the PROCEEDINGS in ACTIONS against them, in the actual CUSTODY of the MARSHAL or SHERIFF, &c. PREVIOUS to the PLEA.

— (to wit). **HABEAS** Corpus for C. D. to do and receive, &c. returnable immediately. (§ 1.)
Præcipe for habeas corpus cum causâ.

George the Third, (&c.) To the sheriff of — (§ 2.)
Writ of habeas corpus cum causâ, to do and receive, &c.
greeting: We command you, that you have the body of C. D. detained in our prison under your custody, as it is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be called in the same, before our right trusty and well-beloved *Edward* Lord *Ellenborough*, our chief-justice assigned to hold pleas in our court before us, at his chambers, situate in *Serjeant's-Inn, Chancery-Lane, London*, immediately after the receipt of this writ,

CHAP. XV. writ, to do and receive all and singular those things which our said chief-justice shall then and there consider of him in this behalf; and have there then this writ. Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — in the — year of our reign. *Way.*

E. F. attorney.

(§ 3.)
*F. ab eo corpus
ac respondendum.*

George the Third, (&c.) To the warden of our prison of the *Fleet*, greeting: We command you, that you have the body of *C. D.* detained in our prison under your custody, as it is said, under safe and secure conduct, together with the day and cause of his being taken and detained, by whatsoever name he may be called in the same, before us at *Westminster*, on — next after — to answer *A. B.* in a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises; and further to do and receive all and singular those things which our said court before us shall then and there consider of him in this behalf; and have there then this writ. Witness, (&c.)

Way.

Oath for — *l.* by affidavit filed.

E. F. attorney.

(§ 4.)
*The like, licet
languidus.*

George the Third, (&c.) To the sheriff of — greeting: We command you, that you have the body of *C. D.* by you taken, and in our prison under your custody detained, (although sick,) as by your return, sent into our court before us, manifestly appears, (or as manifestly appears to us by the

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cord; and

the return of — late sheriff of the court afore- CHAP. XV.
said,) before us at *Westminster*, on — next after
— to answer to *A. B.* (&c.)

— (to wit). *Habeas corpus ad satisfaciendum* (§ 5.)
for *A. B.* against *C. D.* for — *l.* damages, (or for *Præcipe for ha-*
— *l.* debt, and — *l.* damages and costs,) re- *beas corpus ad*
turnable, (&c.) *satisfaciendum.*

E. F. attorney.

George the Third, (&c.) To the warden of our (§ 6.)
prison of the *Fleet*, greeting: We command you, *Habeas corpus*
that you have before us at *Westminster*, on — *ad satisfaciendum.*
next after — the body of *C. D.* under safe and
secure conduct, detained in our prison under your
custody, as it is said, together with the day and
cause of his being taken and detained, by whatso-
ever name he may be called in the same, to satisfy
A. B. — *l.* which the said *A. B.* lately in our
court before us at *Westminster*, recovered against
the said *C. D.* for his damages which he had sustain-
ed, as well by reason of the not performing certain
promises and undertakings, then lately made by the
said *C. D.* to the said *A. B.* as for his costs and
charges by him laid out about his suit in that be-
half, (or if in debt, to satisfy *A. B.* as well a certain
debt of — *l.* which the said *A. B.* lately in our
court before us at *Westminster*, recovered against
the said *C. D.* as also — *l.* for his damages which
he had sustained, as well by reason of detaining the
said debt, as for his costs and charges, &c.) whereof
the said *C. D.* is convicted, as appears to us of re-
cord; and further to do and receive what our said
court

CHAP. XV. court before us shall then and there consider of him in this behalf; and have there then this writ. Witness, (&c.)

(§ 7.)
Beginning of a bill against a prisoner, in custody of the marshal.

— term, in the — year of the reign of King *George* the Third.

— (to wit). *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king, before the king himself; for that whereas, (&c.)

(§ 8.)
Thelike, where the cause of action arises, and the bill is filed, in vacation.

— (to wit). *Be it remembered*, that on the — day of — in the — year of the reign of our lord the now king, (a day after the cause of action accrued,) *A. B.* brought into the office of the clerk of the declarations of the court of our said lord the king before the king himself, according to the course and practice of the same court, his certain bill against *C. D.* being in the custody, (&c.) of a plea of trespass on the case, &c. (or as the plea is,) and filed the same bill as of — term, in the — year of the reign of our said lord the king; which said bill follows in these words, (that is to say:) — (to wit). *A. B.* complains of *C. D.* being, (&c.)

(§ 9.)
Beginning of a declaration, where defendant is in custody of the sheriff.

— (to wit). *A. B.* complains of *C. D.* being in the custody of the sheriff of — by virtue of a certain precept called a bill of *Middlesex*, (or by virtue of a certain writ of our lord the king called a *latitat*, or *alias capias*, &c.) issuing out of the court of our said lord the king, before the king himself, at the suit of the said *A. B.* against the said *C. D.*

C. D. and after — (&c.)

— (to in the custody of — by now king of our said lord the suit of — directed to — writ of our said county directed to the for that where

— (to the custody of our lord the court of himself, at *C. D.* and a date on the a plea of trespass for that where

— (to *E. F.* the sheriff of — a bill of *M* of our lord *capias*, &c. the king be

C. D. and returnable in the same court, on — next CHAP XV.
after — in this same term; for that whereas,
(&c.)

— (to wit). *A. B.* complains of *C. D.* being (§ 10.)
in the custody of the sheriff of the county-palatine The like, where
of — by virtue of a certain writ of our lord the defendant is in
now king called a *latitat*, issuing out of the court of custody of the
our said lord the king, before the king himself, at sheriff of a
the suit of the said *A. B.* against the said *C. D.* di- county-pala-
rected to — and also by virtue of a certain other tine.
writ of our said lord the king, under the seal of the *Vide ante*, p.
said county-palatine, thereupon duly made, and di- 23.
rected to the sheriff of the same county-palatine;
for that whereas, (&c.)

— (to wit). *A. B.* complains of *C. D.* being (§ 11.)
the custody of — by virtue of a certain writ of The like, where
our lord the now king called a *latitat*, issuing out of the defendant
the court of our said lord the king, before the king is in custody
himself, at the suit of the said *A. B.* against the said of an officer
C. D. and also by virtue of the said sheriff's man- of a particular
date on the said writ, directed to — aforesaid, of franchise.
a plea of trespass on the case, &c. (or as the plea is);
for that whereas, (&c.)

— (to wit). *A. B.* complains of *C. D.* and (§ 12.)
E. F. the said *C. D.* being in the custody of the The like,
sheriff of — by virtue of a certain precept called again: two
a bill of *Middlesex*, (or by virtue of a certain writ defendants,
of our lord the now king called a *latitat*, or *alias* where one is in
capias, &c.) issuing out of the court of our lord custody of the
the king before the king himself, at the suit of the sheriff, and
the marshal.

CHAP. XV. said *A. B.* against the said *C. D.* and the said *E. F.* being in the custody of the marshal, (&c.) for that whereas, (&c.)

(§ 13.)
Affidavit of
the delivery of
a copy of the
declaration.

In the King's Bench.

A. B. plaintiff,

and

C. D. defendant.

E. F. of — gentleman, maketh oath and saith, that he did, on the — day of — last past, deliver unto *G. H.* gaoler or keeper of his majesty's gaol in and for the county of —, a true copy of the declaration hereunto annexed; and the said gaoler or keeper then acknowledged to this deponent, that the said defendant was a prisoner in the said gaol: And this deponent further saith, that the said defendant was arrested (or charged in custody) at the suit of the said plaintiff, by virtue of a certain writ of *latitat* issued out of this honourable court, and returnable before the delivery of the said declaration.

E. F.

Sworn, (&c.)

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C. D. }
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Afterwards
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CHAP. XVI.

Of the PROCEEDINGS in ACTIONS against PRISONERS, in the actual CUSTODY of the MARSHAL or SHERIFF, &c. SUBSEQUENT to the PLEA:

A. B. } *IT* is ordered; that the marshal of the (§ 1.)
v. }
C. D. } marshalsea of this court shall bring the Rule on the
 defendant into this court, within three days next marshal, to ac-
 after notice of this rule to be given to him, or shall knowledge the
 give a note in writing under his hand, acknowledg- defendant in
 ing the defendant to be in his actual custody; or his custody.
 shall shew cause to the contrary within the time
 aforesaid, upon notice thereof being given to the
 attorney for the plaintiff.

— (to wit). *C. D.* is committed to the cus- (§ 2.)
 tody of the marshal, &c. in execution, at the suit of Committitur
A. B. in a plea of trespass on the case for — *l.* piece.
 damages, (or in a plea of debt for — *l.* and — *l.*
 damages,) there to remain until, &c.

Judgment of — term, —
George the Third. Roll —.

E. F. attorney.

Afterwards, (to wit,) on — next after — in (§ 3.)
 the — year of the reign of our lord the now king, Entry of com-
 before our said lord the king at *Westminster*, comes mittitur.

CHAP. XVI. the said *A. B.* in his proper person ; and the said *C. D.* being then present here in court, at the prayer of the said *A. B.* by the court of our said lord the king now here, is committed to the custody of the marshal of the marshalsea of our said lord the king before the king himself, in execution for the damages (or for the debt and damages) aforesaid, there to remain until the said *A. B.* shall be fully satisfied the damages (or debt and damages) aforesaid.

(§ 4.)
Gaoler's certificate, for the discharge of a prisoner.

I *E. F.* keeper of the county-gaol of — do certify, that *C. D.* was on the — day of — last, (or *A. D.* 18—,) committed to the county-gaol of — by virtue of a writ of *latitat* issued out of his majesty's court of King's Bench at *Westminster*, returnable on — next after —, at the suit of *A. B.* in a plea of, (§c.): And I do further certify, that since the said commitment, there has not been delivered to me, or my turnkey, any declaration against him the said *C. D.* at the suit of the said *A. B.* or any other person whatsoever ; and that no writ of *habeas corpus* has been brought for the removal of the said *C. D.* Witness my hand, (§c.)

E. F.

Witnesses,

G. H.

J. K.

(§ 5.)
Affidavit of gaoler's signature thereto.

In the King's Bench.

A. B. plaintiff,

and

C. D. defendant.

G. H. of — maketh oath and saith, that he this deponent did, on the — day of — last, see

E. F.

E. F. keeper
county of —
hereunto an
deponent su
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Sworn, (§

In the King's

E. F. of —
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E. F. keeper of his majesty's gaol in and for the county of — subscribe his name to the certificate hereunto annexed, and that at the same time he this deponent subscribed his name as a witness to the said certificate, and that *J. K.* of — did then also subscribe his name as a witness to the said certificate, in the presence of this deponent.

CHAP. XVI.

G. H.

Sworn, (*S.c.*)

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

(§ 6.)

Affidavit of service and attendance on summons, (or summonses,) for prisoner's discharge.

E. F. of — clerk to Mr. *G. H.* attorney for the defendant in this cause, maketh oath and saith, that he this deponent on the — day of this instant — served the summons hereunto annexed, by delivering a true copy thereof to Mr. *J. K.* the attorney for the plaintiff in this cause, and at the same time shewing him the said original summons: (Or if there are three summonses, "that he this deponent on the —, — and — days of this instant — severally served the three several summonses hereunto annexed; by severally delivering true copies thereof to Mr. *J. K.* the attorney, (*S.c.*) and at the same time shewing him the said three annexed summonses:") And this deponent further saith, that he hath this day duly attended on the said summons, but that the said Mr. *J. K.* or his agent hath not attended thereon. (Or if there are three summonses, "that on the three several days and times in the said three summonses respectively mentioned, he hath

CHAP. XVI. accordingly duly attended thereon, but that the said Mr. *J. K.* or his agent did not, on any or either of the three several days or times aforesaid, attend on the same.”)

E. F.

Sworn, (&c.)

(§ 7.) — (to wit). *Supersedeas, C. D.* at the suit of *A. B.*
Præcipe for supersedeas.

E. F. attorney.

— 18 —

(§ 8.) *George the Third, (&c.)* To the sheriff of —
Writ of supersedeas, for not declaring upon a latitat. greeting: Whereas by our writ we lately commanded you, that you should take *C. D.* if he should be found in your bailiwick, and him safely keep, so that you might have his body before us at *Westminster*, on — next after — to answer *A. B.* of a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* upon promises, (or as the plea is,) according to the custom of our court before us: And because the said *A. B.* hath not declared against the said *C. D.* within two terms next after the return of the said writ, and the said *C. D.* hath come into our said court before us, and filed common bail at the suit of the said *A. B.* in the plea and to the bill aforesaid; therefore we command you, that you wholly cease from taking, attaching, imprisoning, or in any wise molesting the said *C. D.* on the occasion aforesaid; and if you have taken the said *C. D.* and detain him in prison on that occasion, and no other, that then
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 the prison
 Witness *E.*

George t
 greeting:
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without delay you cause him to be delivered out of CHAP. XVI.
the prison wherein he is so detained, at your peril.

Witness *Edward Lord Ellenborough, (&c.)*

George the Third, (&c.) To the sheriff of — (§ 9.)
greeting: Whereas by our writ we lately command- The like, by
ed you, that you should take *C. D.* late of — if original.
he should be found in your bailiwick, and him safely
keep, so that you might have his body before us on
— wheresoever we should then be in *England*, to
answer *A. B.* of a plea of trespass on the case upon
promises, to the damage of the said *A. B.* of — *l.*
(or as the plea is): And because the said *A. B.* hath
not declared, (&c.) and the said *C. D.* hath come
into our court before us, and appeared at the suit of
the said *A. B.* in the plea aforesaid; therefore we
command you, &c. (as before).

George the Third, (&c.) To the sheriff of — (§ 10.)
greeting: Whereas *C. D.* is detained in our prison The like, for
under your custody, by virtue of a certain writ of not proceeding
latitat (or special *capias ad respondendum*) issuing to trial or final
out of our court before us, and returnable on, (&c.) judgment.
to answer *A. B.* of a plea of trespass, and also to a
bill, &c. (as in the writ): And whereas the said
C. D. in — term last past, was charged with a de-
claration, at the suit of the said *A. B.* upon the said
writ: But because it appears to us, that the said
A. B. hath not proceeded to trial or final judgment
against the said *C. D.* within three terms next after
the delivery of the said declaration, according to
the course and practice of our court before us; and
because the said *C. D.* hath come into our said court

CHAP. XVI. before us, and filed common bail (or appeared) at the suit of the said *A. B.* in the plea (or in the plea and to the bill) aforesaid; therefore we command you, that you wholly cease from further taking, &c. (as before.)

(§ 11.)
The like, to the warden of the *Fleet*, where the prisoner had rendered himself in discharge of his bail in *K. B.* and was removed to the *Fleet* by *habeas corpus*.

George the Third, (&c.) To the warden of our prison of the *Fleet*, greeting: Whereas *C. D.* was lately committed to and is detained in our said prison under your custody, upon and by virtue of our writ of *habeas corpus cum causa*, directed to the marshal of our prison of the marshalsea; and by the return thereof it appeared, that the said *C. D.* had rendered himself, and was committed to the said marshal's custody, in discharge of his bail, at the suit of *A. B.* in a plea of trespass on the case, (or as the plea is,) depending in our court before us at *Westminster*; and the said *A. B.* hath declared in our said court before us, against the said *C. D.* in the plea aforesaid: And because it appeareth to us, that the said *A. B.* hath not proceeded to trial or final judgment against the said *C. D.* in the plea aforesaid, in due time, according to the rules of our said court before us; and because the said *C. D.* hath filed common bail in our said court before us, at the suit of the said *A. B.* in the plea aforesaid; we command you, that if the said *C. D.* be detained in our said prison of the *Fleet* under your custody, for the cause aforesaid, and no other, then that you permit him to go at large, as you will answer the contrary at your peril. Witness *Edward Lord Ellenborough, (&c.)*

George

George
greeting:
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of the writ
A. B. in —
our court.
said writ:
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greeting:
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&c. (as bef

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lately comm
for want of
of, (&c.)

George the Third, (&c.) To the sheriff of — CHAP. XVI.
greeting: Whereas *C. D.* is detained, &c. (as in the (§ 12.)
form preceding the last, to the end of the statement The like, for
of the writ, then as follows): And whereas the said not charging
A. B. in — term last past, obtained judgment the defendant
in our court before us against the said *C. D.* upon the in execution.
said writ: But because it appears to us, that the said
A. B. hath not proceeded to charge the said *C. D.*
in execution within two terms after the said judg-
ment so obtained, according to the course and prac-
tice of our said court before us; and because the
said *C. D.* hath come into our said court before us,
and filed common bail, &c. (as before.)

George the Third, (&c.) To the sheriff of — (§ 13.)
greeting: Whereas by our writ we lately com- The like, upon
manded you, &c. (reciting the writ, as in a *supersedeas* the defendant's
for not declaring): And because the said *C. D.* came putting in good
into our court before us, and found sufficient bail to bail.
answer the said *A. B.* of the plea (or of the plea and
to the bill) aforesaid; therefore we command you,
&c. (as before).

George the Third, (&c.) To the marshal of our (§ 14.)
marshalsea before us, greeting: Whereas *C. D.* was The like, when
lately committed to our prison under your custody, the defendant
for want of good bail, at the suit of *A. B.* in a plea is in custody of
of, (&c.) And because, &c. (as in the last). the marshal.

CHAP. XVII.

Of the REMOVAL of CAUSES from INFERIOR COURTS.

(§ 1.)
Certiorari to re-
 move a cause
 from an infe-
 rior court.

GEORGE the Third, (&c.) To — greeting ;
 We being willing for certain causes, to be certified
 of a plaint levied in our court before you, against
C. D. at the suit of *A. B.* of a plea of trespass on the
 case, (or as the plea is,) command you, that you send
 to us at *Westminster*, on — next after — the
 plaint aforesaid, with all things touching the same,
 as fully and entirely as it remains in our court be-
 fore you, by whatsoever names the parties may be
 called therein, together with this writ, that we may
 further cause to be done thereupon, what of right
 we shall see fit to be done. Witness *Edward* Lord
Ellenborough, (&c.)

(§ 2.)
 The like, to the
 mayor, &c. of
London, to re-
 move a bill ori-
 ginal and at-
 tachment.

George the Third, (&c.) To the mayor, aldermen
 and sheriffs of *London*, greeting : We being willing
 for certain causes, to be certified as well of a certain
 bill original in our court before you, or some of you,
 levied or affirmed against *C. D.* late of — at the
 suit of *A. B.* of a plea of debt on demand for — *l.*
 as of a certain attachment thereupon made of — *l.*
 in the hands and custody of *E. F.* being attached
 and defended ; command you, and every of you, that
 you send to us at *Westminster*, on — next after
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 Witness

George
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—, the bill original and attachment aforesaid, **CHAP. XVII.**
with all things touching the same, as fully and entirely as they remain in our court before you, or any of you, by whatsoever names the parties may be called therein, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Edward Lord Ellenborough*, (&c.)

George the Third, (&c.) To the mayor, aldermen and sheriffs of the city of *Bristol*, and to the mayor and constables of the staple of the same city, and also to the bailiffs of the mayor and commonalty of the same city of *Bristol* of their court of *Tolsey*, and to the bailiffs of the said mayor and commonalty of the same city of their court of *piepowder*, and every of them, greeting: We being willing for certain causes, to be certified as well of all plaints in our court before you, or any of you, levied or affirmed against *C. D.* at the suit of *A. B.* as of all attachments upon those plaints, or any of them, made in the hands of *E. F.* and *G. H.* or either of them; command you, and every of you, that you send the said plaints and attachments, and every of them, with all things touching the same, before us at *Westminster*, on — next after — as fully and entirely as they remain before you, or any of you, together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Edward Lord Ellenborough*, (&c.)

(§ 3.)

The like, to the mayor, &c. of *Bristol*, to remove all plaints and attachments.

(§ 4.)

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: *Lancaster.*

The like, to remove a plaint from the Common-Pleas at *Lancaster.*

CHAP. XVII. greeting: We being willing for certain causes, to be certified of a certain plaint in our court of common-bench for our said county-palatine against *C. D.* at the suit of *A. B.* of a plea of trespass; do command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to our prothonotary of our said court of common-bench for our said county-palatine of *Lancaster*, you command the same prothonotary, that he certify to you without delay the plaint aforesaid, with all things touching the same, as fully and entirely as it remains before him, by whatsoever names the said *C. D.* and *A. B.* may be called in the same, that you may certify the same to us at *Westminster*, on — next after — together with this writ, that we may further cause to be done thereupon, what of right we shall see fit to be done. Witness *Edward Lord Ellenborough*, (&c.)

(§ 5.)
The like, to remove the transcript of a judgment, &c. on the stat. 33 Geo. III. c. 68.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: We being willing for certain causes, to be certified of the proceedings in a certain cause, lately depending in our court before our justices at *Lancaster*, by our writ, between *A. B.* and *C. D.* of a plea of trespass upon the case, (or as the plea is,) and of the judgment thereupon obtained in our said court; do command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to our said justices at *Lancaster* aforesaid, you cause to be given in charge to the said justices, that they send to you under their seals, into the chancery of our said county-palatine, the

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the transcript of the proceedings in the said cause, CHAP. XVII. and of the record of the said judgment therein, with all things touching the same, which are in their custody, as it is said, by whatsoever names the parties may be called therein, on — next ensuing, and our writ thereupon made and directed as aforesaid; and that you send to us distinctly and plainly, under the seal of our said county-palatine, the transcript of the proceedings and judgment aforesaid, with all things touching the same, and this writ, so that we may have them on, (*&c.*) wheresoever we shall then be in *England*, and further do thereupon, what of right and according to the form of the statute in such case made and provided, shall be meet to be done. Witness *Edward Lord Ellenborough*, (*&c.*)

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|--|--|
| To the marshal of our prison of the <i>Marshalsea</i> before us. | (<i>§ 6.</i>)
Direction of
<i>certiorari & habeas corpus</i> , to the marshal. |
| To the warden of our prison of the <i>Fleet</i> . | Warden of the Fleet. |
| To the mayor, aldermen and sheriffs of <i>London</i> . | Mayor's court of London. |
| To the sheriffs of the city of <i>London</i> . | Sheriff's court of London. |
| To the sheriff of —. | County-court. |
| To the judges of our palace-court of <i>Westminster</i> , and to each of them. | Marshalsea. |
| To the steward of the court of the liberty of the mayor and commonalty and citizens of the city of <i>London</i> , | Borough-court of Southwark. |

CHAP. XVII. *London, of their town and borough of Southwark in the county of Surrey, and also to the bailiff of the same liberty.*

Whitechapel court. To the steward of our court of record, within the manors of *Stepney* and *Hackney*, in the county of *Middlesex*, the hamlets and liberties of the same, and also to the prothonotary of the same court.

Abingdon. To the mayor, bailiffs and burgesses of the borough of *Abingdon*, in the county of *Berks*, and to every of them.

Bath. To the mayor, recorder and aldermen, justices of our city of *Bath*, in the county of *Somerset*, and to every of them.

Bedford. To the mayor, aldermen, burgesses and recorder of the town of *Bedford*, in the county of *Bedford*.

Bristol. To the mayor, aldermen and sheriffs of the city of *Bristol*, and to the mayor and constables of the staple of the same city, and also to the bailiffs of the mayor and commonalty of the same city of *Bristol*, of their court of *Tolsey*, and to the bailiffs of the said mayor and commonalty of the same city of their court of *Piepowder*, and to every of them.

Buckingham. To the bailiff and burgesses of the town of *Buckingham*, in the county of *Buckingham*.

Cambridge. To the mayor and bailiffs of the town of *Cambridge*.

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the county
provosts of

To the m
Gloucester.

To the m
of *Hereford*

To the mayor, aldermen, bailiffs and citizens of CHAP. XVII.
our city of *Carlisle*, in the county of *Cumberland*. Carlisle.

To the mayor, bailiffs and commonalty of our Coventry.
city of *Coventry*.

To the mayor and burgesses of our borough of Derby.
Derby, in the county of *Derby*.

To our justices of the bishop of *Ely*, assigned to Ely.
hold pleas within the isle of *Ely*, and to the stew-
ard of the same bishop within the liberties of the isle
aforesaid, and to every of them. Or thus:—

To our trusty and well-beloved—our chief-justice
assigned to hold the sessions of pleas, within the li-
berty or royal franchise of the honourable and right
reverend father in God — by divine permission
lord bishop of *Ely*, within the isle of *Ely*, in the
county of *Cambridge*, and to — chief-bailiff of
the said bishop, within the liberties of the said isle,
and to each of them.

To the mayor and bailiffs of our city of *Exeter*, in Exeter.
the county of *Devon*, and to the bailiffs, citizens and
provosts of the same city.

To the mayor, aldermen and sheriffs of our city of Gloucester.
Gloucester.

To the mayor, aldermen and citizens of our city Hereford.
of *Hereford*.

To

- CHAP. XVII.** To the mayor and capital burgesses of the borough of *Hertford*, in the county of *Hertford*, and also to the steward of our court of record there.
- Huntingdon.** To the mayor, aldermen and burgesses of the borough of *Huntingdon*, in the county of *Huntingdon*.
- Kingston-upon-Hull.** To the mayor and sheriffs of our town and county of the town of *Kingston-upon-Hull*, in the county of *York*.
- Kingston-upon-Thames.** To the bailiffs and steward of our court of our town of *Kingston-upon-Thames*; and in the absence of the said steward, to the bailiffs and recorder of the same town, or any two of them.
- Lincoln.** To the mayor, sheriffs and citizens of our city of *Lincoln*.
- Litchfield.** To the bailiffs, burgesses and citizens of our city of *Litchfield*.
- Liverpool.** To the mayor and bailiffs of our borough of *Liverpool*, in the county of *Lancaster*.
- Ludlow.** To the recorder, bailiffs and capital burgesses of our borough of *Ludlow*, in the county of *Salop*.
- Monmouth.** To the mayor and bailiffs of our town of *Monmouth*.
- Newbury.** To the mayor, aldermen and burgesses of our borough of *Newbury*, in the county of *Berks*.

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of WorcesterTo the m
of York.

To the mayor and bailiffs of our town and borough of *Northampton*, in the county of *Northampton*. **CHAP. XVII.**
ton.

To the mayor, aldermen and sheriffs of our county of *Norwich*.
ty of the city of *Norwich*.

To the mayor and burgesses of our town of *Nottingham*.
tingham.

To the mayor and bailiffs of our city of *Oxford*,
in the county of *Oxford*.

To the mayor, aldermen and burgesses of our borough of *Portsmouth*.
rough of *Portsmouth*, in the county of *Southampton*.

To the mayor and bailiffs of our town of *Southampton*.
ampton.

To the mayor, recorder and aldermen of our city of *Worcester*.
of *Worcester*.

To the mayor, aldermen and sheriffs of our city of *York*.
of *York*.

CHAP. XVII.

(§ 7.)

Bail-piece, on
habeas corpus.

— term, in the — year of the reign
of King *George* the Third.

Way.

— (to wit). *C. D.* is delivered to bail
upon *habeas corpus*,

to *E. F.* of —,

and

G. H. of —,

At the suit of the plaintiff
in the plaint.

Oath for — *l.**J. K.* attorney.

(§ 8.)

Recognizance
of bail, upon
habeas corpus.

You do jointly and severally undertake, that if the
defendant be condemned, at the suit of the plaintiff
(or plaintiffs) in the plaint, he shall satisfy the
costs and condemnation, or render himself to the
custody of the marshal of the marshalsea of the
court of King's Bench, or you will do it for him.

(§ 9.)

Notice of bail
being put in, on
habeas corpus.

In the King's Bench.

A. B. plaintiff,
and*C. D.* defendant.

Take notice, that special bail was this day put in
upon the *habeas corpus* issued in this cause, before
the honourable Mr. Justice — at his chambers in
Serjeant's-Inn, Chancery-Lane, London; and the
names

names of
Dated, (8To Mr. *A.*
for the

Take n
defendant
corpus, an
— next
Westminst
good bail

To Mr. *E.*
for the p

George t
greeting:
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said, under
the day an
by whatsoe
in the same
Edward L.
signed to h
chambers s
London, in
to do and r
our said c
der of him

names of the bail are — of — and — of — CHAP. XVII.
Dated, (&c.)

Yours, &c.

G. H. defendant's attorney.

To Mr. E. F. attorney
for the plaintiff.

Take notice, that the bail already put in for the (§ 10.)
defendant in this cause, upon the writ of *habeas* Notice of jus-
corpus, and of whom you have had notice, will on tification of
— next, justify themselves in open court, at bail.
Westminster-hall in the county of *Middlesex*, as
good bail for the said defendant. Dated, (&c.)

Yours, &c.

G. H. defendant's attorney.

To Mr. E. F. attorney
for the plaintiff.

George the Third, (&c.) To the sheriff of — (§ 11.)
greeting: Although we lately by our writ com- *Procedendo*, on
manded you, that you should have the body of *C. D.* *habeas corpus*.
detained in our prison under your custody, as it was
said, under safe and secure conduct, together with
the day and cause of his being taken and detained,
by whatsoever name the said *C. D.* might be called
in the same, before our right trusty and well-beloved
Edward Lord *Ellenborough*, our chief justice as-
signed to hold pleas in our court before us, at his
chambers situate in *Serjeant's-Inn, Chancery-Lane,*
London, immediately after the receipt of that writ,
to do and receive all and singular those things which
our said chief-justice should then and there consi-
der of him in that behalf; yet we being now moved

CHAP. XVII. with certain causes, in our court before us, command you, and every of you, that in all complaints and suits against the said *C. D.* at the suit of *A. B.* in our court before you, or any of you, levied or affirmed, or before you or any of you now depending undetermined, you proceed with what speed you can, in such manner, according to the law and custom of *England*, as you shall see proper; our said writ to you thereupon before directed, to the contrary thereof in any wise notwithstanding. Witness *Edward Lord Ellenborough*, (&c.)

(§ 12.)
The like, on a *certiorari* to the mayor's court of *London*.

George the Third, (&c.) To the mayor, aldermen and sheriffs of *London*, greeting! Whereas we being willing, for certain causes, to be certified as well of a certain bill-original in our court before you, or some of you, levied or affirmed against *C. D.* late of — at the suit of *A. B.* of a plea of *debt* on demand for — *l.* as of a certain attachment thereupon made of — *l.* in the hands and custody of *E. F.* being attached and defended, lately by our writ commanded you, and every of you, that you should send the bill-original and attachment aforesaid, with all things touching the same, as fully and entirely as they remained in our court before you, or any of you, by whatsoever names the parties might be called therein, before us at *Westminster*, on — next after —, together with that writ, that we might further cause to be done thereupon, what of right we should see fit to be done: Nevertheless for certain causes, now specially moving us in our court before us, we command you, and every of you, that as well in the bill-original aforesaid, in
our

our said court
affirmed against
A. B. in the
aforesaid court
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For the
post, Chap.

our said court before you, or some of you, levied or affirmed against the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, as in the attachment aforesaid thereupon made, of the said — *l.* in the hands and custody of the said *E. F.* with what speed you can, you proceed in such manner, according to the law and custom of *England*, as you shall see proper; our writ of *certiorari* aforesaid, to you thereupon before directed, to the contrary thereof in anywise notwithstanding. Witness *Edward Lord Ellenborough*, (&c.)

For the forms from § 13 to § 21 inclusive, vide (§ 13, &c.)
post, Chap. XLIV.

CHAP. XVIII.

Of the DECLARATION; and NOTICE to PLEAD, &c.

(§ 1.)
Rule for time,
or further time,
to declare.

A. B. } **I**T is ordered, that the plaintiff have time
v. } (or further time) to declare, until the first
C. D. } day inclusive of the next term, (or last
day inclusive of the present term,) if the defend-
ant be not in custody.

(§ 2.)
Beginning of a
declaration by
bill, in case or
trespass.

Way. — term, in the — year of the
reign of King *George* the Third.
— (to wit). *A. B.* complains of *C. D.* being
in the custody of the marshal of the marshalsea of
our lord the now king, before the king himself; for
that whereas, (or in trespass, “for that,”) &c.

(§ 3.)
The like, by an
infant.

— (to wit.) *A. B.* by *E. F.* who is admitted
by the court of our lord the king before the king
himself here, to prosecute for the said *A. B.* who is
an infant within the age of twenty-one years, as the
next friend of the said *A. B.* complains of *C. D.*
being, (&c.)

If the plaintiffs are assignees of a bankrupt or
insolvent debtor, or the action be brought by or
against executors or administrators, they should be
described accordingly.

— (to

— (&c.) of reasonable the said ceiver of

Of a p sum of — which is i nuity or y *C. D.* owe

Of a p

Of a p sum of — which he

— (t vereign lo of — in behalf, co he render of the sai who sues money of justly de

Of a p goods an value of which he

— (to wit). *A. B.* complains of *C. D.* being, CHAP. XVIII.
 (&c.) of a plea that he render to the said *A. B.* a (§ 4.)
 reasonable account, for the time he was bailiff to The like, in ac-
 the said *A. B.* in. — in the county of — (or re-
 ceiver of the monies of the said *A. B.*)

Of a plea that he render to the said *A. B.* the (§ 5.)
 sum of — *l.* of lawful money of *Great Britain*, In annuity.
 which is in arrear to the said *A. B.* of a certain an-
 nuity or yearly rent of — *l.* and which the said
C. D. owes to the said *A. B.*

Of a plea of breach of covenant. (§ 6.)
In covenant.

Of a plea that he render to the said *A. B.* the (§ 7.)
 sum of — *l.* of lawful money of *Great Britain*, In debt.
 which he owes to and unjustly detains from him.

— (to wit). *A. B.* who sues as well for our so- (§ 8.)
 vereign lord the king (or for the poor of the parish In debt qui
 of — in the county of —) as for himself in this tam.
 behalf, complains of *C. D.* being, (&c.) of a plea that
 he render to our said lord the king (or to the poor
 of the said parish of —), and to the said *A. B.*
 who sues as aforesaid, the sum of — *l.* of lawful
 money of *Great Britain*, which he owes to and un-
 justly detains from them.

Of a plea that he render to the said *A. B.* certain (§ 9.)
 goods and chattels (or deeds and writings) to the In detinue.
 value of — *l.* of lawful money of *Great Britain*,
 which he unjustly detains from him.

L. 2

In

CHAP. XVIII. In the King's Bench.

(§ 10.)

By original, in case.

— term, in the — year of the reign of
King *George* the Third.

— (to wit). *C. D.* was attached to answer
A. B. of a plea of trespass on the case, &c. and
thereupon the said *A. B.* by — his attorney com-
plains; that whereas, (&c.)

(§ 11.)

The like, by an
infant.

— (to wit). *C. D.* was attached to answer
A. B. of a plea of trespass on the case, &c. and
thereupon the said *A. B.* by *E. F.* who is admitted
by the court of our lord the king before the king
himself here, to prosecute for the said *A. B.* who is
an infant within the age of 21 years, as the next
friend of the said *A. B.* complains; that whereas,
(&c.)

(§ 12.)

The like,
against a peer,
or member of
the House of
Commons.

— (to wit). The right honourable — earl
of — (or *C. D.* esquire) having privilege of par-
liament, was summoned (or attached) to answer
A. B. of a plea of trespass on the case, &c. (or as
the plea is); and thereupon the said *A. B.* by *E. F.*
his attorney complains; that whereas, (&c.)

(§ 13.)

The like,
against a cor-
poration.

— (to wit). The mayor and commonalty and
citizens of the city of *London* were attached (or
summoned) to answer *A. B.* of a plea of trespass on
the case, &c. (or as the plea is); and thereupon the
said *A. B.* by — his attorney complains; that
whereas the said mayor and commonalty and citi-
zens, (&c.)

— (to

— (to wit). The men inhabiting within the hundred of — in the county of — were attached to answer *A. B.* who sues as well for our sovereign lord the king as for himself in this behalf, of a plea of trespass and contempt, against the form of the statute, &c. And thereupon the said *A. B.* who sues as aforesaid, by — his attorney complains; that, (&c.)

CHAP. XVII.

(§ 14.)

The like, against hundredors.

— (to wit). *C. D.* was summoned to answer *A. B.* of a plea that he keep with him the covenant made by the said *C. D.* with the said *A. B.* according to the force, form and effect of a certain indenture (or of a certain deed poll, or articles of agreement) in that behalf made between them, &c. And thereupon the said *A. B.* by — his attorney complains; that whereas, (&c.)

(§ 15.)

The like, in covenant.

N. B. In account, annuity, debt and detinue, the defendant is said to be *summoned* to answer; and the plea is described as in an action by bill.

For this form, vide post, Chap. XLIV. (§ 16.)

— (to wit). *C. D.* was attached to answer *A. B.* of a plea wherefore the said *C. D.* with force and arms, broke and entered, (or made an assault,) &c. (stating the trespasses at length, but without particularizing the time, number, quality or value, &c.) and other wrongs to the said *A. B.* there did, to the great damage of the said *A. B.* and against the peace of our lord the now king, &c. And thereupon the said *A. B.* by *E. F.* his attorney complains; that the said *C. D.* on — at — (repeating the trespasses,

(§ 17.)

The like, in trespass.

CHAP. XVIII. passes, with the circumstances of time, number, quality and value, &c.) and other wrongs to the said *A. B.* then and there did, to the great damage of the said *A. B.* and against the peace of our said lord the now king; wherefore the said *A. B.* saith that he is injured, and hath sustained damage to the value of — *l.* and therefore he brings his suit, &c.

(§ 18.) The defendant is to plead hereto in four (or eight) days, (or within the first four days of next — term,) otherwise judgment.

Notice to plead, indorsed on declaration delivered absolutely.

(§ 19.) This declaration is delivered conditionally, until special bail be perfected; and the defendant is to plead hereto in four (or eight) days, otherwise judgment.

The like, when delivered *de bene esse.*

(§ 20.) In the King's Bench.

Notice of declaration, &c. upon common process, where bail is filed, or an appearance entered, according to the statute.

A. B. plaintiff,
and
C. D. defendant.

Take notice, that a declaration was this day filed with the clerk of the declarations in the King's Bench office, in the *Inner-Temple London*, as of this present — term, against you, at the suit of the above-named plaintiff, in an action of trespass on the case upon promises, to the plaintiff's damage of — *l.* (or in an action of debt for — *l.* or as the action is,) and unless you plead thereto in four (or eight) days from the date hereof, (or within the first four days of next — term,) judgment will be signed

signed
of —

To Mr.
above

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To Mr.
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signed against you by default. Dated this — day CHAP. XVIII.
of — 18—.

Your's, &c.

E. F. attorney for plaintiff.

To Mr. *C. D.* the
above defendant.

In the King's Bench.

A. B. plaintiff,

(§ 21.)

and

C. D. defendant.

The like *de
bene esse*, upon
common or
bailable pro-
cess.

Take notice, that a declaration was this day filed with the clerk of the declarations in the King's Bench office, in the *Inner-Temple London*, conditionally, until common bail be filed, (or by *original*, until a common appearance be entered, or in a *bailable* action, until special bail be put in and perfected,) as of this present — term, against you, at the suit of the above-named plaintiff, in an action of trespass on the case upon promises, to the plaintiff's damage of — *l.* (or in an action of debt for — *l.* or as the action is); and unless you appear and plead thereto in eight days from the date hereof, (or on bailable process, in four or eight days, as the case may require) judgment will be signed against you by default. Dated this — day of — 18—.

Your's, &c.

E. F. plaintiff's attorney
(or agent).

To Mr. *C. D.* the above
defendant.

CHAP. XIX.

Of the RULE to PLEAD, and DEMAND of a PLEA.

(§ 1.)
Term's notice,
of rule to
plead.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

Take notice, that the plaintiff intends to proceed after the end of the ensuing term, by giving a rule to plead in this cause. Dated, (&c.)

Your's, &c.

E. F. plaintiff's attorney.

To Mr. *G. H.* defend-
ant's attorney.

(§ 2.)
Rule to plead.

In the King's Bench.

A. B.
v.
C. D. } Rule to plead.

E. F. attorney.
— 18—.

(§ 3.)
Demand of
plea.

In the King's Bench.

B. against .

The plaintiff demands a plea in this cause, by
Your's, &c.

E. F. plaintiff's attorney.

To Mr. *G. H.* defend-
ant's attorney.

— 18—.

TAK
moved
be heard
assigned
should
master,
stayed.

To Mr.

In the K

Take
moved
heard,
should
action,
stayed.

In the F

Take
moved,

CHAP. XX.

Of NOTICES of MOTION.

TAKE notice, that this honourable court will be moved to-morrow, or so soon after as counsel can be heard, for a rule to shew cause why the bail-bond assigned in this cause, and the proceedings thereon, should not be set aside with costs, to be taxed by the master, and in the mean-time all proceedings be stayed. Dated, (&c.)

(§ 1.)

Notice of motion, to shew cause why the bail-bond, and the proceedings thereon, should not be set aside.

Yours, &c.

G. H. defendant's attorney.

To Mr. E. F. plaintiff's attorney.

In the King's Bench.

A. B. plaintiff,

(§ 2.)

and

The like, for leave to file common bail.

C. D. defendant.

Take notice, that this honourable court will be moved on — or so soon after as counsel can be heard, for a rule to shew cause why the defendant should not be permitted to file common bail in this action, and in the mean-time all proceedings be stayed. Dated, (&c.)

In the King's Bench.

A. B. plaintiff,

(§ 3.)

and

The like, to set aside proceedings for irregularity.

C. D. defendant.

Take notice, that this honourable court will be moved, &c. (as above), for a rule to shew cause why

CHAP. XX. why all the proceedings in this cause should not be set aside for irregularity, and in the mean-time all further proceedings be stayed. Dated, (&c.)

Yours, &c.

G. H. defendant's attorney.

To Mr. E. F. plain-
tiff's attorney.

(§ 4.) Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause why all the proceedings in this cause should not be stayed, until security be given for the payment of costs. Dated, (&c.)

The like, to stay proceedings, till security be given for costs.

(§ 5.) In the King's Bench.

The like, for the Master to compute principal and interest on a bond.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause why it should not be referred to the Master to compute the principal and interest due upon the bond in question; and why upon payment thereof, together with the costs to be taxed by him, the said bond should not be delivered up to the defendant to be cancelled. Dated, (&c.)

A. B. plaintiff,
and

C. D. defendant.

(§ 6.) In the King's Bench.

The like, to set aside interlocutory judgment, &c. for irregularity.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause why the interlocutory judgment signed in this cause, and (if a writ of inquiry has been executed) the writ of inquiry

A. B. plaintiff,
and

C. D. defendant.

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quiry executed thereon, should not be set aside for irregularity, with costs to be taxed by the Master; and (if there has been any misconduct on the part of the plaintiff) why the plaintiff should not answer the matters of the affidavit, and in the mean time all proceedings be stayed. Dated, (&c.)

Your's, &c.

G. H. defendant's attorney.

To Mr. E. F. plaintiff's attorney.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause why the judgment signed in this cause, and the execution issued and executed thereon, should not be set aside for irregularity, with costs to be taxed by the Master; and why the sum of — l. levied and paid into the hands of the sheriff of — should not be restored to the defendant, and why the said sheriff should not retain the same in his hands, until the further order of this court, and in the mean-time all proceedings be stayed. Dated, (&c.)

(§ 7.)

The like, to set aside judgment and execution for irregularity, and that the money levied be restored.

Take notice, that this honourable court will be moved, (&c.) for a rule to shew cause why the judgment in this cause, and the execution executed thereon, should not be set aside for irregularity, with costs to be taxed by the Master; and why the money paid into your hands should not be restored to the defendant, and that in the mean-time you retain the same, until the further order of this court. Dated, (&c.)

(§ 8.)

Notice to the sheriff, to retain the money levied.

CHAP. XXI.

Of STAYING the PROCEEDINGS.

There are no forms referred to in this Chapter.

CHAP. XXII.

Of COMPROMISING and COMPOUNDING the ACTION.

(§ 1.)

Summons to stay proceedings, on payment of debt and costs.

LET the plaintiff's attorney or agent attend me at my chambers in *Serjeant's-Inn*, at — of the clock in — to shew cause why upon payment of — the debt for which this action is brought, together with costs to be taxed, all further proceedings in this cause should not be stayed.

Dated the — day of — 18—.

(§ 2.)

Order there-upon.

Upon hearing the attornies or agents on both sides, I do order, that upon payment of — the debt due from the defendant to the plaintiff, for which this action is brought, together with costs to be taxed and paid, all further proceedings in this cause be stayed.

Dated the — day of — 18—.

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To *E. F. G. H.* and *J. K.* gentlemen, attornies CHAP. XXII.
of his majesty's court of King's Bench at *West-* (§ 3.)
minster, jointly and severally, or to any other Warrant of at-
attorney of the same court. torney, to con-
fess judgment.

THESE are to desire and authorize you, the attornies above-named, or any one of you, or any other attorney of the court of King's Bench aforesaid, to appear for me *C. D.* of — in the said court, as of this present — term, or any other subsequent term, and then and there to receive a declaration for me, in an action of debt for — *l.* for money borrowed, (or on a bond or obligation made and entered into by me the said *C. D.* to *A. B.* in the penal sum of — *l.*) at the suit of the said *A. B.* and thereupon to confess the same action, or else to suffer a judgment by *nil dicit* or otherwise to pass against me in the same action, and to be thereupon forthwith entered up against me of record of the said court, for the said sum of — *l.* besides costs of suit: And I the said *C. D.* do hereby further authorize and empower you the said attornies, or any one of you, after the said judgment shall be entered up as aforesaid, for me and in my name, and as my act and deed, to sign seal and execute a good and sufficient release in the law to the said *A. B.* his heirs, executors and administrators, of all and all manner of error and errors, writ and writs of error, and all benefit and advantage thereof, and all misprisions of error and errors, defects and imperfections whatsoever, had, made, committed, done or suffered, in about touching or concerning the aforesaid judgment, or in about touching or concerning any writ, warrant, process, declaration, plea, entry or other proceedings whatsoever, of or any way con-

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cerning

CHAP. XXII. cerning the same; and for what you the said attornies, or any one of you, shall do or cause to be done in the premises, or any of them, this shall be to you and every of you a sufficient warrant and authority. In witness whereof, I have hereto set my hand and seal, the — day of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—. *C. D.*

Scaled and delivered, being first }
duly stamped, in the presence of }

A. B. plaintiff,

and

C. D. defendant.

(§ 4.) In the King's Bench.

Affidavit to enter up judgment thereon, after a year.

A. B. of — the above-named plaintiff, and *E. F.* of — severally make oath and say; and first this deponent *A. B.* for himself saith, that the above-named defendant being justly indebted to this deponent in the sum of — *l.* for goods sold and delivered by this deponent to the said defendant (or as the case may be), did, in order to secure unto this deponent the payment thereof, on or about the — day of — 18—. execute and deliver unto this deponent, a warrant of attorney, bearing date the same day and year aforesaid, thereby authorizing certain attornies therein-named, or any other attorney of this court, to appear for him the said *C. D.* in the same court, as of the then — term, or any other subsequent term, and then and there to receive a declaration for him in an action of debt for — *l.* for money borrowed, (or otherwise, according

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A. B.
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ording to the warrant of attorney,) at the suit of CHAP. XXII.
 this deponent, and thereupon to confess the same
 action, or else to suffer a judgment by *nil dicit* or
 otherwise, to pass against him in the same action,
 and to be thereupon forthwith entered up against
 him of record of this court, for the said sum of
 — *l.* besides costs of suit: And this deponent
 further saith, that there is justly due and owing
 from the said defendant to him this deponent, for
 principal money and interest thereon, the sum of
 — *l.* and that he verily believes the said defend-
 ant is living, he this deponent having seen and con-
 versed with him on the — day of this instant —.
 And this deponent *E. F.* for himself saith, that he
 was present, and did see the said warrant of at-
 torney executed by the said defendant; and that the
 name *C. D.* set and subscribed thereto, is of the
 proper hand-writing of the said defendant; and that
 he the said defendant did sign, seal, and as his act
 and deed deliver the same, in the presence of this
 deponent; and that the name *E. F.* set and sub-
 scribed as a witness to the execution thereof, is of the
 proper hand-writing of him this deponent.

A. B.

Sworn, (&c.)

E. F.

A. B. who, &c. plaintiff,
 In the King's Bench. and
C. D. defendant.

(§ 5.)

Affidavit for
 leave to com-
 pound a penal
 action.

A. B. of — the above-named plaintiff, maketh
 oath and saith, that this action is brought for the
 recovery of certain penalties to the amount of

M 2

— *l.*

CHAP. XXII. — *l.* alledged to have been incurred by the above-named defendant, upon and by virtue of an act of parliament, made and passed in the — year of the reign of, (*&c.*) intituled, (*&c.*) and this deponent hath declared in the said action against the defendant, who has pleaded thereto the general issue of *nil debet*: And this deponent further saith, that it hath been agreed between this deponent and the said defendant, to apply to this honourable court, for leave to compound the said action, upon the defendant's paying the sum of — *l.* to our lord the now king, and — *l.* to this deponent, together with the costs of this suit, and of the present application, to be taxed by the proper officer (or otherwise, according to the agreement of the parties): And this deponent further saith, that the above are the real and only terms upon which this action is meant to be compounded; and that he this deponent hath not, nor hath nor have any other person or persons for his use, received any sum of money whatsoever, for compounding the said action, nor doth he this deponent intend, nor is nor are any other person or persons by his order or appointment, or for his use, or for the use of any other person or persons to his knowledge, or with his privity and consent, at any time hereafter, to have or receive for compounding the same, more than the said sum of — *l.* and the costs to be taxed as aforesaid.

Sworn, (*&c.*)

A. B.

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CHAP. XXIII.

*Of CONFESSING the ACTION; and of the WRIT of
INQUIRY of DAMAGES, &c.*

In the King's Bench. *A. B.* plaintiff, (§ 1.)
and Confession of
C. D. defendant. *assumpsit.*

I CONFESS this action, and that the plaintiff hath sustained damages to the amount of — l. (the damages as laid in the declaration,) besides his costs and charges, to be taxed by the Master; but no judgment is to be entered up, or execution issued, until the — day of — next, in default of payment of the sum of — l. (the real debt) being the debt in this action, together with the said costs: And I do hereby agree that no writ of error shall be brought, nor bill in equity filed; and that in case the plaintiff shall enter up his judgment in default of payment, he shall be at liberty to levy the said sum of — l. together with the costs, sheriff's poundage, and all other incidental expences. As witness my hand this — day of — 18—.

C. D.

I confess the debt in this cause, and that the plaintiff hath sustained damages to the amount of *1s.* besides his costs and charges to be taxed by the Master, &c. (as above). (§ 2.)
The like, in
debt.

M 3

I do

CHAP.
XXIII.

(§ 3.)

The like, re-
lictâ verificac-
tione.

I do hereby agree to withdraw the plea (or demurrer) by me pleaded (or put in) in this cause; and do confess this action, or the debt therein, &c. (as before).

(§ 4.)

Writ of in-
quiry, by Bill.

George the Third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith. To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us: For that whereas, &c. (here recite the declaration,) to the damage of the said *A. B.* of — l. as he said, and thereupon he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to our said court before us, what damages the said *A. B.* hath sustained by means of the premises aforesaid: Therefore we command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended; and that you send to us at *Westminster*, on — next after — the inquisition which you shall thereupon take, under your seal, and the seals of those by whose oath you shall take that inquisition, together with
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this writ: Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — in the — year of our reign. *Way.*

CHAP.
XXIII.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, &c. (as before): And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to our said court before us, what damages the said *A. B.* hath sustained by means of the premises aforesaid; therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises aforesaid, as for his costs and charges by him about his suit in this behalf expended; and that you send to us at *Westminster*, on — next after — the inquisition which the said sheriff shall thereupon take, under his seal, and the seals of those by whose oath he shall take that inquisition, together with this writ. Witness, (&c.)

(§ 5.)
The like, into
a county-pala-
tine.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was attached (or summoned) *M 4*

(§ 6.)
Writ of in-
quiry, by ori-
ginal.

CHAP.
XXIII.

moned) to appear in our court before us, to answer *A. B.* of a plea, that whereas, &c. (to the end of the declaration.) And such proceedings were thereupon had, &c. (as in a writ of inquiry by bill, making the return general, *wheresoever*, &c.).

(§ 7, 8.) For these sections, *vide post*, Chap. XLIV.

(§ 9.)
Writ of inquiry by bill, in debt on bond, to assess damages on the statute 8 & 9 W. III. c. 11. § 8.

George the Third, (&c.) To the sheriff of —, and to the right honorable *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, (or, “to our justices assigned to take the assizes in your county”) greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us, of a plea of debt on demand, for — *l.* of good and lawful money of *Great-Britain*, upon and by virtue of a certain writing obligatory, in the penal sum of — *l.* bearing date, (&c.) and sealed with the seal of the said *C. D.*: And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages which he had sustained on occasion of the detention thereof, &c. whereof the said *C. D.* is convicted, as appears to us of record: And thereupon the said *A. B.* according to the form of the statute in such case made and provided, suggested upon the roll whereon the said judgment so recovered against the said *C. D.* as aforesaid is entered, to the effect following, to wit; that the said

writing

writing
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writing obligatory whereon the said judgment was so recovered against the said *C. D.* as aforesaid, was made and given by him the said *C. D.* under and subject to a certain condition thereto subscribed, whereby after reciting, &c. (stating the recital, if any, preceding the condition of the bond,) it was declared, that if, &c. (reciting the condition): And the said *A. B.* further suggested on the said roll whereon the said judgment so recovered against the said *C. D.* was and is so entered as aforesaid, that, &c. (here state the suggestion of breaches, to the prayer of a writ of inquiry, and then proceed as follows;) as we have received information from the said *A. B.* in our court before us: And the said *A. B.* having prayed our writ to inquire of the truth of the aforesaid breaches of the said condition of the said writing obligatory, and to assess the damages which he hath sustained thereby; therefore, according to the form of the statute in such case made and provided, we command you the said sheriff, that you summon twelve good and lawful men of your bailiwick, to appear before our said right honourable *Edward* Lord *Ellenborough*, our said chief-justice assigned to hold pleas in our said court before us, (or “ before our said justices of assize,”) on — the — day of — next, at the *Guildhall* of the city of *London*, (or “ at *Westminster-hall*, in the county of *Middlesex*.”) to inquire diligently on their oath of the truth of the premises, and to assess the damages which the said *A. B.* hath sustained by reason of the aforesaid breaches; and that you have on that day before our said chief-justice (or justices of assize) this writ: We likewise
command

CHAP.
XXIII.

command our said chief-justice, (or justices of assize) that he (or they) certify the inquisition before him (or them) taken, to us at *Westminster*, on — next after — together with the names of those by whose oath such inquisition shall be taken; and that he (or they) also have there then this writ. Witness *Edward Lord Ellenborough*, (&c.)

(§ 10.)
The like, in
debt on articles
of agreement.

George the Third, (&c.) To the sheriff of —, and to the right honourable *Edward Lord Ellenborough*, (&c.) greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, impleaded *C. D.* being in the custody, (&c.) of a plea that he should render to him the said *A. B.* the sum of — *l.* of good and lawful money of *Great Britain*, which he owed to and unjustly detained from him; for that whereas by certain articles of agreement (or a certain indenture) made on, &c. (reciting the whole of the declaration,) to the damage of the said *A. B.* of — *l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his debt aforesaid, together with his damages which he had sustained on occasion of the detention thereof, &c. whereof the said *C. D.* is convicted, as appears to us of record: And the said *A. B.* having prayed our writ to inquire of the truth of the aforesaid breaches of covenant above assigned, and to assess the damages which he the said *A. B.* hath sustained thereby; therefore, according

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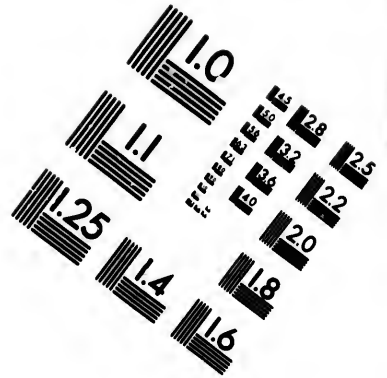
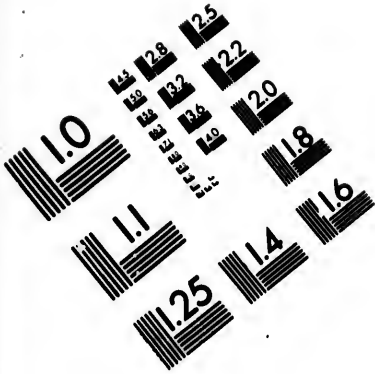
ording to the form of the statute in such case made and provided, we command you the said sheriff, &c. (as in the last, to the end).

CHAP.
XXIII

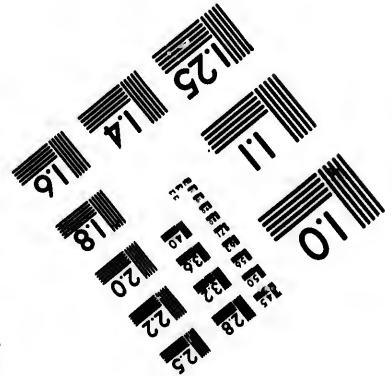
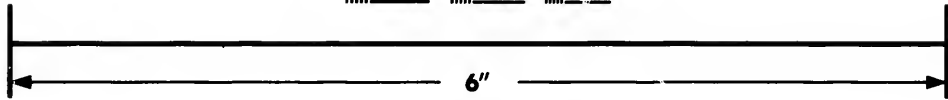
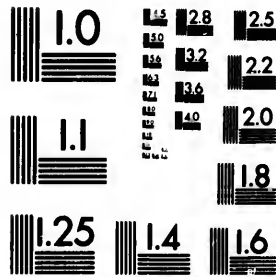
George the Third, (&c.) To the sheriff of —, The like, in debt on bail-bond, in C. P. and also to — our chief-justice of the bench at *Westminster*, (or “to our justices assigned to take the assizes in your county”) greeting: Whereas *C. D.* was summoned to be in our court before our justices at *Westminster*; to answer *A. B.* assignee of — sheriff of the county of — according to the form of the statute in that case made and provided, of a plea that he rendered to the said *A. B.* as assignee as aforesaid, the sum of — *l.* of lawful money of *Great-Britain*, which he owed to and unjustly detained from him; for that whereas, &c. (reciting the whole of the declaration,) to the damage of the said *A. B.* as assignee as aforesaid, of — *l.* as he said, and therefore he brought his suit, &c.: And it was in such manner proceeded in our said court, before our justices aforesaid, that it was considered by the same court, that the said *A. B.* ought to recover his said debt, and his damages by occasion of the detention thereof: But because, according to the form of the statute in such case made and provided, a jury ought to inquire of the truth of the said breach of the said condition of the said writing obligatory above assigned, and to assess the damages that the said *A. B.* has sustained thereby; and the said *A. B.* having prayed our writ for that purpose; therefore we command you the said sheriff of — to summon twelve good and lawful men of your county, to appear before — our chief-justice of the

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**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

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CHAP.
XXIII.

the bench at *Westminster*, assigned to hold pleas in oursaid court, (or "before our said justices of assize") on — the — day of — at — in the county of — to inquire upon their oath of the truth of the said breach, and to assess the damages which the said *A. B.* hath sustained thereby; and that you have on that day, before our said chief-justice (or justices of assize) this writ. We likewise command our said chief-justice (or justices of assize), that he (or they) certify the inquisition before him (or them) taken, to our justices at *Westminster*; in — together with the names of those by whose oath such inquisition shall be taken; and that he (or they) have also there this writ. Witness, (&c.)

(§ 11.)
Term's notice
of inquiry.

Take notice, that the plaintiff intends to proceed, after the end of the ensuing term, by giving notice of inquiry in this cause. Dated, (&c.)

(§ 12.)
Notice of in-
quiry, in *Lon-
don*.

In the King's Bench. *A. B.* plaintiff;
and *C. D.* defendant.

Take notice, that a writ of inquiry of damages in this cause will be executed on — the — day of — instant, between the hours of — and — of the clock in the forenoon of the same day, at the secondaries office, No. 14. *Lothbury, London*. Dated this — day of — 18 —.

Your's, &c.

E. F. plaintiff's attorney.

To Mr. *G. H.* defend-
ant's attorney.

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If in *Middlesex*, say, "between the hours of eleven of the clock in the forenoon and one of the clock in the afternoon of the same day, at the sheriff's office, *Bedford Street, Bedford Row*, in the county of *Middlesex*." **CHAP. XXIII.** (§ 13.)
The like, in *Middlesex*.

If in the country, "at the house of —, commonly called or known by the name or sign of — in — street, at — in the county of —." (§ 14.)
The like, in the country.

I do hereby continue the notice of executing the writ of inquiry, given you in this cause, to the — day of — next, when the same will be executed between the hours of — and — at —. Dated, (*Sc.*) (§ 15.)
Notice of continuance.

Your's, &c.

E. F. plaintiff's attorney.

To Mr. *G. H.* defendant's attorney.

I do hereby countermand the notice of executing the writ of inquiry, given you in this cause. Dated, (*Sc.*) (§ 16.)
Notice of countermand.

In the King's Bench. *A. B.* plaintiff, and *C. D.* defendant. (§ 17.)
Notice of attending by counsel.

Take notice, that the plaintiff (or defendant) will attend by counsel, on the execution of the writ of inquiry in this cause. Dated, (*Sc.*)

— (to wit.) An inquisition indented, taken at the house of — called or known by the name or sign *Inquisition on a writ of inquiry, and return.*

CHAP.
XXIII.

sign of — in the said county of — on the — day of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united Kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year our of Lord 18 —, before — sheriff of the county aforesaid, by virtue of a writ of our said lord the king, to the said sheriff directed, and to this inquisition annexed, to inquire of certain matters in the said writ specified, by the oath of *E. F.* (&c.) honest and lawful men of the said county, who upon their oath say, that *A. B.* in the said writ named hath sustained damages to the sum of — *l.* by the means in the said writ mentioned, besides his costs and charges by him about his suit in this behalf laid out, and for his costs and charges aforesaid the sum of — *l.* In witness whereof, as well I the said sheriff, as the said jurors, have set our seals to this inquisition, the day and year above-written.

Return.

The execution of this writ appears in inquisition hereunto annexed.

The answer of — sheriff.

The like, on the statute 8 & 9 W. III. c. 11. § 8.

— to wit. An inquisition indented, taken before me the right honourable *Edward* Lord *Ellenborough*, his majesty's chief-justice assigned to hold pleas in the court of the lord the king before the king himself, (or "before us — and — his majesty's justices assigned to take the assizes in the county of —") on — the — day of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united Kingdom

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dom of *Great Britain* and *Ireland* king, defender of the faith, and in the — year of our Lord 18—, at — in the county of —, by virtue of his majesty's writ directed to the sheriff of the said county, and to me the said chief-justice, (or "to us the said justices of assize") and to this inquisition annexed, by the oath of *E. F.* (&c.) twelve good and lawful men of the county aforesaid, who being sworn and charged upon their oath say that, &c. (here set out the finding of the jury, upon the breach assigned); and they further say upon their oath, that the said *A. B.* hath sustained damages by the aforesaid breach of the said condition of the said writing obligatory, besides his costs and charges by him about his suit in this behalf expended, to — *l.* In witness whereof I the said chief-justice (or "we the said justices of assize") have hereunto set my hand and seal (or "our hands and seals") the day and year and at the place above-mentioned.

CHAP.
XXIII.

The execution of this writ appears in the inquisition hereunto annexed. Return.

The answer of — the chief-justice (or "of — and — the justices of assize") within-named.

— to wit: *Subpœna* to testify on inquiry, between *A. B.* plaintiff and *C. D.* defendant, on the part of the plaintiff (or defendant.)

(§ 18.)

Præcipe for *subpœna*, on a writ of inquiry.

E. F. attorney.

18—.

George

CHAP.
XXIII.

(§ 19.)

Subpæna.

George the Third, (&c.) To *G. H.* &c. (here insert the names of the witnesses,) greeting: We command you, and every of you, that laying aside all and singular businesses and excuses whatsoever, you, and every of you, be and appear in your proper persons, before our sheriff (or sheriffs) of — on — at — (according to the notice of inquiry,) then and there to testify the truth, according to your knowledge, in a certain cause now depending in our court before us, between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case, (or as the action is,) on the part of the plaintiff, (or defendant,) on which our certain writ of inquiry of damages hath been sent by us out of our said court, and directed to our said sheriff, (or sheriffs,) then and there in due form of law to be executed; and this you, or any of you, shall in no-wise omit, under the penalty of 100*l.* Witness *Edward* Lord *Ellenborough*, (&c.)

(§ 20.)

Subpæna-
ticket.

By virtue of a writ of *subpæna* to you directed, and herewith shewn unto you, you are to be and appear before the sheriff (or sheriffs) of — on — at — (as in the *subpæna*,) to testify the truth according to your knowledge, in a certain cause now depending between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case, (or as the action is,) on the part of the plaintiff (or defendant), in which cause a writ of inquiry of damages will then and there be executed; and this you are not to omit under the penalty of 100*l.* Dated the — day of — in the — year of the reign of our
sovereign

sovereign
year of*E. F.*

Rul

sovereign lord *George* the third, (&c.) and in the year of our Lord 18—.

CHAP. XXIII.

By the Court.

E. F. attorney for the plaintiff
(or defendant).

A. B. against *C. D.*

(§ 21.)

Rule for judgment.

Rule for judgment on inquiry.

CHAP. XXIV.

Of OYER of DEEDS, &c.; and PARTICULARS of PLAINTIFF'S DEMAND.

(§ 1.)
Demand of
oyer, by the
defendant.

In the King's Bench. *B. against D.*

THE defendant demands *oyer* and copy of the writing-obligatory mentioned in the declaration in this cause, and the condition thereof, (or of the deed-poll, indenture, articles of agreement, &c. mentioned in the declaration in this cause).

Your's, &c.

G H. defendant's attorney.

To Mr. *E. F.* plaintiff's attorney.

(§ 2.)
The like, by
the plaintiff.

The plaintiff demands *oyer* and copy of the deed of release, (&c.) mentioned in the plea in this cause.

(§ 3.)
Summons for
particulars of
plaintiff's de-
mand.

C. D. } Let the plaintiff's attorney or agent at-
ats. } tend me at my chambers in *Serjeant's-*
A. B. } *Inn*, at — of the clock in the — to
shew cause, why he should not deliver to the defend-
ant's attorney or agent, an account in writing of
the particulars of the plaintiff's demand, for which
this action is brought, and why in the mean-time all
proceedings in this cause should not be stayed.
Dated the — day of — 18—.

Upon

C. D. } Upon hearing the attorneys or agents on
 ats. } both sides, I do order, that the plain-
A. B. } tiff's attorney or agent shall deliver to
 the defendant's attorney or agent, an account in
 writing of the particulars of the plaintiff's demand,
 for which this action is brought, and that in the
 mean-time all further proceedings in this cause be
 stayed. Dated, (&c.)

CHAP.
 XXIV.
 (§ 4.)
 Order there-
 upon.

CHAP. XXV.

Of CHANGING the VENUE.

(§ 1.)
Affidavit to
change venue.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

C. D. of — the above defendant, maketh oath and saith, that the plaintiff's cause of action (if any) arose in the county of *L.* and not in the county of *M.* (where the venue is laid,) or elsewhere out of the said county of *L.*

C. D.

Sworn, (&c.)

(§ 2.)
Rule thereon.

A. B. } Upon reading the affidavit of the defend-
v. } ant, it is ordered, that the action be laid
C. D. } in the county of *L.* Upon the motion of
Mr. —.

(§ 3.)
Rule for bring-
ing back the
venue.

A. B. } Upon reading, &c. (the rule to change the
v. } venue,) and upon the undertaking of the
C. D. } plaintiff, to give material evidence of some
matter in issue arising in the county of — (the
county where the action was first laid,) it is ordered,
that the said rule be discharged. Upon the motion
of Mr. —.

CHAP. XXVI.

Of BRINGING MONEY into COURT.

A. B. } IT is ordered, that the defendant have (§ 1.)
v. } leave to bring into court — *l.*; and Rule for bring-
C. D. } thereupon, unless the plaintiff shall ac- ing money into
cept thereof, with costs to be taxed by the master, court.
in full discharge of this suit, the said — *l.* shall
be struck out of the declaration, and paid out of
court to the plaintiff or his attorney; and upon the
trial of the issue, the plaintiff shall not be permitted
to give evidence for the said — *l.* Upon the mo-
tion of Mr. —.

CHAP. XXVII.

Of PLEAS in ABATEMENT, &c.

(§ 1.)
Plea in abatement, of misnomer in defendant's Christian-name.

— term, in the — year of the reign of king *George* the Third.

C. D. sued
by the name
of *E. D.*
ats.
A. B.

AND *C. D.* against whom the said *A. B.* hath exhibited his said bill by the name of *E. D.* in his own person comes and says, that he was baptized by the name of *C.* to wit, at — and by the Christian-name of *C.* hath always since his baptism hitherto been called and known; without this, that he the said *C. D.* now is, or at the time of exhibiting the said bill was, or ever before had been, called or known by the Christian-name of *E.* as by the said bill is above supposed; and this he the said *C. D.* is ready to verify, wherefore he prays judgment of the said bill, and that the same may be quashed, &c.

V. Lawes.

(§ 2.)
Affidavit of the truth thereof.

In the King's Bench.

A. B. plaintiff,

and

C. D. sued by the name of *E. D.* defendant.

C. D. of — the defendant in this cause, maketh oath and saith, that the plea hereunto annexed is true, in substance and matter of fact.

Sworn, (&c.)

C. D.

CHAP. XXVIII.

Of the GENERAL ISSUE; and NOTICE of SET-OFF.

— term, in the — year of the reign of king *George the Third.* (§ 1.)
Plea of non assumpsit.

A. B. } **AND** the said *C. D.* by — his attorney,
 ats. } comes and defends the wrong and injury
C. D. } when, &c. and says, that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country, &c.

In the King's Bench. *A. B.* plaintiff, (§ 2.)
 Between and Notice of set-off, for work and labour, &c.
C. D. defendant.

Mr. E. F.

Take notice, that the above-named defendant, on the trial of this cause, will give in evidence and insist, that the above-named plaintiff, before and at the time of the commencement of this suit, was and still is indebted to the said defendant, in the sum of — *l.* of lawful money of *Great Britain*, for the work and labour, care and diligence of the said defendant, by him the said defendant before that time done performed and bestowed for the said plaintiff, and at his request; and for divers materials and

CHAP.
XXVIII.

other necessary things, used and employed in and about that work and labour, by the said defendant before that time found and provided for the said plaintiff, and at his like request; and for divers goods wares and merchandizes, by the said defendant before that time sold and delivered to the said plaintiff, and at his like request; and for money by the said defendant before that time lent and advanced to the said plaintiff, and at his like request; and for other money by the said defendant before that time paid laid out and expended for the said plaintiff, and at his like request; and for other money by the said plaintiff before that time had and received to and for the use of the said defendant; and that the said defendant will set off and allow to the said plaintiff, on the trial of the said cause, so much of the said sum of —l. so due and owing from the said plaintiff to the said defendant, against any demand of the said plaintiff to be proved on the said trial, as will be sufficient to satisfy and discharge such demand, according to the form of the statute in such case made and provided. Dated this — day of — 18—.

Your's, &c.

G. H. defendant's attorney.

CHAP. XXIX.

Of the RULE to REPLY, &c.

A. B. } — next after — is given to the (§ 1.)
v. } plaintiff to reply. Rule to reply.
C. D. } Entered.

In the King's Bench. *A. B.* plaintiff, (§ 2.)
 and Term's notice
C. D. defendant. to reply.

Take notice, that the plaintiff intends to proceed,
 after the end of the ensuing term, by giving a rule
 to reply in this cause. Dated, (&c.)

Your's, &c.

E. F. plain-
tiff's attorney.

To Mr. *G. H.* defendant's
attorney.

A. B. } It is ordered, upon payment of costs to be (§ 3.)
v. } taxed by the Master, that the action be Rule to dis-
C. D. } discontinued. continue.

CHAP. XXX.

Of DEMURRERS, and AMENDMENT.

There are no Forms referred to in this Chapter.

CHAP. XXXI.

Of MAKING UP, and ENTERING the ISSUE, &c.

(§ 1.)
Issue by bill,
of the same
term with the
declaration.

— term, in the — year of the reign of
King George the Third.

Way.

— to wit. *BE it remembered*, that on —
next after — in this same term, (the first day of
the term of which the issue is made up, unless the
cause of action accrued after that day, in which case
the *memorandum* is special, stating the bill to have
been exhibited on the day mentioned in the title of
the declaration,) before our lord the king at *West-*
minster, comes *A. B.* by — his attorney, and
brings into the court of our said lord the king be-
fore the king himself now here, his certain bill
against *C. D.* being in the custody of the marshal of
the marshalsea of our said lord the king before the
king himself, of a plea of trespass on the case upon
promises;

promises; (or in *covenant*, of a plea of breach of covenant; in *debt*, of a plea of debt; in *detinue*, of a plea of detaining the goods and chattels of the said *A. B.*; in *case*, of a plea of trespass on the case; in *trespass*, of a plea of trespass; or in *assault* or *imprisonment*, in a plea of trespass and assault, or of trespass assault and false-imprisonment, &c.) and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say:— to wit. *A. B.* complains of *C. D.* &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

And the said *C. D.* by — his attorney, comes and defends the wrong and injury when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country; and the said *A. B.* doth the like: Therefore let a jury thereupon come before our lord the king at *Westminster*, on — next after —, (some return-day before the trial; and if the trial be at the assizes or sittings after term, the last return-day of the preceding term,) by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid at the same place.

If the pleadings are special, they should be copied in their proper order, beginning each with a new line.

— te m,

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(§ 2.)

The like, of a
term subse-
quent to the
declaration.

— term, (the term of which issue is joined,) in the — year of the reign of King George the Third.

Way.

— to wit. *Be it remembered*, that in — term last past, (the term of which the declaration is intituled; and if the issue be made up more than four terms after the declaration, instead of the words “last past,” say “in the — year of the reign of our lord the now king,”) before our lord the king at *Westminster*, came *A. B.* by — his attorney, and brought into the court of our said lord the king before the king himself then there, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass on the case upon promises; (or as the plea is;) and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

And now at this day, that is to say, on — next after — in this same term, until which day the said *C. D.* had leave to imparl to the said bill, and then to answer the same, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by — his attorney; and the said *C. D.* defends the wrong and injury when, &c. and says, &c. (to the end of the pleadings, beginning each, if special, with a
new

new line): Therefore let a jury thereupon come,
&c. (as before.)

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— term, (the term of which the declaration
is intituled,) in the — year of the reign of
King *George* the Third. (§ 3.)
Issue by original.

— to wit. *C. D.* was attached (or summoned)
to answer *A. B.* &c. (as in the declaration, to the
end).

And the said *C. D.* by — his attorney, comes
and defends, &c. (copying the pleadings in order):
Therefore it is commanded to the sheriff, that he
cause to come before our lord the king, on —,
wheresoever our said lord the king shall then be in
England, twelve, &c. by whom, &c. and who nei-
ther, &c. to recognize, &c. because as well, &c.

— term, in the — year of the reign of
King *George* the Third. (§ 4.)
The like, with
imparlances.

— to wit. *C. D.* was attached (or summoned)
to answer *A. B.* &c. (as in the declaration, to the
end).

And the said *C. D.* by — his attorney, comes
and defends the wrong and injury when, &c. and
prays a day thereupon to imparl to the said declara-
tion of the said *A. B.* and it is granted to him, &c.
And upon this a day is given to the parties afore-
said, before our lord the king, until — whereso-
ever, &c. that is to say, for the said *C. D.* to imparl
to the declaration aforesaid, and then to answer the
same: At which day, before our said lord the king

at

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at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the said *C. D.* says, &c. (to the end of the pleas).

And the said *A. B.* prays a day to imparl to the said pleas of the said *C. D.* and it is granted to him, &c. and hereupon a day is given to the said *A. B.* before our said lord the king, until — wheresoever, &c. that is to say, for the said *A. B.* to imparl to the said pleas of the said *C. D.* and then to reply to the same; the same day is given to the said *C. D.* there, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the said *A. B.* as to the said plea of the said *C. D.* &c. (to the end of the pleadings): Therefore it is commanded to the sheriff, &c. (as before).

(§ 5.)

Award of *venire*, where there are several issues in fact.

Therefore as well to try this issue, as the said other issue (or issues) above joined between the parties aforesaid, let a jury thereupon come, &c. (or by *original*, it is commanded, &c.)

(§ 6.)

The like, where there are several issues, in fact and in law.

And as well to try the said issue (or issues) above joined between the parties aforesaid, to be tried by the country, as to inquire what damages the said *A. B.* hath sustained by reason of the premises, whereof the said parties have put themselves upon the judgment of the court, if judgment shall happen to be thereupon given for the said *A. B.* against the said *C. D.* let a jury thereupon come, &c. (or by *original*, it is commanded, &c.)

There-

Therefore as well to try this issue, as the said other issue (or issues) above joined between the said *A. B.* and the said *E. F.* let a jury thereupon come, &c. (or by *original*, it is commanded, &c.)

(After copying the plea and issue thereon, proceed as follows:) And the said *E. F.* in his own person, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *E. F.* wherefore the said *A. B.* ought to recover against the said *E. F.* his damages by reason of the premises: But because it is unknown to the court here, what damages the said *A. B.* hath sustained by reason thereof; and because it is also at present unknown to the court here, whether the said *C. D.* will be convicted of the premises, upon which the said issue is above joined between the said *A. B.* and the said *C. D.* or not; and because it is convenient and necessary, that there be but one taxation of damages in this suit; therefore let the giving of judgment in this behalf against the said *E. F.* be stayed, until the trial or determination of the said issue above joined between the said *A. B.* and the said *C. D.* And as well to try the said issue above joined between the said *A. B.* and the said *C. D.* as to inquire against the said *E. F.* what damages the said *A. B.* hath sustained in this behalf, let a jury thereupon come, &c. (or by *original*, it is commanded, &c.)

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(§ 7.)

The like, where there are several defendants, who plead separately.

(§ 8.)

Entry and award of *re-nuere*, where there are several defendants, one of whom pleads, and another lets judgment go by default.

There-

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(§ 9.)

Award of *mittimus*, to the county-palatine of *Lancaster*.

Therefore let a jury be made thereof: And because the said issue above joined between the parties aforesaid, ought to be tried by men of the county-palatine of *Lancaster*, that is to say, of the body of the said county, where the writ of our said lord the king doth not run, and not elsewhere; therefore to try the said issue above joined between the parties aforesaid, let the record of the plaint aforesaid be sent to his majesty's justices of the said county-palatine of *Lancaster*, so that the same justices, by his said majesty's writ of that county to be duly made, and to the sheriff of the same county directed, do command the said sheriff, that he cause twelve free and lawful men of the body of the said county of *Lancaster*, to come before the said justices, at their next general sessions of assize to be holden for the said county, after the said record shall have been delivered to them, each of whom, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when the verification and issue aforesaid shall have been there made and tried, then the said justices shall send the record of the plaint aforesaid, together with every thing that shall be done thereupon before them, in his said majesty's court there, to our said lord the king at *Westminster*, at a certain day which the said justices shall appoint to the said parties to be in the same court here, to hear judgment thereupon.

(§ 10.)

The like, to the city of *Chester*.

Therefore let a jury be made thereof: And because the men of the said city of *Chester* and county of the same city ought not, nor have been used to come

come out of the same city and county of the same city, to try any issue joined in the same city and county of the same city; therefore for trying the issue aforesaid, triable in the said city of *Chester* and county of the same city, let the record of the plaint aforesaid be sent to the chamberlain of our said lord the king of his county-palatine of *Chester*, or to his deputy there, so that the said chamberlain or his deputy, by writ of our said lord the king under the seal of the said county-palatine, duly to be made out, do cause the record aforesaid to be sent to the mayor of the said city of *Chester* and county of the same city, commanding the said mayor, that for trying the issue aforesaid, the said mayor do command the sheriffs of the said city of *Chester* and county of the same city, that they cause to come before the said mayor, at a certain day and place by the said mayor to be appointed, after the said record shall have been delivered to him, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. And when the verification and issue aforesaid shall have been there made and tried, then the said mayor shall send the record of the plaint aforesaid, together with every thing that shall have been done thereupon before him, to the said chamberlain or his deputy, so that the said chamberlain or his deputy may remit the same into the court of our said lord the king before the king himself at *Westminster*, at a certain day which the said mayor shall appoint to the said parties to be in the same court here, to hear judgment thereupon, &c.

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O

(After

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XXXI.

Issue, and suggestion of breaches, after plea of *non est factum*, on the stat. 8 & 9 W. III. c. 11. § 8. with award of *venire, tam ad triandum quam ad inquirendum.*

(After the plea of *non est factum* and the *similiter*, proceed as follows:)

And hereupon the said *A. B.* prays that the said writing obligatory in the said declaration mentioned may be enrolled, and the same is accordingly enrolled in these words, to wit: (here set out the obligatory part of the bond *verbatim.*) He also prays that the condition of the said writing obligatory may be enrolled, and the same is accordingly enrolled in these words, to wit: Whereas, &c. (here set out the condition of the bond, beginning with the recital, if any). And for a breach of the said condition of the said writing obligatory, the said *A. B.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that, &c. (assigning the breach, and concluding as follows:.) Therefore to try the said issue above joined between the said parties, and in case the said issue shall be found for the said *A. B.* to inquire of the truth of the said breach, in form aforesaid above assigned, and to assess the damages sustained thereby, let a jury thereupon come before our lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. because as well, &c. the same day is given to the parties aforesaid at the same place.

(§ 11.)
Suggestion of the death of one of the plaintiffs, after the issuing of the original writ, and before declaration.

— to wit. *C. D.* was attached (or summoned) to answer *A. B.* and *E. F.* of a plea of trespass on the case, &c. (or as the plea is); and thereupon the said *A. B.* by — his attorney, comes and gives the court here to understand and be informed, that since

since the suing out of the original writ in this cause, and before this day, to wit, on — the said *E. F.* died, to wit, at — and the said *A. B.* there survived him; which the said *C. D.* does not deny, but admits the same to be true: and hereupon the said *A. B.* by his attorney aforesaid complains, that whereas, (&c.)

And the said *C. D.* and *E. F.* by — their attorney, come and defend the wrong and injury when, &c. and pray leave to imparl to the said declaration until — next after —, (or by *original*, until — wheresoever, &c.) and it is granted to them, &c. the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid; and the said *E. F.* comes not: And hereupon the said *C. D.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid; and before this day, to wit, on — at — the said *E. F.* died; and the said *C. D.* survived him; which allegation the said *A. B.* doth not deny, but admits the same to be true: Therefore let all further proceedings in this cause against the said *E. F.* be stayed. And the said *C. D.* defends the wrong and injury when, &c. (here copy the plea of the surviving defendant, and go on with the proceedings against him only.)

(§ 12.)
The like, of the death of one of the defendants, between declaration and plea.

(After the end of the defendant's plea, proceed as follows): And the said *A. B.* and *E. F.* (plaintiffs) pray

(§ 13.)
Suggestion of the death of one of the

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plaintiffs, be-
tween plea and
replication.

pray a day to imparl to the said plea, and then to reply to the same, and it is granted to them, &c.; and thereupon a day is given to the parties aforesaid, to come before our said lord the king at *Westminster*, on — next after — (or by *original*, on — wheresoever, &c.) that is to say, for the said *A. B.* and *E. F.* to imparl to the said plea, and then to reply to the same, &c. At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid; and the said *E. F.* cometh not: And hereupon the said *A. B.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on — at — the said *E. F.* died, and the said *A. B.* survived him; which allegation the said *C. D.* doth not deny, but admits the same to be true: Therefore let no further proceedings be had in this cause, at the suit of the said *E. F.* And as to the said plea of the said *C. D.* &c. (here go on with the replication.)

(§ 14.)
Suggestion
at one of the
sheriffs is a
party to the
suit, and award
of venire to the
other.

And hereupon the said master and keepers, or wardens and commonalty of the mystery or art of braziers say, that *E. F.* esquire, now one of the sheriffs of the city of *London* aforesaid, is master of the said company of braziers; and for that reason, the said master and keepers, (&c.) pray the writ of our lord the king, to be directed to *G. M.* esquire, the other sheriff of the said city of *London*, to cause to come before our lord the king at *Westminster*, twelve, &c. to try the said issue (or issues) above joined between the parties aforesaid: and because
the

the said *C. D.* doth not deny the aforesaid allegation of the said master and keepers. (&c.) but admits the same to be true, it is granted to them, &c.: Therefore it is commanded to the said *G. H.* the said other sheriff of the city of *London* aforesaid, that he cause to come, &c. (*ante*, p. 189.)

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XXXI.

And hereupon the said united company say, that *E. F.* and *G. H.* esquires are sheriffs of the city of *London*; and that the said *E. F.* one of the said sheriffs, in his own right, is proprietor of and interested in a share and proportion of the principal stock of the said united company, to the value of — *l.* and is a member of the said united company; and this the said united company are ready to verify; and for this cause, the said united company pray a writ, to be directed to the said *G. H.* esquire, the other sheriff of the said city of *London*, to cause to come twelve, &c. to try the said issue (or issues) above joined between the parties aforesaid: and because the said *C. D.* doth not deny the aforesaid allegation of the said united company, but admits the same to be true, it is granted to them, &c.: Therefore it is commanded to the said *G. H.* the said other sheriff of the city of *London* aforesaid, that he cause to come, &c. (*ante*, p. 189.)

(§ 15.)

Suggestion by the *East-India* Company, plaintiffs, that one of the sheriffs is interested as a proprietor of stock, and award of *venire* to the other.

And because it is suggested to the court of our lord the king now here, that the said *A. B.* (the plaintiff) is sheriff of — aforesaid; it is therefore commanded to the coroner of the said county of —, that he cause to come, &c. (*ante*, p. 189.)

(§ 16.)

Suggestion that the sheriff is a party, and award of *venire* to the coroner.

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(§ 17.)

Suggestion
that the she-
riff is of kin to
the defendant,
and award of
venire to the
coroner.

And hereupon the said *A. B.* says, that — now sheriff of the said county of — is of kin, that is to say, brother to the said *C. D.* and for this cause the said *A. B.* prays a writ of our lord the king of *venire facias*, to be directed to the coroner of the said county of — : and because the said *C. D.* doth not deny the aforesaid allegation of the said *A. B.* it is granted to him, &c. : Therefore it is commanded to the coroner of the said county of —, that he cause to come, &c. (*ante*, p. 189.)

(§ 18.)

Suggestion
that the she-
riffs and coro-
nor are inter-
ested, and
award of *ve-
nire* to *elisors*.

And hereupon the said *A. B.* says, that — and — now sheriffs of the city of *Coventry* and county of the same city, are bailiffs of the city of *Coventry* aforesaid, and therefore parties to the matter aforesaid above put in issue between him the said *A. B.* and the said *C. D.*; and that — now coroner of the said city of *Coventry* and county of the same city, is one of the said commonalty of the city of *Coventry* aforesaid, and therefore likewise a party to the said matter above put in issue between the said *A. B.* and the said *C. D.* as aforesaid; and the said *A. B.* prays a writ of our lord the king, to be directed to two discreet and indifferent persons, residing within the said county of the city of *Coventry* aforesaid, by the court here to be elected, to cause to come twelve free and lawful men of the neighbourhood of *W.* in the said county of the city of *Coventry* aforesaid, to try the issue aforesaid above joined between the parties aforesaid: And because the said *C. D.* doth not deny the allegation aforesaid; therefore it is commanded to — and —, with the assent of the parties aforesaid, by the court here

here

here-elected and named, that they cause to come,
&c. (*ante*, p. 189.)

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But because it is suggested and proved, and manifestly appears to the court here, that the said issue above joined between the parties aforesaid, cannot be fairly and impartially tried by a jury of the said town and county of the town of —; therefore let a jury of the county of — being the county next adjoining to the said town and county of the town of — thereupon come, &c. (or by *original*, it is commanded, &c.)

(§ 19.)

Suggestion for a trial in an adjoining county.

And because the said issue (or issues) above joined between the parties aforesaid, ought to be tried by men of the next *English* county to the said county of —, and not elsewhere; and because the county of — is the next *English* county to the said county of —; therefore let a jury of the said county of — thereupon come, &c. (or by *original*, it is commanded, &c.)

(§ 20.)

Award of *venire* to the sheriff of the next *English* county, where the venue is laid in *Wales*.

And because the borough of *Berwick* is a place where the king's writ of *venire facias* to summon a jury to try the said issue, doth not run; and because the burgesses of the said borough, by reason of their privileges, ought not to be put upon any jury to try the said issue out of the said borough, but the said issue ought to be tried by a jury of the county of *Northumberland*, which is the next adjacent county to the said borough of *Berwick*; which allegations of the said — are not denied by the said —; therefore let a jury of the said county of

(§ 21.)

The like, where the venue is laid in *Berwick-upon-Tweed*.

CHAP. *Northumberland* thereupon come, &c. (or by *original*, it is commanded, &c.)
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(§ 22.) Conclusion of issue, on a replication to a plea of *nil tiel record* of a judgment, &c. in the same court. That there is such a record, (&c.) as appears by the record thereof in — term, in the — year of the reign of our said lord the now king, in the — roll; and he prays that the term and roll aforesaid may be seen and inspected by the court of our said lord the king now here: And because the court of our said lord the king now here, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king at *Westminster*, until — next after —, (or by *original*, until — wheresoever, &c.) to hear the judgment of the said court thereupon; for that the said court of our said lord the king now here are not yet advised thereof, &c.

(§ 23.) The like, in a different court. And this he the said *A. B.* is ready to verify, when where and in such manner as the court here shall direct and award. And hereupon the said *A. B.* is commanded, that he have the said record before our said lord the king at *Westminster*, on — next after —, (or by *original*, on — wheresoever, &c.) and that he fail not at his peril; the same day is given to the said *C. D.* at the same place.

(§ 24.) Conclusion of issue, on a replication of *nil tiel record* of a judgement, &c. in the same court. And this he the said *A. B.* is ready to verify, (&c.) and because the court of our said lord the king now here will advise themselves, upon inspection and examination of the record by the said *C. D.* above alleged,

alleged, a day is given to the parties aforesaid, before our said lord the king at *Westminster*, until — next after — (or by *original*, until — wheresoever, &c.) to hear the judgment of the said court thereupon; for that the said court of our said lord the king now here are not yet advised thereof, &c.

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XXXI.

And this he the said *A. B.* is ready to verify, (&c.) (or, if the replication conclude with a verification and prayer of judgment, and the defendant rejoin *quod habetur tale recordum*, “And this he the said *C. D.* is ready to verify, &c.”) And hereupon the said *C. D.* is commanded, that he have the said record before our said lord the king at *Westminster*, on — next after — (or by *original*, on — wheresoever, &c.) and that he fail not at his peril; the same day is given to the said *A. B.* at the same place.

(§ 25.)

The like, in a different court

But because the court of our lord the king now here, are not yet advised what judgment to give of and upon the premises, a day is given to the parties aforesaid, before our said lord the king at *Westminster*, on — next after — (or by *original*, on — wheresoever, &c.) to hear judgment thereon, for that the said court of our said lord the king now here, are not yet advised thereof, &c.

(§ 26.)

Conclusion of demurrer-book.

The like entry is used upon an issue of *nul tiel record*, where it is not determined the same term.

Unless the defendant receives this paper-book, and returns the same on the — day of — to be enrolled,

(§ 27.)

Rule to return paper-book.

CHAP. enroled, let a writ be made (if the judgment would
XXXI. be interlocutory; or if final, "let a rule be en-
"tered").

(§ 28.) Mr. *E. F.*
Notice of hav- I have struck out the rejoinder, and left a demur-
ing struck out rer to the plaintiff's replication in the office.
rejoinder, &c.

(§ 29.) *A. B.* } — next after — is given to the plain-
Rule to enter v. } tiff to enter the issue.
the issue. *C. D.* } Entered.

(§ 30.) *A. B.* } Unless the plaintiff enters the issue on
The like, on v. } record, on — next after — let the
demurrer. *C. D.* } same be entered on the part of the
defendant.
Entered.

(§ 31.) As yet of — term, (the term of which issue
Entry of issues, is joined) in the — year of the reign of
by bill. king *George the Third*. Witness *Edward*
Lord Ellenborough.

— to wit. *A. B.* puts in his place *E. F.* his
attorney, against *C. D.* in a plea of trespass on the
case, (or of debt, &c. as the plea is).

— to wit. *C. D.* puts in his place *G. H.* his
attorney, (or if common bail was filed by the plain-
tiff according to the statute, say "The said *C. D.*
in person,") at the suit of the said *A. B.* in the plea
aforesaid.

— to

— to wit. *Be it remembered, &c.* (here copy the whole of the issue, to the end of the award of the *venire facias*; and if the cause be not tried the same term issue is joined, or in the vacation after that term; it is continued from term to term, as follows:)

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At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed; nor hath he done any thing thereupon: Therefore, as before; let a jury thereupon come before our said lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid at the same place.

(§ 32.)

Continuance
of the *venire*,
by *vicecomes*
non misit breve,
by bill.

(Enter the warrants of attorney as by bill; but instead of a *memorandum*, go on immediately with the declaration, as follows:)

(§ 33.)

Entry of issue,
by original.

— to wit. *C. D.* was attached (or summoned) to answer *A. B.* &c. (copying the whole of the issue as before; and if the cause be not tried the same term issue is joined, or in the vacation after that term, the continuance is as follows:)

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon:

(§ 34.)

Continuance
of the *venire*,
by *vicecomes*
non misit breve,
by original.

Therefore,

CHAP.
XXXI.

Therefore, as before, the sheriff is commanded, that he cause to come before our lord the king on — wheresoever our said lord the king shall then be in *England*, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid at the same place.

(§ 35.)
Suggestion of
the death of
one of several
plaintiffs or
defendants, af-
ter issue joined,
and before
trial.

(After the award of the *venire facias*, or continuance by *vicecomes non misit breve*, proceed as follows:)

Before which day, to wit, on — the said *E. F.* (or *G. H.*) died, to wit, at — and the said *A. B.* (or *C. D.*) there survived him: And now at this day, before our said lord the king at *Westminster*, come as well the said — as the said — (the survivors) by their respective attornies aforesaid; and the sheriff hath not sent the writ of our said lord the king to him in that behalf directed, nor hath he done any thing thereupon: Therefore, as before, let a jury thereupon come, &c. (or by *original*, it is commanded to the sheriff, &c.)

(§ 36.)
Docket-paper.

The entry of *E. F.* gentleman, one, &c. of the term of — 44 *Geo. III.* 18 —.

Middlesex. Issue joined in case, between *A. B.* plaintiff and *C. D.* defendant, on a plea of *non assumpsit*, (or as the case may be). } Roll —.

London. Issue joined in debt, between *A. B.* plaintiff and *C. D.* defendant, on a plea of *nil debet*, (or *non est factum*). } —.

Surrey,

Surrey. Issue joined in trespass, between *A. B.* plaintiff and *C. D.* defendant, on a plea of not guilty, (or as the case may be).

CHAP.
XXXI.

Roll-

— term, in the — year of the reign of King *George* the Third. (§ 37.)

— to wit, *Be it remembered*, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by — his attorney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass on the case upon promises; and there are pledges for the prosecution, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king before the king himself; for that whereas heretofore, to wit, on — at — a certain discourse was had and moved by and between the said *A. B.* and the said *C. D.*; and in that discourse a certain question then and there arose, whether the said *C. D.* did on the — day of — 18 — or at any other time, receive for the use or on account of *E. F.* deceased, the sum of — *l.* or any other and what sum of money; and there-

Feigned issue, on a question respecting the receipt of money.

upon

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XXXI.

upon heretofore, to wit, on the said — at — aforesaid, in consideration that the said *A. B.* at the special instance and request of the said *C. D.* had then and there paid to him the said *C. D.* the sum of five pounds of lawful money of *Great Britain*, he the said *C. D.* undertook and then and there faithfully promised the said *A. B.* to pay him the sum of ten pounds, of like lawful money, in case he the said *C. D.* did on the said — or at any other time, receive for the use or on the account of the said *E. F.* the said sum of — *l.* or any other sum of money whatsoever: And the said *A. B.* in fact saith, that the said *C. D.* did on the said — receive for the use and on the account of the said *E. F.* the said sum of — *l.* to wit, at — aforesaid; whereof the said *C. D.* afterwards, to wit, on the same day and year first above-mentioned, there had notice: Nevertheless the said *C. D.* not regarding his said promise and undertaking, so by him made in manner and form aforesaid, but contriving and fraudulently intending craftily and subtilly to deceive and defraud the said *A. B.* in this behalf, hath not as yet paid the said sum of ten pounds, or any part thereof, to the said *A. B.* (although often requested so to do); but he to do this hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of — *l.* and therefore he brings his suit, &c.

And the said *C. D.* by — his attorney, comes and defends the wrong and injury when, &c. and says, that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him; because he says, that though true it is, that such a discourse

course was had and moved by and between the said *A. B.* and the said *C. D.* and that he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above in his said declaration in that behalf alleged: For plea in this behalf, the said *C. D.* saith, that he the said *C. D.* did not on the said — or at any other time, receive for the use or on the account of the said *E. F.* the said sum of — *l.* or any other sum of money whatsoever, in manner and form as the said *A. B.* hath above in his said declaration in that behalf alleged; and of this he the said *C. D.* puts himself upon the country; and the said *A. B.* doth the like: Therefore let a jury thereupon come before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid at the same place.

CHAP. XXXII. XXXIII.

There are no forms referred to in these Chapters.

CHAP. XXXIV.

Of PROCEEDINGS on ISSUES, triable by the COUNTRY.

(§ 1.)
Notice of trial,
in *London*.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

Take notice of trial in this cause, for the —
sittings within (or, for the sittings after) this present —
term, to be holden at the *Guildhall* of the
city of *London*. Dated, (&c.)

Yours, &c.

E. F. plaintiff's attorney.

To Mr. *G. H.* defendant's
attorney.

(§ 2.)
The like, in
Middlesex.

If in *Middlesex*, say, "to be holden at *Westminster-hall*, in the county of *Middlesex*."

(§ 3.)
The like, at the
assizes.

If at the assizes, "for the next assizes, to be
held at — in and for the county of —."

Take

Take notice, that the issue joined in this cause between the above-named plaintiff and the above-named *C. D.* will be tried at the sittings, &c. (or next assizes, &c.) and that the jury who try the issue, will at the same time assess the damages against you in this cause, upon the judgment by default. Dated, (&c.)

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(§ 4.)

Notice of trial and assessment of damages, to a defendant who has let judgment go by default.

Your's, &c.

E. F. plaintiff's attorney.

To Mr. *G. H.*

Take notice, that this cause will be tried at the bar of the court, on — at *Westminster-hall*, in the county of *Middlesex*. Dated, (&c.)

(§ 5.)

Notice of trial at bar.

Your's, &c.

Take notice, that the plaintiff intends to proceed, after the end of the ensuing term, by giving notice of trial in this cause. Dated, (&c.)

(§ 6.)

Term's notice of trial.

Your's, &c.

I do hereby continue the notice of trial given you in this cause, to the sitting after this present — term. Dated, (&c.)

(§ 7.)

Notice of continuance.

Your's, &c.

I do hereby countermand the notice of trial given you in this cause. Dated, (&c.)

(§ 8.)

Notice of countermand.

Your's, &c.

P

In

CHAP.
XXXIV. In the King's Bench.

(§ 9.)

Affidavit for costs, for not proceeding to trial.

A. B. plaintiff,
and
C. D. defendant.
G. H. of — maketh oath and saith, that this action was commenced in — term last, and that in — term following issue was joined, and notice of trial given thereon for the sittings after the said term (according to the fact): And this deponent further saith, that the above-named plaintiff did not proceed to the trial of the said action, nor countermand such notice.

Sworn, (*Sc.*)

G. H.

(§ 10.)
Rule of court thereon.

A. B. } Upon reading the affidavit of — it is ordered, that the attorneys of both parties
C. D. } shall attend the Master, and he shall examine the matter, and tax the defendant his costs, for that the plaintiff hath not proceeded to trial pursuant to his notice; which costs when taxed shall be paid by the plaintiff, if it shall appear to the Master that costs ought to be paid. Upon the motion of Mr. —.

(§ 11.) In the King's Bench.

Affidavit of demand and refusal of costs, when payable to the attorney.

A. B. plaintiff,
and
C. D. defendant.
G. H. of — and *C. D.* of — severally make oath and say; and first, this deponent *G. H.* for himself saith, that he did on — the — day of — last, personally serve the above-named plaintiff with a true copy of the rule, and the Master's *allocatur* thereon, hereto annexed, and at the same time shewed him the said original rule and *allocatur*;
and

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XXXIV.

and that he this deponent then demanded of him the costs allowed by the Master on the said rule, but that the said plaintiff did not then, or at any time since, pay the same to this deponent, and the same now remain unpaid to him: And this deponent *C. D.* for himself saith, that he hath not received the said costs, or any part thereof, but the same now remain due and unpaid to this deponent.

G. H.
C. D.

Sworn, (&c.)

A. B. } Let there be a record of *nisi prius* by pro- (§ 12.)
v. } *viso*, if the plaintiff shall have made Rule for trial
C. D. } default. by *proviso*.

Entered.

In the King's Bench.

A. B. plaintiff, (§ 13.)
and Notice of motion for judgment as in case
C. D. defendant. of a nonsuit.

Take notice, that this honourable court will be moved on --- or so soon after as counsel can be heard, that the like judgment may be had for the defendant in this cause as in the case of a nonsuit, pursuant to the statute in such case made and provided.

Your's, &c.

G. H. defendant's attorney.

To Mr. *E. F.* plaintiff's attorney.

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XXXIV.
(§ 14.)

Affidavit for
judgment as in
case of a non-
suit.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

G. H. of — attorney for the defendant in this cause, maketh oath and saith, that issue was joined in this cause, in — term last past, and notice of trial given for the — sitting in (or for the sittings after) the said term (or for the last assizes holden at — in and for the county of —); and that the said plaintiff did not proceed to the trial of this cause, pursuant to the said notice.

G. H.

Sworn, (&c.)

The affidavit, if made after the second term in town, or next assizes but one in the country, need not state the notice of trial.

(§ 15.)
Rule of court
thereon.

A. B. } Upon reading the affidavit of — and the
v. } entry of the issue on record, it is ordered
C. D. } that the plaintiff, upon notice of this rule to be given to his attorney, shall upon — shew cause, why the like judgment should not be given for the defendant as in the case of a nonsuit, pursuant to the statute in such case made and provided. Upon the motion of Mr. —.

§ 16.)
Affidavit for
judgment as in
case of a non-
suit, after a pe-
remptory un-
dertaking.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

G. H. of — attorney for the defendant in this cause, maketh oath and saith, that this honourable court was moved in last — term, for judgment as
in

in case of a nonsuit; and upon shewing cause, the plaintiff peremptorily undertook to bring on the said issue to be tried, at the — sitting within this present — term; whereupon the annexed rule was made: And this deponent further saith, that the plaintiff hath not proceeded to the trial of the said issue, in pursuance of his said undertaking.

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G. H.

Sworn, (&c.)

In the King's Bench.

A. B. plaintiff,

(§ 17.)

and

Notice of motion to put off a trial, for the absence of a witness.

C. D. defendant.

Take notice, that this honourable court will be moved on — or so soon after as counsel can be heard, that the trial of the cause may be put off until next — term, on account of the absence of a material witness on the part of the defendant; and in the mean-time all further proceedings be stayed.

Your's, &c.

G. H. defendant's attorney.

To Mr. E. F. plaintiff's attorney.

In the King's Bench.

A. B. plaintiff,

(§ 18.)

and

Affidavit in support thereof.

C. D. defendant.

C. D. of — the defendant in this cause, maketh oath and saith, that issue was joined in this cause in — term last past, and that notice was given for the trial thereof at the — sitting within (or at the sittings after) the said term: And this deponent further saith, that E. F. late of — is a mate-

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rial witness for him this deponent in the said cause, as he is advised and believes, and that he cannot safely proceed to the trial thereof without the testimony of him the said *E. F.* And this deponent further saith, that in consequence of the notice of trial so given as aforesaid, he this deponent caused inquiry to be made, &c. (stating the nature and result of the inquiry made after the witness, and the time when he is likely to attend).

Sworn, (&c.)

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CHAP. XXXV.

*Of the RECORD of NISI PRIUS, JURY, EVIDENCE,
and WITNESSES.*

PLEAS before our lord the king at *Westminster*, (§ 1.)
of — term (the term in which issue is joined), in Record of nisi prius.
the — year of the reign of our sovereign lord
George the Third, by the grace of God, of the
united kingdom of *Great Britain* and *Ireland* king,
defender of the faith, and in the year of our Lord
18—.

Roll —.

Way.

— to wit. (Here copy the issue, beginning
with the *memorandum* by bill, and the declara-
tion by original; and then proceed as follows):

Pleas before our lord the king at *Westminster*, of Second placita.
— term (the term in or after which the cause is
tried), in the — year of the reign, &c. (as be-
fore).

— to wit. The jury between *A. B.* by his Jurata.
attorney plaintiff, and *C. D.* (inserting his addition by
original) defendant, of a plea of trespass on the case,
(or as the action is,) is respited before our lord the
king at *Westminster*, until — next after — (the

CHAP. XXXV. return of the *distringas*, or by *original* until ——— wheresoever, &c.) unless the right honourable *Edward* Lord *Ellenborough*, his majesty's chief-justice assigned to hold pleas in the court of our said lord the king before the king himself, shall first come on — the — day of — (the day of trial), at the *Guildhall* of the city of *London*, (or if in *Middlesex*, at *Westminster-hall* in the county of *Middlesex*; or if in the country, " unless his majesty's justices assigned to take the assizes in and for the county of — shall first come on — (the commission-day of the assizes) at — (the place where the assizes are holden) in the said county,") according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: Therefore let the sheriff have the bodies of the said jurors, to make the said jury between the parties aforesaid, of the plea aforesaid, accordingly; the same day is given to the parties aforesaid at the same place.

(At the assizes, the *jurata* concludes as follows:)

Sciendum.

And be it known, that the king's writ on record was delivered to the under-sheriff of the said county, on — the — day of — in this same term, (the last day of the term preceding the trial,) before our lord the king at *Westminster*, to be executed according to law, at his peril.

In counties-palatine, there is no second *placita*, *jurata*, or *sciendum*; but the record of *nisi prius* ends with the award of the *mittimus*.

George

George the Third, (&c.) To the sheriff (or coroner) of — (or to — and — *elisors* duly appointed in this behalf) greeting: We command you, that you cause to come before us at *Westminster*, on — next after — (or by *original*, on — wheresoever we shall then be in *England*; making the writ by bill returnable on a particular return-day, or by original, on a general return-day, before the trial; and if in a country cause, on the last particular or general return-day of the term;) twelve free and lawful men of the body of your county, each of whom has ten pounds a-year at the least of lands tenements or rents, by whom the truth of the matter may be the better known, and who are in nowise of kin either to *A. B.* the plaintiff, or to *C. D.* (inserting his addition, by original) the defendant, to make a certain jury of the country between the parties aforesaid, of a plea of trespass on the case (or as the action may be), because as well the said *C. D.* as the said *A. B.* between whom the matter in variance is, have put themselves upon that jury; and have there then (or by original, “ have there”) the names of the jurors, and this writ. Witness *Edward Lord Ellenborough*, at *Westminster*; the — day of — (the first day of the term in which the *venire* is returnable,) in the — year of our reign.

Way.

(As in the former writ, to these words, “ to make a certain jury of the country between the parties aforesaid,” and then as follows:) as well to try the issue joined between the said *A. B.* and *C. D.*

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(§ 2.)

Venire facias.

(§ 3.)

The like, where one defendant pleads, and another lets judgment go by default.

of

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of a plea of trespass on the case (or as the action may be), as to inquire against the said *E. F.* what damages the said *A. B.* hath sustained, as well by means of the not performing of the said promises and undertakings of the said *E. F.* as for his costs and charges by him about his suit in this behalf expended; whereupon it hath been considered, that the said *A. B.* ought to recover his damages against the said *E. F.* because as well the said *C. D.* as the said *A. B.* between whom, &c. (as before).

(§ 4.)
The like, where there are several issues, in fact and in law, and the jury are to assess contingent damages on the latter.

— as well to try the issue joined between them, to be tried by the county, of a plea, (&c.) as to inquire what damages the said *A. B.* hath sustained on occasion of the premises, whereof the said parties have put themselves upon the judgment of the court, if judgment shall happen to be given thereupon for the said *A. B.* against the said *C. D.* because as well, (&c.)

(§ 5.)
Venire de novo.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you cause to come anew before, &c. (as in a common *venire*).

(§ 6.)
Distringas.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain the several persons named in the panel hereunto annexed, (or if it be a special jury, “that you distrain *E. F.* of — *G. H.* of —” naming them as in the Master’s list,) jurors summoned in our court before us, between *A. B.* plaintiff and *C. D.* defendant, by all their lands and chattels in your bailiwick, so that neither they, nor any one by them,

de

do lay hands on the same, until you shall have another command from us in that behalf; and that you answer to us for the issues of the same, so that you have their bodies before us at *Westminster*, on — next after — (or by *original*, on — where-soever we shall then be in *England*; making the *distringas* returnable on the first particular or general return-day after the trial,) or before our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, if he shall first come on — the — day of — (the day of trial), at the *Guildhall* of the city of *London* aforesaid, (or if in *Middlesex*, at *Westminster-hall*, in the county of *Middlesex* aforesaid; or if at the assizes, “before our justices assigned to take the assizes in your county, if they shall first come on — (the commission-day of the assizes) at — (the place where the assizes are holden,) in your said county,”) according to the form of the statute in such case made and provided, to make a certain jury between the said parties, of a plea of trespass on the case, (or as the plea is,) and to hear their judgment thereupon of many defaults; and have there then (or by original, “have “there”) the names of the jurors, and this writ. Witness *Edward Lord Ellenborough*, at *Westminster*, the — day of — (the return-day of the venire by bill, or *quarto die post* by original) in the — year of our reign.

Way.

(After the words, “many defaults” insert the following proviso:) Provided always, that if two writs shall

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XXXV.

(§ 7.)
The like, on a
trial by proviso.

CHAP. shall come to you thereupon, then you execute and
XXXV. return one of them only ; and have there, (&c.)

(§ 8.)
Rule for a view,
by a common
jury.

A. B. } It is ordered, that there issue a writ of *dis-*
v. } *tringas juratores*, to be directed to the
C. D. } sheriff of the county of — in which
shall be contained a clause, commanding the said
sheriff to have six or some greater number of the
jurors, to be impanelled and returned to try the
issue between the parties, who shall be mutually
consented to by the said parties or their agents, at
the place in question, before the time of the trial of
the said issue, to wit, upon — the — day of
— ; and that — on the part of the plaintiff,
and — on the part of the defendant, shall attend
the same day, and shew the matters in question to
the said six or some greater number of the said jurors,
who shall be consented to as aforesaid ; and that the
expence of taking the said view shall be equally
borne by both parties, and no evidence shall be
given on either side at the time of taking thereof :
the plaintiff (or defendant) consenting, that in case
no view shall be had, or if a view shall be had by
any of the jurors, whether they shall happen to be
six or any particular number of the jurors who shall
be so mutually consented to as aforesaid, yet the
said trial shall proceed, and no objection shall be
made on account thereof, or for want of a proper
return to the said writ. Upon the motion of
Mr. —.

A. B.

A. B. } It is ordered, that there issue a writ of *dis-*
v. } *tringas juratores*, to be directed to the
C. D. } sheriff of the county of —, in which
shall be contained a clause, commanding the said
sheriff to have six or more of the first twelve of the
jurors to be impanelled and returned to try the
issue between the parties, at the place in question,
before the time of the trial of the said issue, to wit,
upon — the — day of —; and that — on
the part of the plaintiff; and — on the part of the
defendant, shall attend the same day, and shew the
matters in question to the said six or more of the
first twelve of the said jurors; and that the expence
of taking the said view shall be equally borne by
both parties, and no evidence shall be given on
either side at the time of taking thereof: the plain-
tiff (or defendant) consenting, that in case no view
shall be had, or if a view shall be had by any of the
said jurors, whether they shall happen to be any of
the twelve jurors who shall be first named in the said
writ or not, yet the said trial shall proceed, and no
objection shall be made on account thereof, or for
want of a proper return to the said writ. Upon the
motion of Mr. —.

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(§ 9.)

The like, by a
special jury.

George the Third, (&c.) To the sheriff of —
greeting: We command you, &c. (as in a common
distringas, to the words “many defaults,” and then
as follows;) and in the mean-time, according to the
form of the statute in such case made and provided;
we command you, that you have six or some greater
number of the said jurors, who shall be mutually
consented to by the said *A. B.* and *C. D.* or their
agents,

(§ 10.)

Distringas,
where a view is
to be had by a
common jury.

A. B.

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XXXV.

agents, to take a view of the place in question, on — the — day of —; and that the same jurors meet on the same day, at the house of — in your county, and proceed from thence to view the said place, in the presence of — on the part of the plaintiff, and — on the part of the defendant, appointed by our court before us to shew the said place to such of the said jurors as shall come to view the same; and in what manner you shall have executed this our command, make appear to us at *Westminster*, on the said day, (or by *original*, on the said day wheresoever, &c.) and have there then this writ. Witness, (&c.)

(§ 11.)

The like, by a special jury.

— and in the mean-time, according to the form of the statute in such case made and provided, we command you, that you have six or more of the first twelve of the said jurors, to take a view of the place in question, on the — day of —; and that the same jurors meet, &c. (as before).

(§ 12.)

Mittimus to the county-palatine of *Lancaster*.

George the Third, (&c.) To our justices of our county-palatine of *Lancaster*, greeting: The tenor of a certain record in our court before us at *Westminster*, between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case (or as the plea is), we send you inclosed in these presents; commanding you, that having inspected the same, by our writ under the seal of our said county-palatine, you command the sheriff of the same county, that he cause twelve free and lawful men of the body of the same county-palatine to come before you, at your next general session of assize, there to be holden

holden after this writ shall be delivered to you, each of whom having ten pounds a-year at the least, of lands tenements or rents, by whom the truth of the matter in question may be the better known and inquired into, and who are in nowise akin either to the said *A. B.* or to the said *C. D.* to recognize and make a certain jury of the country between the said parties, of the plea aforesaid, because as well the said *C. D.* as the said *A. B.* between whom the matter in variance is, have put themselves upon that jury; and also that you make such further process against the said jurors, so to be impannelled between the said parties, as is in this behalf used and commonly made, according to the law and custom of the said county-palatine, until the issue aforesaid between the said parties shall be fully tried: And when the verification and issue aforesaid shall have been there made and tried before you, then do you send the record of the plaint aforesaid, together with every thing that shall have been done before you thereupon, and also this writ, to us at *Westminster*, at a certain day which you shall appoint to the said parties to be in our said court here, to hear judgment thereupon. Witness *Edward* Lord *Ellenborough*, (&c.)

CHAP.
XXXV.

(As in the last writ, to these words, "until the issue aforesaid between the said parties shall be fully tried," and then proceed as follows;) and that in the writ of *habeas corpora juratorum* to be issued by you in this cause, there be contained a clause, commanding the sheriff of the said county-palatine, to have six or more of the first twelve jurors, so to be impan-

(§ 13.)

The like, where
a view is to be
had.

CHAP.
XXXV.

impanelled and returned, who shall be mutually consented to by the said parties or their agents, at the place in question, before the time of the trial of the said issue, to wit, on the — day of — next ensuing; and that — on the part of the said *A. B.* and — on the part of the said *C. D.* shall attend the same day, and shew the matters in question to the said six or more of the first twelve jurors, who shall be consented to as aforesaid: And when the verification and issue aforesaid shall have been there made and tried, &c. (as before).

(§ 14.) *George the Third, (&c.)* To our chamberlain of our county-palatine of *Chester*, or to his deputy there, greeting: The tenor of a certain record, which is depending in our court before us at *Westminster*, between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case, we send you inclosed in these presents; commanding you, that by our writ under the seal of our said county-palatine duly to be made out, you cause the said record to be sent to the mayor of the city of *Chester* and county of the same city, commanding the said mayor, that for trying the issue in the said record specified, the said mayor do command the sheriffs of the same city of *Chester* and county of the same city, that they cause to come before the said mayor, at a certain day and place by the said mayor to be appointed, after the said record shall be delivered to him, twelve free and lawful men of the body of the city aforesaid and county of the same city, each of whom, &c. by whom, &c. and who are in nowise, &c. to recognize, &c. because as well, &c. and lastly, that the

The like, to the
city of *Chester*.

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the said mayor make such further process against the said jurors, so to be inpannelled between the said parties, as according to the law and custom of the said city and county of the same city is in this behalf used and commonly made, until the issue aforesaid between the parties aforesaid shall be fully tried; and when the verification and issue aforesaid shall have been there made and tried, then the said mayor shall send to you the said record of the plaint aforesaid, with every thing that shall have been then and there done and tried before him therein, so that you have the said record before us at *Westminster*, and this writ, at a certain day which the said mayor shall appoint to the said parties to be in our said court here, to hear judgment. Witness *Edward Lord Ellenborough*, (&c.)

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XXXV.

— to wit. *Subpœna* to testify, between *A. B.* (§ 15.)
plaintiff and *C. D.* defendant, on the part of the
plaintiff (or defendant). *Præcipe for subpœna.*

E. F. attorney.

—18—.

George the Third, (&c.) - To *E. F.* (&c.) greet- (§ 16.)
ing: We command you, that laying aside all and *Subpœna.*
singular businesses and excuses, you and every of
you be and appear in your proper persons, before
our right trusty and well-beloved *Edward Lord*
Ellenborough, our chief-justice assigned to hold

Q

pleas

CHAP.
XXXV.

pleas in our court before us, at the *Guildhall* of the city of *London*, (or in *Middlesex*, at *Westminster-hall* in the county of *Middlesex*; or at the assizes, before our justices assigned to take the assizes in and for the county of — at — in the said county,) on — the — day of — instant (or next), by — of the clock in the forenoon of the same day, to testify all and singular those things which you or either of you know, in a certain cause now depending in our court before us, between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case (or as the action is), on the part of the plaintiff (or defendant), and on that day to be tried by a jury of the country; and this you, or any of you, shall by no means omit, under the penalty upon each of you of 100*l.* Witness *Edward Lord Ellenborough*, (&c.)

(§ 17.)
Subpœna-
ticket.

By virtue of a writ of *subpœna* to you directed, and herewith shewn unto you, you are personally to be and appear before *Edward Lord Ellenborough*, chief-justice of his majesty's court of King's Bench, on — the — day of — instant (or next), by — of the clock in the forenoon of the same day, at the *Guildhall*, &c. (as in the *subpœna*), then and there to testify the truth according to your knowledge, in a certain cause now depending, and there to be tried, between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case (or as the action is), on the part of the plaintiff (or defendant); and this you are not to omit, under the penalty of 100*l.* Dated the — day of — in the — year of

of the reign of our sovereign lord *George* the Third,
(&c.) and in the year of our Lord 18—.

CHAP.
XXXV.

By the Court.

E. F. attorney for plaintiff
(or defendant).

George the Third, &c. (as in a common *subpœna*,
to the day of trial, and then proceed as follows:)
and also that you bring with you and produce, at
the time and place aforesaid, a certain deed or in-
strument in writing, bearing date, &c. (describing
the thing to be produced,) then and there to testify
and shew all and singular those things which you or
either of you know, or the said deed or instrument
doth import, of and concerning a certain cause now
depending, &c. (as before).

(§ 18.)
*Subpœna duces
tecum.*

In the King's Bench.

A. B. plaintiff, (§ 19.)

and

C. D. defendant.

Affidavit to ob-
tain *habeas cor-
pus ad testifi-
candum.*

A. B. of — the above-named plaintiff, maketh
oath and saith, that *E. F.* now a prisoner for debt,
in custody of the marshal of this court, (or as the
case may be,) is and will be a material witness for
this deponent, at the trial of this cause: And this
deponent further saith, that he is advised and verily
believes, that he cannot safely proceed to the trial
thereof, without the testimony of the said *E. F.* and
that he the said *E. F.* is ready and willing to attend
as a witness at the trial of the said cause.

A. B.

Sworn, (&c.)

CHAP.
XXXV.

(§ 20.)

Præcipe for
same.

— *Habeas corpus* to testify, between *A. B.* plaintiff and *C. D.* defendant, on the part of the plaintiff (or defendant.)

E. F. attorney

— 18 —.

(§ 21.)

Habeas corpus
ad testificandum.

George the Third, (&c.) To the marshal of our prison of the marshalsea, (or the officer in whose custody the prisoner is,) greeting: We command you, that you have the body of *E. F.* detained in our prison under your custody, as it is said, under safe and secure conduct, before our right trusty and well-beloved *Edward* Lord *Ellenborough*, our chief-justice assigned to hold pleas in our court before us, at the *Guildhall*, &c. (as in the *subpæna*,) on — the — day of — next, by — of the clock in the forenoon of the same day, then and there to testify the truth according to his knowledge, in a certain cause now depending in our court before us, and then and there to be tried, between *A. B.* plaintiff and *C. D.* defendant, of a plea of trespass on the case (or as the action is), on the part of the said *A. B.* (or the said *C. D.*) and immediately after the said *E. F.* shall then and there have given his testimony before our said chief-justice, (if in town; and if in the country, before our said justices,) that you return him the said *E. F.* to our said prison, under safe and secure conduct; and have there then this writ. Witness *Edward* Lord *Ellenborough*, (&c.)

(§ 22.)

Interrogato-
ries for plain-
tiff.

INTERROGATORIES to be administered to *E. F.* a witness to be produced sworn and examined, on the part and behalf of *A. B.* plaintiff, in a certain cause

now

now depending in his majesty's court of King's Bench at *Westminster*, against *C. D.* defendant, before — one of his said majesty's justices of the same court, pursuant to a rule of the said court, made on — next after — in the — year of the reign of king *George* the Third (or if under an order, say, "pursuant to an order of the said justice, made the — day of — 18—."

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XXXV.

Imprimis. Do you know the parties, plaintiff and defendant, in the title of these interrogatories named, or either and which of them, and how long have you known them, or either and which of them? Declare, (&c.)

Secondly. Look upon the deed or writing now produced and shewn to you, at this the time of your examination, marked with the letter (A), and purporting to be an indenture of lease, (&c.) bearing date, (&c.) Was such deed or writing sealed and delivered in your presence, and by whom? Were you a subscribing witness to the sealing and delivery thereof? And is the name *E. F.* indorsed thereupon, and appearing as the name of one of the witnesses, of your own hand-writing? Do you know the hand-writing of *G. H.* appearing to be the other witness to the said deed or writing? Is the name *G. H.* indorsed thereupon, of the proper hand-writing of the said *G. H.*? And did you see him set and subscribe his name as a witness thereto? Declare, &c.

Lastly. Do you know of any other matter or thing, or have you heard, or can you say any thing touching the matters in question in this cause, that

CHAP. XXXV. may tend to the benefit and advantage of the said plaintiff, besides what you have been interrogated unto? Declare the same fully and at large, as if you had been particularly interrogated thereto.

(§ 23.)
The like, for
defendant.

INTERROGATORIES to be administered to *E. F.* a witness to be produced, sworn and examined, on the part and behalf of *C. D.* the defendant, in a certain cause now depending against him, in his majesty's court of King's Bench at *Westminster*, at the suit of *A. B.* plaintiff, before, (*&c.*)

(§ 24.)
The like, to
cross-examine
a witness.

INTERROGATORIES to be administered, by way of cross-examination, to *E. F.* a witness, (*&c.*)

CHAP. XXXVI.

Of ARBITRATION.

London, } At the sitting of *nisi prius*, held at Guild- (\$ 1.)
to wit. } hall in and for the city of London, on Order of refer-
— the — day of — in the year ence, at *nisi*
of our Lord 18—, and in the — year *prius*.
of the reign of our sovereign lord George
the Third, now king of the united King-
dom of *Great Britain* and *Ireland*, &c.
before the right honourable *Edward*
Lord *Ellenborough*, chief-justice of our
lord the king, assigned to hold pleas
before the king himself :

A. B. } It is ordered by the court, by and with the
v. } consent of the plaintiff and defendant,
C. D. } their counsel and attornies, that the last
juryman sworn and impannelled in this cause, be
withdrawn out of the panel, and that all matters in
difference between the said parties, be referred to
the award, order, arbitrament, final end and deter-
mination of, (&c.) so as he shall make and publish
his award in writing, of and concerning the premises
in question, on or before the — day of — term
now next ensuing ; and that the said parties shall
and do perform, fulfil and keep such award, so to be
made by him the said arbitrator as aforesaid : And

CHAP.
XXXVI.

it is also ordered, by and with such consent as aforesaid, that the costs of the said cause shall abide to the event and determination of the said award, and that the costs of the said reference shall be in the discretion of the said arbitrator, who shall direct and award by whom, and to whom, and in what manner the same shall be paid: And it is likewise ordered, by and with such consent as aforesaid, that the plaintiff and defendant respectively shall be examined upon oath, to be sworn before the said lord chief justice, or some other justice of the same court of our lord the king before the king himself, if thought necessary by the said arbitrator; and do produce before the said arbitrator, all books, papers and writings, touching and relating to the matters in difference between the said parties, as the said arbitrator shall think fit; and that the witnesses of the plaintiff and defendant respectively shall be examined upon oath, to be sworn before the said lord chief-justice, or some other justice of the same court of our lord the king before the king himself: And it is likewise ordered, by and with such consent as aforesaid, that neither the plaintiff nor the defendant shall prosecute or bring any action or suit, in any court of law or equity, against the said arbitrator, or bring or prefer any bill in equity against each other, of and concerning the premises in question so as aforesaid referred: And it is further ordered, by and with such consent as aforesaid, that if either party shall by affected delay, or otherwise, wilfully prevent the said arbitrator from making an award, he shall pay such costs to the other, as the said court of

our

our said lord the king before the king himself shall think reasonable and just: And lastly it is ordered, by and with such consent as aforesaid, that the said court of our said lord the king before the king himself may be prayed, that this order may be made a rule of the same court.

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XXXVI.

Know all men by these presents, that I *C. D.* of — am held and firmly bound to *A. B.* of —, in — pounds of good and lawful money of *Great Britain*, to be paid to the said *A. B.* or his certain attorney, executors, administrators or assigns; for which payment well and truly to be made, I bind myself, my heirs, executors and administrators, firmly by these presents: Sealed with my seal. Dated the — day of —, in the — year of the reign of our sovereign lord *George* the Third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

(§ 2.)
Arbitration-
bond, on a re-
ference to two,
with a clause of
umpirage.

The condition of this obligation is such, that if the above-bounden *C. D.* his heirs, executors and administrators, and every of them, do and shall, for his and their part and behalf, in all things well and truly stand to, obey, abide, observe, perform, fulfil and keep the award, order, arbitrament, final end and determination of *E. F.* of —, and *G. H.* of —, arbitrators indifferently named, elected and chosen, as well by and on the part and behalf of the above-bounden *C. D.* as of the above-named *A. B.* to arbitrate, award, order, judge and determine, of and concerning all and all manner of action and

CHAP.
XXXVI.

and actions, cause and causes of action, suits, bills, bonds, specialties, judgments, executions, extents, quarrels, controversies, trespasses, damages and demands whatsoever, both at law and in equity, at any time or times heretofore had, made, moved, brought, commenced, sued, prosecuted, done, suffered, committed or depending by and between the said parties, so as the said award be made in writing; on or before the — day of — now next ensuing; but if the said arbitrators do not make such their award, of and concerning the premises, by the time aforesaid, then if the said *C. D.* his heirs, executors and administrators, do and shall, for his and their part and behalf, in all things well and truly stand to, obey, abide, observe, perform, fulfil and keep the award, order, arbitrament, umpirage, final end and determination of *J. K.* of — a person indifferently named and chosen as an umpire between the said parties, of and concerning the premises, so as the said umpire do make his award and umpirage in writing, of and concerning the premises, on or before the — day of — now next ensuing; then this obligation to be void, or else to remain in full force and virtue: And the said *C. D.* doth consent and agree, that his submission to the award or umpirage above-mentioned, shall be made a rule of his majesty's court of King's Bench at *Westminster*, pursuant to the statute in such case made and provided.

Sealed, (&c.)

In

In the King's Bench.

E. F. of — maketh oath and saith, that he was present at the time of signing and sealing the bond or obligation hercunto annexed; and that *C. D.* of — therein-mentioned, did duly sign, seal, and as his act and deed deliver the said bond, in the presence of this deponent; and that the name *C. D.* set and subscribed to the said bond, is of the proper hand-writing of the said *C. D.* and that the name *E. F.* set and subscribed as the witness thereto, is of the proper hand-writing of this deponent.

E. F.

Sworn, (&c.)

CHAP.
XXXVI.

(§ 3.)

Affidavit of the
due execution
thereof.

In the King's Bench.

E. F. of — maketh oath and saith, that he this deponent did see *J. K.* of — sign, seal, publish and declare his final award and arbitrament in writing, between *A. B.* of — and *C. D.* of — bearing date the — day of — 18—. And this deponent further saith, that the name *J. K.* set and subscribed to the said award, as the party executing the same, is of the proper hand-writing of the said *J. K.* and that the names *E. F.* and *G. H.* set and subscribed thereto, as witnesses attesting the execution of the said award, are of the respective hand-writing of this deponent and the said *G. H.*

E. F.

Sworn, (&c.)

(§ 4.)

Affidavit of the
due execution
of award.

In

In

CHAP.
XXXVI.

(§ 5.)
Affidavit of demand and refusal, &c. to ground attachment.

In the King's Bench.

A. B. of — maketh oath and saith, that he this deponent did on the — day of — last, personally attend from the hour of — until the hour of — in the forenoon of the same day, at — (the time and place mentioned in the award,) for the purpose of receiving the sum of —*l.* awarded to this deponent, pursuant to a certain award in writing, which is hereunto annexed; but the said *C. D.* did not attend at the time and place aforesaid, or pay to this deponent the said sum of —*l.* or any part thereof: And this deponent further saith, that on — next after — in this present — term, the submission of this deponent and the said *C. D.* to the said award, contained in a certain bond or obligation, bearing date the — day of — 18—, was made a rule or order of this honourable court; and that he this deponent did on the — day of — last, personally serve the said *C. D.* with a true copy of the said rule or order and award, and at the same time shewed him the said original rule or order and award, and demanded of him the payment of the said sum of —*l.* so awarded to this deponent as aforesaid; but the said *C. D.* did not then, or at any time afterwards, pay the same, or any part thereof, to this deponent, and the said sum of —*l.* now remains wholly due and owing to this deponent.

A. B.

Sworn, (&c.)

In the King's Bench.

A. B. plaintiff,
and

C. D. defendant.

CHAP.
XXXVI.

(§ 6.)

The like, of the
sum awarded,
and taxed
costs.

A. B. of — the plaintiff in this cause, maketh oath and saith, that he this deponent on the — day of — last, personally served the above-named defendant, with a true copy of the rule and *allocatur*, and also a true copy of the award hereunto annexed, and at the same time shewed him the said original rule, *allocatur* and award, and demanded of him the payment of the sum of —*l.* awarded to this deponent by *J. K.* of — the arbitrator named in the said award, and also the payment of the sum of —*l.* for the costs allowed to him this deponent in the said cause; but the said defendant refused to pay the same, or any part thereof, and the said sums of —*l.* and —*l.* still remain wholly due and owing from him the said defendant to this deponent.

Sworn, (&c.)

A. B.

A. B.

CHAP. XXXVII.

Of TRIALS by the COUNTRY, and their INCIDENTS.

(§ 1.)

Put in for the plaintiff, on non-assumpsit, in a town-cause, where the defendant makes default.

AFTERWARDS, that is to say, on the day and at the place within-contained, before the right honourable *Edward Lord Ellenborough*, the chief-justice within-mentioned, *William Jones* esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, comes the within-named *A. B.* by his attorney within-mentioned, and the within-named *C. D.* although solemnly required, comes not, but makes default; therefore let the jurors of the jury, whereof mention is within made, be taken against him by his default: And the jurors of that jury being summoned, also come, who, to speak the truth of the matters within-contained, being chosen, tried and sworn. say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the not performing the promises and undertakings within-mentioned, over and above his costs and charges, by him about his suit in this behalf expended, to —*l.* and for those costs and charges to forty shillings: Therefore, (*&c.*)

After-

Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Edward Lord Ellenborough*, the chief-justice within-mentioned, *William Jones* esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within-mentioned; and the jurors of the jury, whereof mention is within made, being summoned, also come, who, to speak the truth of the matters within-contained, being chosen, tried and sworn, say upon their oath, &c. (as before).

CHAP.
XXXVII.

(§ 2.)

The like, where
the defendant
appears.

Afterwards, that is to say, on the day and at the place within-contained, before the right honourable *Edward Lord Ellenborough*, the chief-justice within-mentioned, *William Jones* esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, comes the within-named *A. B.* by his attorney within-mentioned, and the within-named *C. D.* although solemnly required, comes not, but makes default; therefore let the jurors of the jury, whereof mention is within made, be taken against him by his default: And the jurors of that jury being summoned, some of them, that is to say, *E. F.* &c. (here name such of the jurors as appeared at the trial,) come, and are sworn upon that jury, and because the residue of the jurors of the same jury do not appear, therefore others of the by-standers, being chosen by the sheriff of the county aforesaid, at the request of the said *A. B.* (or *C. D.*) and by

(§ 3.)

The like, with
a tales.

the

After-

CHAP. XXXVII. the command of the said chief-justice, (if in *London* or *Middlesex*; if at the assizes, "by command of the said justices,") are appointed anew, whose names are annexed to the within-written panel, according to the form of the statute in that case made and provided; which said jurors so appointed anew, that is to say, *G. H.* &c. (naming the *tales-men*) being called, likewise come, who, together with the said other jurors before impanelled and sworn, being chosen, tried and sworn to speak the truth of the matters within-contained, say upon their oath, that the said *C. D.* did undertake and promise, &c. (as before).

(§ 4.) *Afterwards*, that is to say, on the day and at the place within-contained, before — one of the justices, (&c.) and — one of the barons, (&c.) justices of our said lord the king, assigned to take the assizes in the county of —, according to the form of the statute, (&c.)

(§ 5.) *Afterwards*, that is to say, at the next general session of assize holden at *Lancaster*, in and for the county-palatine of *Lancaster* within-mentioned, upon — the — day of — in the — year of the reign of his present majesty king *George* the Third, before — one of the justices of our said lord the king, (&c.) and — one of the justices of our said lord the king, (&c.) justices of our said lord the king at *Lancaster* aforesaid, cometh the within-named *A. B.* by his attorney, and prayeth to be done to him what the law requireth, in order to try the issue within-joined between him and the within-named

named *C. D.* and whereupon by a writ of our said lord the king, the sheriff of the said county is commanded, that he cause to come before the said justices here at *Lancaster*, on — next to come, in the same session of assize, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the said parties here, &c. At which day here, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by — his attorney; and the sheriff, to wit —, now returneth before the said justices at *Lancaster*, the said writ of *venire facias* to him in form aforesaid directed, together with a panel of the names of the jurors to the same writ annexed, in all things served and executed; and the jurors thereupon impanelled come not: therefore by another writ of the said lord the king, the same sheriff of the county aforesaid is commanded, that he have their bodies before the said justices at *Lancaster*, on — next to come, in the same session, &c. At which day, to wit, on — in the — year of the reign, (&c.) come here as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the sheriff returneth before the same justices at *Lancaster*, the same writ, in all things served and executed; and thereupon the jurors impanelled and drawn by ballot, according to the form of the statute in such case made and provided, being called over, likewise come, who to speak the truth of the matters within-mentioned, being elected, tried and sworn, on their oath say, (&c.). And hereupon the said justices at *Lancaster* aforesaid, have prefixed to the said parties,

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ties,

CHAP. ties, — next to come, to be before the said lord
XXXVII. the king, to hear judgment, &c.

(§ 6.) *Afterwards*, that is to say, at the session of *Chester*,
held at *Chester* in the county of *Chester*, in the com-
mon-hall of pleas of the said county, upon — the
— day of — in the — year of the reign of
our sovereign lord *George* the Third, by the grace
of God, of the united kingdom of *Great Britain*
and *Ireland* king, defender of the faith, before the
honourable — the said lord the king's chief
justice of *Chester*, and *Francis Burton* esquire,
the said lord the king's other justice of the said
county, being the next session for the said county
after the within-written record was delivered to the
said justices here, comes the within-named *A. B.* by
— his attorney, and prays a writ of the said lord
the king of causing to come before the said justices,
upon — in this same session, twelve, &c. by
whom, &c. and who neither, &c. to recognize, &c.
because as well, &c. the same day is given to the
parties aforesaid here, &c. upon which same —
before the same justices here, come as well the said
A. B. by his attorney, as the within-named *C. D.*
by — his attorney; and — esquire, sheriff of
the said county, doth now return here the said writ
of causing to come, to him in form aforesaid di-
rected, together with a panel of the jurors' names
to that writ annexed, in every thing served and
executed; and the jurors thereupon impanelled,
being required, none of them came; therefore that
jury was respited until — next in this session;
for defect of jurors, &c. Therefore it is commanded

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to the sheriff of the said county, that he then have the bodies of the jurors aforesaid, &c. the same day is given as well to the said *A. B.* as to the said *C. D.* here, &c. upon which — before the same justices here, come as well the said *A. B.* by his said attorney, as the said *C. D.* by his said attorney; and the said sheriff now returns here the said writ of having the bodies of the jurors aforesaid, to him in form aforesaid directed, together with a panel of the jurors' names to that writ annexed, in every thing served and executed; and the jurors thereupon impanelled, being required, that is to say, *E. F.*, *G. H.*, (&c.) do come, and being chosen by ballot and sworn, according to the form of the statute in that case made and provided, upon their oath say, (&c.) Therefore the said justices prefix to the said parties, to be before the king himself at *Westminster*, on — then and there to hear judgment.

Afterwards, at the court of our lord the king of *Portmote* of the city of *Chester*, held at the same city, in the common-hall of pleas there, according to the use and custom of the same city hitherto obtained and used, from time whereof the memory of man is not to the contrary, upon — the — day of — in the — year of the reign of the same lord the king, before — esquire, mayor of the said city of *Chester*, being the next court of *Portmote* after this writ was delivered, here cometh the said *A. B.* by — his attorney, and prays the said lord the king's writ, to the sheriff of the said city of *Chester* to be directed, to cause to come before the

(§ 7.)
The like, in the
city of *Chester*.

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said mayor, twelve free and lawful men of the said city, to try the said issue; and it is granted unto him, returnable here at the next court of *Portmote* of the said city of *Chester*, at the said city in the said common-hall of pleas, before the mayor of the said city for the time being, to be held by adjournment upon — the — day of — in the same year: At which next court of *Portmote* of the said city of *Chester*, held at the same city, in the said common-hall, upon — the said — day of — in the same year, before the same mayor of the said city here come as well the said *A. B.* by his said attorney, as the said *C. D.* by — his attorney; and — and — sheriffs of the said city of *Chester*, now return the said writ of *venire facias*, to them in form aforesaid directed, together with a panel of the jurors' names to that writ annexed, in every thing served and executed; and the jurors thereupon impanelled being called, to wit, *E. F.*, *G. H.*, (&c.) do come, who, to say the truth of the premises being chosen, tried and sworn, say upon their oath, (&c.) And hereupon the said — esquire, mayor of the said city of *Chester*, prefixes — next after — for the parties aforesaid to be before the king himself at *Westminster*, then and there to hear judgment.

(§ 8.)

The like, on *non assumptis*, by one of several defendants, where another has let judgment go by default.

Say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the not performing the within-mentioned promises and undertakings, as well against the said *C. D.* as

against

against the within-named *E. F.* over and above the costs and charges of the said *A. B.* by him about his suit in this behalf expended, to — *l.* and for those costs and charges to 40*s.*: Therefore, &c.

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Say upon their oath, that the said *C. D.* did within six years next before the day of exhibiting the bill (or by original, of suing out the original writ) of the said *A. B.* against the said *C. D.* in this cause, undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, &c. (as before, p. 238).

(§ 9.)
The like, on non assumpsit infra sex annos.

Say upon their oath, that the within-named *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath within in that behalf alledged; and they assess the damages, (&c.)

(§ 10.)
The like, against an executor, on non assumpsit by the testator.

Say upon their oath, that the said *C. D.* on the day of exhibiting the within bill of the said *A. B.* (or by original, of suing out the original writ of the said *A. B.* in this behalf,) had divers goods and chattels, which were of the within-named *E. F.* at the time of his death, in the hands of him the said *C. D.* as executor of the last will and testament of the said *E. F.* to be administered, to the value of — *l.* as the said *A. B.* hath within in that behalf alledged; and they assess the damages, (&c.)

(§ 11.)
The like, on plene administravit.

Say upon their oath, that the said *C. D.* doth owe to the said *A. B.* the within-mentioned sum of — *l.* in manner and form as the said *A. B.* hath

(§ 12.)
The like, on nil debet.

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XXXVII.

within in that behalf alledged; and they assess the damages of the said *A. B.* on occasion of the detaining the within debt, over and above his costs and charges by him about his suit in this behalf expended, to 1*s.* and for those costs and charges to 40*s.*: Therefore, &c.

(§ 13.)

The like, on
non est factum.

Say upon their oath, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alledged; and they assess the damages, &c. (as in the last).

(§ 14.)

The like, on
solvit ad diem.

Say upon their oath, that the said *C. D.* did not pay to the said *A. B.* the within-mentioned sum of —*l.* or any part thereof, on the — day of — in the condition of the within writing-obligatory mentioned, according to the form and effect of the said condition, in manner and form as the said *C. D.* hath within in that behalf alledged; and they assess the damages, (&c.)

(§ 15.)

The like, on an
indemnity-
bond, where
damages are
assessed on the
stat. 8 & 9 *H.*
III. c. 11.

Say upon their oath, that the said *C. D.* did not indemnify, &c. but wholly refused and neglected so to do, contrary to the tenor and effect of the condition of the within-mentioned writing obligatory, in manner and form as the said *A. B.* hath within in that behalf alledged; and they assess the damages of the said *A. B.* on occasion of the detaining the within debt, over and above his costs and charges by him about his suit in this behalf expended, to 1*s.* and for those costs and charges to 40*s.*; and they also assess the damages of the said *A. B.* on occasion of the breach of the said condition within assigned,

assigned, according to the form of the statute in that case made and provided, to —l.: Therefore, &c.

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—as to the sum of —l. in the — count of the within declaration mentioned, parcel of the sum of —l. within demanded, upon their oath say, that the said C. D. doth owe the said sum of —l. to our said lord the king and the said A. B. who sues as aforesaid, in manner and form as the said A. B. who sues as aforesaid hath within complained against him; and they assess the costs and charges of the said A. B. who sues as aforesaid, by him about his suit in this behalf expended, to 40s. And as to the residue of the said sum of —l. in the other counts of the within declaration mentioned, the jurors aforesaid upon their oath aforesaid say, that the said C. D. doth not owe the same or any part thereof to our said lord the king and the said A. B. who sues as aforesaid, as the said C. D. hath within in that behalf alledged; Therefore, &c.

(§ 16.)

The like, on a penal statute, where part is found for the defendant.

Say upon their oath, that the said C. D. is guilty of the premises within laid to his charge, in manner and form as the said A. B. hath within complained against him; and they assess the damages of the said A. B. on occasion thereof, over and above his costs and charges by him about his suit in this behalf expended, to —l. and for those costs and charges to 40s.: Therefore, &c.

(§ 17.)

The like, on not guilty, in case.

For this section, vide post, Chap. XLIV.

(§ 18.)

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(§ 19.)

The like, on
not guilty, in
trespass.

Say upon their oath, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, (&c.)

(§ 20.)

The like, on
several issues,
in trespass and
assault.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* at the within-mentioned time when, &c. of his own wrong, and without any such cause as he the said *C. D.* hath within in that behalf alledged, assaulted, beat, bruised, wounded and ill-treated the said *A. B.* in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, (&c.)

(§ 21.)

The like, on
not guilty to a
new-assign-
ment, where
several issues
are found for
the defendant.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *C. D.* is not guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him: And as to the second issue within joined between the parties aforesaid, the jurors aforesaid upon their oath say, that the said *C. D.* at the within-mentioned time when, &c. did not of his own wrong, but for such cause as he the said *C. D.* hath within in his last plea in that behalf alledged, assault, beat, bruise, wound and ill-treat the said *A. B.* as in the first count of
the

the within declaration is mentioned: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath say, that the said *C. D.* is guilty of the trespass within anew assigned, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the committing of the said last-mentioned trespass, over and above his costs and charges by him about his suit in this behalf expended, to — *l.* and for those costs and charges to 40*s.*: Therefore, &c.

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Say upon their oath, that the said *C. D.* is guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* against the said *C. D.* on occasion thereof, over and above his costs and charges by him about his suit in this behalf expended, to — *l.* and for those costs and charges to 40*s.* And the jurors aforesaid upon their oath aforesaid further say, that the said *E. F.* is not guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him: Therefore, &c.

(§ 22.)

The like, where one defendant is found guilty, and another acquitted.

For these sections, vide post, Chap. XLV.

(§ 23, 4, 5.)

— and the jurors of that jury being summoned also come, who to speak the truth of the matters within contained, were chosen tried and sworn; whereupon for certain causes, moving as well the said chief-justice (or justices) as the within-named plaintiff

(§ 26.)

Postea, where a juror is withdrawn.

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plaintiff and defendant, *E. F.* one of the jurors of the said jury, is withdrawn from the panel thereof; and the residue of the jurors of that jury are altogether discharged from giving any verdict of and upon the premises within-mentioned, &c.

(§ 27.)
Postea for the
defendant, on
a nonsuit.

— and the jurors of that jury being summoned also come, who to speak the truth of the matters within contained, were chosen tried and sworn; and after evidence being given to them thereupon, they went from the bar of this court, to consider of their verdict to be given of and upon the premises; and after the said jury had considered thereof, and agreed among themselves, they returned to the said bar, to give their verdict in this behalf; upon which the said *A. B.* being solemnly called, comes not, nor does he further prosecute his bill (or writ) against the said *C. D.* Therefore, &c.

(§ 28.)
The like, on a
verdict on non
assumpsit.

Say upon their oath, that the said *C. D.* did not undertake or promise, in manner and form as the said *A. B.* hath within complained against him: Therefore, &c.

(§ 29.)
The like, where
one defendant
had let judg-
ment go by de-
fault.

Say upon their oath, that the said *C. D.* did not undertake or promise, in manner and form as the said *A. B.* hath within complained against him; and hereupon the said jurors are discharged from inquiring against the within-named *E. F.* what damages the said *A. B.* hath sustained, by reason of the premises within-mentioned: Therefore, &c.

Say

Say upon their oath, that the said *A. B.* was and is indebted to the said *C. D.* in manner and form as the said *C. D.* hath within in pleading alledged: Therefore, &c.

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 (§ 30.)
 The like, on a plea of set-off.

Say upon their oath, that the within-named *E. F.* in his life-time did not undertake or promise, in manner and form as the said *A. B.* hath within in that behalf alledged: Therefore, &c.

(§ 31.)
 The like, for an executor, on non assumpsit by the testator.

Say upon their oath, that the said *C. D.* on the day of exhibiting the within bill of the said *A. B.* (or by original, of suing out the original writ of the said *A. B.* in this behalf,) had not any goods or chattels, which were of the within-named *E. F.* at the time of his death, in the hands of him the said *C. D.* as executor of the last will and testament of the said *E. F.* to be administered, as the said *C. D.* hath within in pleading alledged: Therefore, &c.

(§ 32.)
 The like, on plene administravit.

Say upon their oath, that the said *C. D.* doth not owe to the said *A. B.* the within-mentioned sum of —*l.* or any part thereof, as the said *A. B.* hath within in that behalf alledged: Therefore, &c.

(§ 33.)
 The like, on nil debet.

Say upon their oath, that the within-mentioned writing obligatory is not the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alledged: Therefore, &c.

(§ 34.)
 The like, on non est factum.

— as

Say

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(§ 35.)

The like, on
the statute of
usury, and for
the plaintiff on
non est factum.

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the within-mentioned writing obligatory is the deed of the said *C. D.* as the said *A. B.* hath within in that behalf alledged: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath aforesaid say, that it was corruptly and against the form of the statute, (&c.) agreed between the said *A. B.* and the said *C. D.* in manner and form as the said *C. D.* hath within in pleading alledged: Therefore, &c.

(§ 36.)

The like, on
not guilty, in
case.

Say upon their oath, that the said *C. D.* is not guilty of the premises within laid to his charge, in manner and form as the said *A. B.* hath within complained against him: Therefore, &c.

(§ 37, 8.)

For these sections, vide post, Chap. XLIV.

(§ 39.)

The like, on
not guilty, in
trespass.

Say upon their oath, that the said *C. D.* is not guilty of the several trespasses within laid to his charge, in manner and form as the said *A. B.* hath within complained against him: Therefore, &c.

(§ 40, 41.)

For these sections, vide post, Chap. XLV.

After-

Afterwards, that is to say, on the day and at the place within-contained, before — one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, and — one of the barons of our said lord the king, of his court of Exchequer at *Westminster*, and others their fellows, justices of our said lord the king, assigned to take the assizes in and for the county of —, according to the form of the statute in such case made and provided, come as well the within-named *A. B.* as the within-named *C. D.* by their respective attorneys within-mentioned; and the jurors of the jury whereof mention is within made, being summoned, also come, and being chosen tried and sworn to say the truth of the matters within-contained, the said *A. B.* to prove and maintain the issue within joined on his part, shews in evidence to the jury aforesaid, by *E. F.* a witness duly sworn in that behalf, that, &c. (here state the evidence on the part of the plaintiff:) And the said *C. D.* says, that the aforesaid matters to the jurors aforesaid in form aforesaid shewn in evidence by the said *A. B.* are not sufficient in law to maintain the said issue within joined on the part of the said *A. B.* and that he the said *C. D.* to the matters aforesaid, in form aforesaid shewn in evidence, hath no necessity, nor is he obliged by the law of the land to answer; and this he is ready to verify, wherefore for want of sufficient matter in that behalf shewn in evidence to the jury aforesaid, the said *C. D.* prays judgment, and that the jury aforesaid may be discharged from giving any verdict upon the said issue, and that the said *A. B.* may be barred from having his said action against the said *C. D.* &c.

And

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(\$ 42.)

Demurrer to evidence, by the defendant, where the damages are assessed conditionally.

After-

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(§ 43.)

Joinder in demurrer.

And the said *A. B.* for that he hath shewn in evidence to the said jurors, sufficient matter in maintenance of the said issue, which matter the said *C. D.* doth not deny, nor in any manner answer thereto, prays judgment, and his damages by reason of the premises to be adjudged to him, &c. Whereupon it is told to the jurors aforesaid, that they shall inquire what damages the said *A. B.* has sustained, as well by reason of the matter shewn in evidence as aforesaid, as for his costs and charges by him about his suit in this behalf expended, in case it shall happen that judgment shall be given upon the evidence aforesaid for the said *A. B.* And the jurors aforesaid upon their oath aforesaid thereupon say, that if it shall happen that judgment shall be given for the said *A. B.* upon the evidence aforesaid, then they assess the damages of the said *A. B.* by him sustained by reason of the matter shewn in evidence as aforesaid, besides his costs and charges by him about his suit in this behalf expended, to — *l.* and for those costs and charges to — *s.* And thereupon the said jurors, by the assent of the said parties, are discharged from giving any further verdict upon the premises.

(§ 44.)

The like, by the plaintiff, where the jury are discharged.

Afterwards, that is to say, on the day and at the place within-contained, &c. (as in the last, *mutatis mutandis*, to the prayer at the end of the demurrer; which is as follows:) prays judgment, and that the jury aforesaid may be discharged from giving any verdict upon the said issue, and that his damages by reason of the premises within-mentioned may be adjudged to him, &c.

And

And the said *C. D.* for that he hath shewn in evidence to the jury aforesaid, sufficient matter to maintain the said issue within joined, on the part of the said *C. D.* and which he is ready to verify; and forasmuch as the said *A. B.* doth not deny, nor in any manner answer the said matter, prays judgment, and that the said *A. B.* may be barred from having his aforesaid action against him, and that the jury aforesaid may be discharged from giving their verdict upon the said issue, &c.: Wherefore let the jury aforesaid be discharged by the court here, by the assent of the parties, from giving any verdict thereupon:

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(§ 45.)
Joinder in de-
murrer.

— to wit. *Be it remembered*, that in the term of — in the — year of the reign of our sovereign lord *George* the Third, now king of the united kingdom of *Great Britain* and *Ireland*, &c. came *A. B.* by — his attorney, into the court of our said lord the king before the king himself at *Westminster*, and impleaded *C. D.* in a certain plea of trespass on the case upon promises; on which the said *A. B.* declared against him, that, &c. (set out the declaration and other pleadings, and then proceed as follows:) And thereupon issue was joined between the said *A. B.* and the said *C. D.* And afterwards, to wit, at the sittings of *nisi prius* held at the *Guildhall* of the city of *London* aforesaid, in and for the said city, on — the — day of — in the — year of the reign of our said lord the king, before the right honourable *Edward* Lord *Ellen-*

(§ 46.)
Bill of excep-
tions.

And

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XXXVII.

Ellenborough, chief-justice of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, *Ewan Law* esquire being associated unto the said chief-justice, according to the form of the statute in such case made and provided, the aforesaid issue so joined between the said parties as aforesaid, came on to be tried by a jury of the city of *London* aforesaid, for that purpose duly impanelled, that is to say, *E. F.* of — and *G. H.* of — (&c.) good and lawful men of the said city of *London*: At which day, came there as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and the jurors of the jury aforesaid, impanelled to try the said issue, being called, also came, and were then and there in due manner chosen and sworn to try the same issue; and upon the trial of that issue, the counsel learned in the law for the said *A. B.* to maintain and prove the said issue on his part, gave in evidence that, &c. (here set out the evidence on the part of the plaintiff, and afterwards that on the part of the defendant, and then proceed as follows:) Whereupon the said counsel for the said *C. D.* did then and there insist before the said chief-justice, on the behalf of the said *C. D.* that the said several matters so produced and given in evidence on the part of the said *C. D.* as aforesaid, were sufficient, and ought to be admitted and allowed as decisive evidence, to entitle the said *C. D.* to a verdict, and to bar the said *A. B.* of his action aforesaid; and the said counsel for the said *C. D.* did then and there pray the said chief-justice, to admit and allow the said matters so produced and given in evidence for the said *C. D.* to be

be conclusive evidence in favour of the said *C. D.* to entitle him to a verdict in this cause, and to bar the said *A. B.* of his action aforesaid: But to this the counsel learned in the law of the said *A. B.* did then and there insist before the said chief-justice, that the same were not sufficient, nor ought to be admitted or allowed to entitle the said *C. D.* to a verdict, or to bar the said *A. B.* of his action aforesaid; and the said chief-justice did then and there declare and deliver his opinion to the jury aforesaid, that the said several matters so produced and given in evidence on the part of the said *C. D.* were not sufficient to bar the said *A. B.* of his action aforesaid, and with that direction left the same to the said jury; and the jury aforesaid then and there gave their verdict for the said *A. B.* and — *l.* damages; whereupon the said counsel for the said *C. D.* did then and there, on the behalf of the said *C. D.* except to the aforesaid opinion of the said chief-justice, and insisted on the said several matters as an absolute bar to the said action: And inasmuch as the said several matters so produced and given in evidence on the part of the said *C. D.* and by his counsel aforesaid objected and insisted on as a bar to the action aforesaid, do not appear by the record of the verdict aforesaid, the said counsel for the said *C. D.* did then and there propose their aforesaid exception to the opinion of the said chief-justice, and requested him to put his seal to this bill of exceptions, containing the said several matters so produced and given in evidence on the part of the said *C. D.* as aforesaid, according to the form of the statute in such case made and provided; and thereupon the said chief-justice,

CHAP. at the request of the said counsel for the said *C. D.*
XXXVII. did put his seal to this bill of exceptions, pursuant
to the aforesaid statute in such case made and pro-
vided, on the said — day of — in the —
year of the reign of his present majesty.

attor
case

appe
his p
said

after

and C. D.
pursuant
and pro-
the —

CHAP. XXXVIII.

There are no forms referred to in this Chapter.

CHAP. XXXIX.

Of JUDGMENTS.

As yet of — term (the term of which inter-
locutory judgment is signed), in the —
year of the reign of king *George the Third.*
Witness *Edward Lord Ellenborough.*

(§ 1.)
Judgment by
nil dicit, in *as-*
sumpsit by bill,
of the same
term with the
declaration.

Way.

— to wit. *A. B.* puts in his place *E. F.* his
attorney, against *C. D.* in a plea of trespass on the
case upon promises.

— to wit. The said *C. D.* in person, (or if he
appeared by attorney; "The said *C. D.* puts in
his place *G. H.* his attorney,") at the suit of the
said *A. B.* in the plea aforesaid.

— to wit. *Be it remembered*, that on — next
after — in this same term, before our lord the
king

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king at *Westminster*, comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass on the case upon promises; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* being in the custody, &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

And the said *C. D.* in his proper person (or by *G. H.* his attorney), comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the court of our said lord the king now here, what damages the said *A. B.* hath sustained by means of the premises; the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him about his suit in this behalf expended; and that he send the inquisition which he shall thereupon take, to our said lord the king at *Westminster*, on — next after — under his seal, and the seals of those by whose oath

oath he shall take that inquisition, together with the writ of our said lord the king to him thereupon directed; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — esquire, sheriff of the said county of —, now here returns a certain inquisition indented, taken before him at — in the county aforesaid, on — the — day of — in the — year of the reign of our said lord the now king, by the oath of twelve good and lawful men of his bailiwick; by which it is found, that the said *A. B.* hath sustained damages by means of the premises to — *l.* over and above his costs and charges by him about his suit in this behalf expended, and for those costs and charges to — *s.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the said inquisition above found, and also — for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* And the said *C. D.* in mercy, &c.

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XXXIX.

Judgment
signed the —
day of —
18—.

Mercy.

(Entry of warrants of attorney, as before.)

— to wit. *Be it remembered*, that in — term last past, before our lord the king at *Westminster*, came *A. B.* by *E. F.* his attorney, and brought into the court of our said lord the king before the king himself then there, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea

(§ 2.)
The like, of a
different term,
with an im-
parlance.

CHAP. of our said lord the king before the king himself,
XXXIX. of a plea of trespass on the case upon promises;
and there are pledges for the prosecution thereof,
to wit, *John Doe* and *Richard Roe*; which said bill
follows in these words, that is to say: — to wit.
(Here copy the declaration to the end, omitting the
pledges, and proceed on a new line as follows:)

And now at this day, that is to say, on — next
after — in this same term, until which day the said
C. D. had leave to imparl to the said bill, and then
to answer the same, &c. before our said lord the
king at *Westminster*, come as well the said *A. B.* by
his attorney aforesaid, as the said *C. D.* in his pro-
per person (or by *G. H.* his attorney); and the
said *C. D.* defends the wrong and injury, when,
&c. and says nothing in bar or preclusion, &c. (as
before).

(§ 3.)
The like, by
original.

(Entry of warrants of attorney, as before).
— to wit. *C. D.* was attached to answer *A. B.*
&c. (here copy the declaration *verbatim*, and pro-
ceed on a new line as follows:)

And the said *C. D.* in his proper person (or by
G. H. his attorney), comes and defends the wrong
and injury when, &c. and says nothing in bar or
preclusion, &c. (as before, making the writ of in-
quiry returnable on a general return-day).

(§ 4.)
The like, where
one of the de-
fendants died

And the said *C. D.* in his proper person, comes
and defends the wrong and injury when, &c. and
the said *E. F.* comes not: And hereupon the said
A. B.

A. B. gives the court of our lord the king now here to understand and be informed, that after the issuing of the original writ in this cause, and after the last continuance of the plea aforesaid, and before this day, to wit, on — the said *E. F.* died, to wit, at — and the said *C. D.* there survived him; which the said *C. D.* doth not deny: And the said *C. D.* says nothing in bar or preclusion, &c. (as before).

CHAP.
XXXIX.

after declaration, and before interlocutory judgment.

And the said *C. D.* in his proper person, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown to the court of our said lord the king now here, what damages the said *A. B.* hath sustained by means of the premises aforesaid; it is commanded to the chancellor of the said county-palatine of *Lancaster*, that by the writ of our said lord the king, under the seal of the said county-palatine to be duly made, and directed to the sheriff of the said county-palatine, he command the said sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *A. B.* hath sustained, as well by means of the premises, as for his costs and charges by him about his suit in this behalf expended; and that the inquisition which the said sheriff shall thereupon take, he make known to the said chancellor, under his seal, and the seals of those by whose oath

(§ 5.)

The like, and award of inquiry into a county-palatine.

CHAP.
XXXIX.

he shall take that inquisition, together with the names of the persons by whose oath he shall take the same; so that the said chancellor may certify the same to our said lord the king at *Westminster*, on — next after — together with the name of the said sheriff, and the writ of our said lord the king to the said chancellor in that behalf directed; the same day is given to the said *A. B.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his said attorney; and the said chancellor now here certifies a certain inquisition indented, taken before the said sheriff, at — in the said county, on the — day of — in the — year of the reign of our said lord the now king, by the oath of twelve good and lawful men of the said sheriff's bailiwick; by which it is found, &c. (as before, p. 261.)

(§ 6.)

The like, with a remittitur of part of the damages, after the return of the inquiry.

Judgment signed, (&c.)

(As before, p. 259, &c. to the end of the sheriff's return on the writ of inquiry, and then as follows:)
And hereupon the said *A. B.* freely here in court remits to the said *C. D.* the sum of —*l.* parcel of the damages costs and charges aforesaid, by the said inquisition in form aforesaid found; and prays judgment for the residue of those damages costs and charges, together with his further costs and charges by him about his suit in this behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the sum of —*l.* residue of the damages costs and charges aforesaid, by the said inquisition above found, and also —*l.* for his further costs and charges aforesaid, by the court of our said lord the king now here

here adjudged of increase to the said *A. B.* and with his assent; which said residue of the damages costs and charges by the said inquisition above found, together with the said further costs and charges so adjudged of increase, amount in the whole to ——. And the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said sum of ——. &c. so remitted by the said *A. B.* as aforesaid.

CHAP.
XXXIX.

(To the end of the award of the inquiry, and then as follows:) At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, &c. (as before, p. 261. to the end of the inquisition;) and the said *E. F.* at the same day, being solemnly demanded, comes not: And hereupon the said *A. B.* gives the court of our said lord the king now here to understand and be informed, that since the last continuance of this plea, and before this day, to wit, on — the said *E. F.* died, to wit, at — and the said *A. B.* there survived him; and because this is not denied, therefore let no further proceedings be had at the suit of the said *E. F.*; and upon this the said *A. B.* prays judgment against the said *C. D.* for the damages costs and charges aforesaid: Therefore it is considered, &c. (as before, p. 261:)

(§ 7.)

The like, with a suggestion of the death of one of the plaintiffs, at the return of the inquiry.

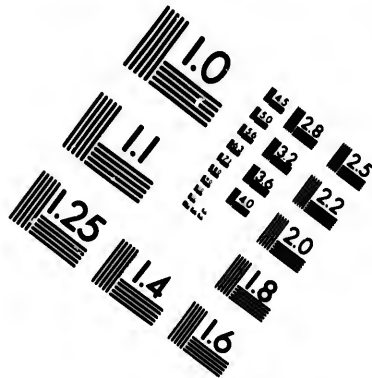
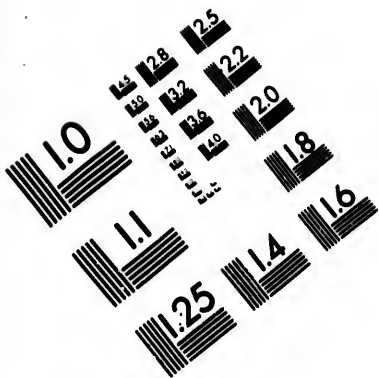
And the said *C. D.* in his proper person, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion, &c. (as before, p. 260, 1. to the final judgment, which is as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator)

(§ 8.)

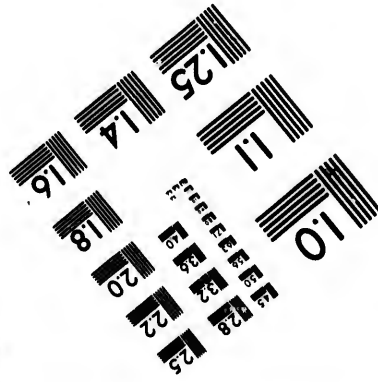
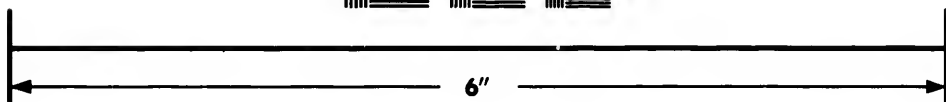
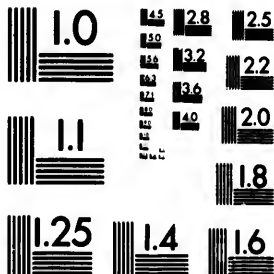
The like, against an executor or administrator.

Judgment signed, (&c.)





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18 120

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20 100
21 90

CHAP.
XXXIX.

strator) as aforesaid, his damages aforesaid by the said inquisition above found, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (or administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then — *l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.* And the said *C. D.* in mercy, &c.

Mercy.

(§ 9.)
The like, where
the damages
are assessed by
the court.

And the said *C. D.* in his proper person, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: And hereupon the said *A. B.* freely here in court remits to the said *C. D.* all damages sustained by him the said *A. B.* on occasion of the not performing the several promises and undertakings in the — last counts of the said declaration mentioned; and he prays judgment, and his damages by him sustained on occasion of the not performing of the said promise and undertaking in the said first count mentioned, to be adjudged to him, &c. And because

cause

cause it is suggested and proved, and manifestly appears to the court here, that the said *A. B.* hath sustained damages on occasion of the not performing of the said last-mentioned promise and undertaking, to the sum of — *l.* besides his costs and charges by him about his suit in this behalf expended: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, to the said sum of — *l.* and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* And the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the damages so remitted as aforesaid, &c.

CHAP.
XXXIX.

Judgment
signed, (&c.)

Mercy.

As yet of — term, (&c.) (§ 10.)

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of debt.

Judgment by
nil dicit, in debt
on a *mutuatus*
by bill, of the
same term with
the declara-
tion.

— to wit. The said *C. D.* in person, (or if he appeared by attorney; “The said *C. D.* puts in his place *G. H.* his attorney,”) at the suit of the said *A. B.* in the plea aforesaid,

— to wit. *Be it remembered*, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by *E. F.* his attorney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of debt; and there are pledges for the prosecution thereof, to wit,

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XXXIX.

wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — to wit. *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king before the king himself, of a plea that he render to the said *A. B.* the sum of — *l.* of lawful money of *Great Britain*, which he owes to and unjustly detains from him; for that whereas the said *C. D.* on the — day of — in the year of our Lord 18 — at —, had borrowed of the said *A. B.* the said sum of — *l.* above demanded, to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested: Yet the said *C. D.* (although often requested, &c.) hath not as yet paid the said sum of — *l.* above demanded, or any part thereof, to the said *A. B.* but to pay the same or any part thereof to the said *A. B.* he the said *C. D.* hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of 10*l.* and therefore he brings his suit, &c.

Judgment
signed, (&c.)

And the said *C. D.* in his proper person (or by *G. H.* his attorney), comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also — *s.* for his damages which he hath sustained, as well on occasion of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the

the court of our said lord the king now here adjudged to the said *A. B.* and with his assent: And the said *C. D.* in mercy, &c.

CHAP.
XXXIX.
Mercy.

(Entry of warrants of attorney and memorandum as in the last; declaration as follows:)

(§ 11.)

The like, in
debt on bond.

— to wit. *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king before the king himself, of a plea that he render to the said *A. B.* the sum of — *l.* of good and lawful money of *Great Britain*, which he owes to and unjustly detains from him; for that whereas the said *C. D.* on the — day of — in the year of our Lord 18 — at — by his certain writing obligatory sealed with the seal of the said *C. D.* and now shewn to the court of our said lord the king before the king himself here, the date whereof is the same day and year aforesaid, acknowledged himself to be held and firmly bound unto the said *A. B.* in the said sum of — *l.* above demanded, to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested: Yet the said *C. D.* (although often requested, &c.) hath not as yet paid the said sum of — *l.* above demanded, or any part thereof, to the said *A. B.* but to pay the same or any part thereof to the said *A. B.* he the said *C. D.* hath hitherto wholly refused, and still doth refuse; to the damage of the said *A. B.* of — *l.* and therefore he brings his suit, &c.

And the said *C. D.* in his proper person, (or by *G. H.* his attorney,) comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion, &c. (as in the last).

(After

CHAP. (After the entry of the judgment, proceed as
XXXIX. follows :)

(§ 12.)

Suggestion of
breaches in
debt on bond,
after judgment
by default, on
the stat. 8 & 9
W. III. c. 11.
§ 8. with award
of inquiry and
return.

And hereupon the said *A. B.* according to the form of the statute in such case made and provided, says that the said writing obligatory, whereon the said judgment was so recovered against the said *C. D.* as aforesaid, was made and given by him the said *C. D.* under and subject to a certain condition thereto subscribed, whereby, after reciting, &c. (stating the recital, if any, preceding the condition of the bond,) it was declared, that if, &c. (reciting the condition) : And hereupon the said *A. B.* prays the writ of our said lord the king, to be directed to the sheriff of —, and to the right honourable *Edward* lord *Ellenborough*, his Majesty's chief-justice, assigned to hold pleas in the court of our said lord the king before the king himself (or "to his majesty's justices assigned to take the assizes in the county of —") commanding the said sheriff, that he cause to come before the said chief-justice, (or "justices of assize,") on — the — day of — next, at — in the county of — twelve, &c. by whom, &c. and who neither, &c. to inquire of the truth of the said breaches above assigned, and to assess the damages thereby sustained by the said *A. B.*; and also that it be commanded in the said writ to the said chief-justice, (or "justices of assize,") that he (or "they") make a return thereof to the said court of our said lord the king before the king himself at *Westminster*, on — next after —; and it is granted to him, &c. the same day is given to the said *A. B.* at the same place. At which day, before our said lord the king at *Westminster*,

ster,

ster, comes the said *A. B.* by his attorney aforesaid, and the said chief justice (or "justices of assize") now here returns, (or "return") a certain inquisition indented, taken before him, (or "them") at — in the county of — on — the — day of — in the — year of the reign of our said lord the king, upon the oath of twelve good and lawful men of the same county, by which it is found, &c. (reciting the inquisition,) and that the said *A. B.* hath sustained damages, by reason of the aforesaid breach of the said condition of the said writing obligatory, to the sum of — *l.*

(After the entry of the judgment, proceed as follows:)

The like, in debt on bail-bond, in C. P.

But because, according to the form of the statute in such case made and provided, a jury ought to inquire of the truth of the said breach of the said condition of the said writing obligatory above assigned, and to assess the damages that the said *A. B.* has sustained thereby, and the said *A. B.* having prayed our writ for that purpose, therefore the sheriff of the said county is commanded, to summon twelve good and lawful men of his county, to appear before — chief-justice of our said lord the king of the bench at *Westminster*, (or "before his majesty's justices assigned to take the assizes in the county of —,") on — the — day of — at — in the said county, to inquire upon their oath of the truth of the said breach, and to assess the damages which the said *A. B.* hath sustained thereby: And the said chief-justice is (or "justices

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CHAP.
XXXIX.

of assize are") commanded, that he (or "they") make return of the said writ, and certify the inquisition before him (or "them") taken, to his majesty's justices at *Westminster*, in — together, with the names of those by whose oath such inquisition shall be taken, and the writ of our said lord the king to him (or "them") thereupon directed; the same day is given to the said *A. B.* here. At which day, comes here the said *A. B.* by his attorney aforesaid, and the said chief-justice (or "justices of assize") now here returns (or "return") a certain inquisition indented, taken before him, (or "them") on — the — day of — in the — year of the reign of our said lord the king, at — in the said county, upon the oath of twelve good and lawful men of the said county, by which it is found that the said *C. D.* did not appear, &c. (as in the inquisition), and that the said *A. B.* hath sustained damages, by the aforesaid breach of the said condition of the said writing obligatory, besides his costs and charges by him about his suit in this behalf expended, to — *l.*

The like, in debt on annuity-bond, in the Exchequer; with entry of satisfaction.

(After the entry of the judgment, proceed as follows:)

And hereupon the said *A. B.* according to the form of the statute in such case made and provided, says, &c. (here copy the suggestion to the end, and proceed as follows:) And the said *A. B.* having prayed the writ of our said lord the king to inquire of the truth of the said breach above assigned, and to assess the damages which the said *A. B.* has sustained

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tained thereby; therefore according to the form of the statute in such case made and provided, the sheriff of — is commanded, that he cause to come before the right honourable Sir *Archibald Macdonald* knight, chief-baron of his majesty's court of Exchequer, (or "before his majesty's justices assigned to take the assizes in the county of —") at — in the county of —, on — the — day of — instant, twelve honest and lawful men of his bailiwick, to inquire diligently on their oath of the truth of the said breach above assigned, and to assess the damages which the said *A. B.* hath sustained thereby; and the said chief-baron is (or "justices of assize are") commanded, that he (or "they") certify the inquisition to be before him (or "them") taken, to his said majesty's court before the barons of his said Exchequer at *Westminster*, on the — day of — instant, together with the names of those by whose oath such inquisition shall be taken, and the writ of our said lord the king to him thereupon directed; the same day is given to the said *A. B.* at the same place: At which day, before the barons of his said majesty's Exchequer at *Westminster* aforesaid, comes the said *A. B.* by his attorney aforesaid, and the said chief-baron (or "justices of assize") now here returns (or "return") a certain inquisition indented, taken before him (or "them") at — in the county of — aforesaid, on — the — day of — in the — year of the reign of our said lord the king, upon the oath of twelve honest and lawful men of the said county, by which it is found, that after the making of the said writing obligatory, &c. (stating

CHAP.
XXXIX.

CHAP.
XXXIX.

the inquisition), and that the said *A. B.* hath sustained damages, by reason of the aforesaid breach of the said condition of the said writing obligatory, to the sum of —*l.* And hereupon the said *A. B.* by his attorney aforesaid, acknowledgeth himself to be satisfied by the said *C. D.* of the damages aforesaid, in form aforesaid assessed, and also his damages by him sustained on occasion of the detention of the said debt: Therefore let the said *C. D.* be acquitted of the several damages aforesaid, and all further proceedings for the recovery thereof be stayed, &c.

Judgment by
vel dict us to
one count, and
nolle prosequi to
two others
after plea, in
debt on statute.

(To the end of the plea, and then as follows:)

And as to the offence in the last count of the said declaration mentioned, the said *C. D.* says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*: And hereupon the said *A. B.* freely here in court says, that he will not further prosecute his suit against the said *C. D.* for the said offences in the said first and second counts of the said declaration mentioned; and he prays judgment for the said sum of —*l.* in the said last count of the said declaration mentioned, parcel of the said sum of —*l.* above demanded, together with his costs and charges by him laid out about his suit in this behalf: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said sum of —*l.* in the said last count of the said declaration mentioned, parcel, &c
and

Judgment
signed, (&c.)

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and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided; and the said *C. D.* in mercy, &c. CHAP. XXXIX.
 And let the said *C. D.* be acquitted of the said offences in the said first and second counts of the said declaration mentioned, and go thereof without day, &c. Mercy.

For these sections, vide post, Chap. XLV. (§ 13, 14.)

As yet of — term, (&c.) (§ 15.)

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of trespass on the case upon promises. Judgment by non sum informatus, in assumptit by bill, of the same term with the declaration.

— to wit. The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— to wit. *Be it remembered, &c.* (as before, p. 259, 60.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and the said *A. B.* prays that the said *C. D.* may answer his said declaration; whereupon the said attorney of the said *C. D.* says that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains

CHAP.
XXXIX.

mains therein undefended against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown, &c. (as before, p. 260, 1.)

(§ 16.)
The like, in
debt.

(Entry of warrants of attorney and *memorandum*, &c. as before, p. 267, 8. making the defendant appear by attorney, and not in person.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and the said *A. B.* prays that the said *C. D.* may answer his said declaration; whereupon the said attorney of the said *C. D.* says that he is not informed by the said *C. D.* of any answer to be given for him to the said *A. B.* in the premises, nor doth he say any thing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.*: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, &c. (as before, p. 268, 9.)

Judgment
signed, (&c.)

(§ 17.)

Judgment by
cognovit actionem et damnam,
in *assumpsit* by
bill, of the
same term with
the declaration.

As yet of — term, (&c.)

(Entry of warrants of attorney and *memorandum*, &c. as before, p. 259, 60.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and says that he cannot deny the action of the said *A. B.* nor but that he the said *C. D.* did undertake and promise, in manner and form as the said

A. B.

A. B. hath above thereof complained against him; nor but that the said *A. B.* hath sustained damages on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to — *l.* as by the said declaration is above supposed: And hereupon the said *A. B.* prays judgment, and his damages so acknowledged, together with his costs and charges by him about his suit in this behalf expended, to be adjudged to him, &c.: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid to — *l.* in form aforesaid acknowledged, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* And the said *C. D.* in mercy, &c. *Mercy.*

Judgment
signed, (&c.)

Where the judgment by *cognovit* is of a different term, or by original, the form varies as by *nil dicit*, for which *vide ante*, p. 261, 2.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and says that he cannot deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath above in that behalf alledged; nor but that the said *A. B.* hath sustained damages, &c. (as in the last, to the judgment, which is as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his damages aforesaid to — *l.* in form aforesaid

(§ 18.)
The like,
against an ex-
ecutor or ad-
ministrator.

Judgment
signed, (&c.)

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said acknowledged, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (pr administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then — *l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.*; And the said *C. D.* in mercy, &c.

Mercy.

(§ 19.)

Judgment of
assets in futuro,
on a plea of
plene adminis-
travit in as-
sumpsit.

(To the end of the plea, and then as follows:)
And hereupon the said *A. B.* inasmuch as the said *C. D.* does not deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake and promise, in manner and form as the said *A. B.* hath above in that behalf alledged; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods or chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, in manner and form as the said *C. D.* hath above in his said plea in that behalf alledged, prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which

which after final judgment in this respect, shall come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* recover against the said *C. D.* his damages by him sustained on occasion of the premises aforesaid, to be levied in form aforesaid: But because it is unknown, &c. (award of inquiry and return as before, p. 260, 1. making no mention of costs, and final judgment as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the inquisition aforesaid above found, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

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Judgment
signed, (&c.)

(To the end of the plea, and then as follows:) And hereupon the said *A. B.* inasmuch as the said *C. D.* does not deny the action of the said *A. B.* nor but that the said *E. F.* in his life-time did undertake, &c. (as in the last,) and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods or chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, except the said goods and chattels to the value of — *l.* as aforesaid, prays judgment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings in the said declaration mentioned, to be adjudged to him; to be levied, as to — *l.* part thereof, of the said goods and chattels so remaining in the hands of the said *C. D.* unadministered as

(§ 20.)

The like, of assets acknowledged in part, and for the residue of assets *in futuro*, on a plea of *plene administravit præter in assumptionit.*

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XXXIX.

Judgment
signed, (&c.)

aforesaid, and as to the residue thereof, to be levied of other goods and chattels which were of the said *E. F.* at the time of his death, and which after final judgment in this respect shall come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* recover against the said *C. D.* his damages by him sustained on occasion of the premises, to be levied in form aforesaid: But because it is unknown, &c. (award of inquiry and return as in the last, and final judgment as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said damages, by the inquisition aforesaid above found, to be levied, as to the said — *l.* part thereof, of the goods and chattels so remaining in the hands of the said *C. D.* unadministered as aforesaid, and as to the residue thereof, to be levied of other goods and chattels of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

(§ 21.)
The like,
against the
lands and chat-
tels of a de-
fendant dis-
charged under
an insolvent-
act.

And the said *A. B.* forasmuch as the said *C. D.* doth not deny the said action of the said *A. B.* nor but that he the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him, nor but that he the said *A. B.* ought to recover his damages by reason of the non-performance of the said several promises and undertakings in the said declaration mentioned, against the said *C. D.* and forasmuch as the said *A. B.* cannot deny the said several allegations of the said *C. D.* contained in his said plea, but admits the same to be true, he the said *A. B.* prays judgment,

ment, and his damages by him sustained on occasion of the not performing of the said several promises and undertakings to be adjudged to him; to be levied not on the person of the said *C. D.* but on his lands goods and chattels, according to the form of the statute in such case made and provided: Whereupon it is considered by the court here, that the said *A. B.* ought to recover his damages on occasion of the not performing of the said several promises and undertakings, against the said *C. D.* to be levied in form aforesaid: But because it is unknown, &c. (award of inquiry and return as before, p. 260, 1. final judgment as follows:) Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid; by the said inquisition above found, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* to be levied not on the person of the said *C. D.* but on his lands goods and chattels, according to the form of the statute in such case made and provided: And the said *C. D.* in mercy,

Judgment signed, (&c.),

Mercy,

(To the end of the issue, and then as follows:)
 At which day, before our said lord the king at Westminster, come as well the said *A. B.* as the said *C. D.* by their respective attornies aforesaid; and hereupon the said *C. D.* by his said attorney, relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *A. B.*

(§ 22.)

Judgment by cognovit actionem in assumptit after issue, relicta verificatione.

nor

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nor but that he the said *C. D.* did undertake, &c.
(as before p. 276, 7.)

(§ 23.)

The like in debt
on bond, before
plea, of the
same term
with the de-
claration.

(Entry of warrants of attorney and memorandum,
&c. as before p. 267, 8.)

And the said *C. D.* by *G. H.* his attorney, comes
and defends the wrong and injury when, &c.
and says that he cannot deny the action of the
said *A. B.* nor but that the said writing obligatory
is the deed of him the said *C. D.* nor but that
he owes to the said *A. B.* the said sum of — *l.*
above demanded, in manner and form as the said
A. B. hath above thereof complained against him:
Therefore it is considered, that the said *A. B.* do
recover against the said *C. D.* his said debt, and also
— *l.* for his damages which he hath sustained, as
well on occasion of the detaining the said debt,
as for his costs and charges by him about his suit in
this behalf expended, by the court of our said lord
the king now here adjudged to the said *A. B.* and
with his assent: And the said *C. D.* in mercy, &c.

Judgment
signed, (&c.)

Mercy.

(§ 24.)

The like as to
part, of a dif-
ferent term,
with a remitti-
ter as to the
residue,

And now at this day, that is to say, on —
next after — in this same term, until which day
the said *C. D.* had leave to imparl to the said bill,
and then to answer the same, &c. before our said lord
the king at *Westminster*, come as well the said *A. B.*
as the said *C. D.* by their respective attornies afore-
said; and the said *C. D.* defends the wrong and in-
jury when, &c. and says that he cannot deny the
action of the said *A. B.* nor but that he the said
C. D. does owe to the said *A. B.* the sum of — *l.*
parcel of the said sum of — *l.* above demanded;

and

and upon this the said *A. B.* freely here in court remits to the said *C. D.* the sum of —*l.* residue of the said sum of —*l.* above demanded, and all damages by him sustained on occasion of the detention of the said last-mentioned sum of money, and prays judgment for the said sum of —*l.* parcel, &c. so acknowledged as aforesaid, together with his costs and charges by him about his suit in this behalf expended, to be adjudged to him, &c.: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the said sum of —*l.* parcel, &c. in form aforesaid acknowledged, and also —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent: And the said *C. D.* in mercy, &c. And let the said *C. D.* be acquitted of the said sum of —*l.* residue, &c. and the damages aforesaid in form aforesaid remitted, &c.

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Judgment
signed, (&c.)

Mercy,

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and says that he cannot deny the action of the said *A. B.*, nor but that the said writing obligatory is the deed of the said *E. F.* nor but that he the said *C. D.* detains from the said *A. B.* the said sum of —*l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alledged: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his said debt, and also —*l.* for his damages which he hath sustained, as well on occasion of the detaining of the said debt, as for his costs and charges by him about his suit in this behalf

(§ 25.)

The like,
against an ex-
ecutor or ad-
ministrator.

Judgment
signed, (&c.)

ex-

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expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (or administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then the said — *l.* for the damages aforesaid, to be levied of the proper goods and chattels of the said *C. D.*: And the said *C. D.* in mercy, &c.

Mercy.

(§ 26.)

Judgment of
assets *in futuro*,
on a plea of
plene administravit in debt.

(To the end of the plea, and then as follows:) And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the said writing obligatory is the deed of the said *E. F.* nor but that he the said *C. D.* detains from the said *A. B.* the said sum of — *l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alledged; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods or chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, in manner and form as the said *C. D.* hath above in his said plea in that behalf alledged, prays judgment, and his said debt, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his said debt,

Judgment
signed, (&c.)

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debt, and also — *l.* for his damages which he hath sustained on occasion of the detaining thereof, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

(To the end of the plea, and then as follows:)

And hereupon the said *A. B.* inasmuch as the said *C. D.* doth not deny the action of the said *A. B.* nor but that the writing obligatory aforesaid is the deed of the said *E. F.* nor but that the said *C. D.* detains from the said *A. B.* the said sum of — *l.* above demanded, in manner and form as the said *A. B.* hath above in that behalf alledged; and inasmuch as the said *A. B.* cannot deny but that the said *C. D.* hath not any goods and chattels which were of the said *E. F.* at the time of his death, in his hands to be administered, except the said goods and chattels to the value of — *l.* as aforesaid, prays judgment, and his said debt, together with his damages by him sustained on occasion of the detaining thereof, to be adjudged to him; to be levied, as to — *l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* to be administered, and as to the residue thereof, to be levied of other goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered: Therefore it is considered, that the said *A. B.* do recover against the

(§ 27.)
The like, of assets acknowledged in part, and for the residue of assets *in futuro*, on a plea of *plene administravit præter in debt.*

Judgment signed, (&c.)

said

the king
with his
s which
eath, in
admini-
he hath
nistered,
nds to be
damages
d chattels
ercy, &c.

follows:)
s the said
A. B. nor
e deed of
D. detains
— *l.* above
said *A. B.*
inasmuch
e said *C. D.*
ere of the
is hands to
s the said
that behalf
debt, toge-
on occasion
ed to him;
ich were of
and which
aid *C. D.* to
idered, that
said *C. D.*
id, his said
debt,

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said *C. D.* his said debt, and also — *l.* for his damages which he hath sustained on occasion of the detaining thereof, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent; to be levied, as to the said — *l.* part thereof, of the said goods and chattels so as aforesaid acknowledged to be in the hands of the said *C. D.* to be administered, and as to the residue thereof, to be levied of other goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered, &c.

(§ 28.)
The like, against three executors, where one pleads *plene administravit præter*, another *plene administravit generally*, and the third lets judgment go by default.

And the said *C. D.* and *E. F.* by — their attorney, and the said *G. H.* in his proper person, come and defend the wrong and injury when, &c. and the said *C. D.* says that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him; because he says that he the said *C. D.* hath fully administered, &c. (stating the plea of *plene administravit præter*;) And the said *E. F.* says that the said *A. B.* ought not to have or maintain his aforesaid action thereof against him; because he says that he the said *E. F.* hath fully administered, &c. (stating the plea of *plene administravit generally*;) And the said *G. H.* says nothing in bar or preclusion of the said action of the said *A. B.* by which the said *A. B.* remains therein undefended against the said *G. H.* And hereupon the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* and *E. F.* respectively, but admits the same to be true, prays judgment, and his debt aforesaid, together with his da-

mages

mages by him sustained on occasion of the detain-
 ing thereof, to be adjudged to him: Therefore it is
 considered, that the said *A. B.* do recover against
 the said *C. D. E. F.* and *G. H.* as executors as
 aforesaid, his debt aforesaid, and also — *l.* for
 his damages which he hath sustained on occasion of
 the detaining thereof, by the court of our said lord
 the king now here adjudged to the said *A. B.* and
 with his assent; to be levied, as to the said sum of
 — *l.* part thereof, of the said goods and chattels
 so as aforesaid acknowledged to be in the hands of
 the said *C. D.* as executor as aforesaid to be admi-
 nistered, or of the goods and chattels which were of
 the said *J. K.* deceased at the time of his death, and
 which shall hereafter come to the hands of the said
E. F. as executor aforesaid to be administered, or
 which are now in, or shall hereafter come to the
 hands of the said *G. H.* as executor as aforesaid to
 be administered; and as to the residue thereof, to
 be levied of the goods and chattels which were of
 the said *J. K.* deceased at the time of his death,
 and which shall hereafter come to the hands of the
 said *C. D.* and *E. F.* as executors as aforesaid, or
 either of them, or which are now in or shall here-
 after come to the hands of the said *G. H.* as execu-
 tor as aforesaid, to be administered: It is also con-
 sidered by his majesty's court here, that the said
A. B. do recover against the said *G. H.* executor as
 aforesaid, the sum of — *l.* for his costs and
 charges by him about his suit in this behalf exp-
 ended, by the court of our said lord the king now
 here adjudged to the said *A. B.* and with his assent;
 to be levied of the goods and chattels which were of
 the

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 signed, (&c.)

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the said *J. K.* deceased at the time of his death, in the hands of the said *G. H.* as executor as aforesaid to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, to be levied of the proper goods and chattels of the said *G. H.*: And the said *G. H.* in mercy, &c.

Mercy.

(§ 29.)

Judgment by *cognovit actionem* in debt after issue, *re-licta verificatione.*

(To the end of the issue, and then as follows:) At which day, before our said lord the king at *Westminster*, come the parties aforesaid by their attornies aforesaid; and hereupon the said *C. D.* relinquishing his said plea by him above pleaded, saith that he cannot deny the action of the said *A. B.* nor but that the said writing obligatory is the deed, &c. (as before p. 282.)

(§ 30, 1.)

For these sections, *vide post*, Chap. XLV.

As yet of — term, (&c.)

(§ 52.)

Judgment for the plaintiff, on demurrer to a declaration in *assumpsit.*

(Entry of warrants of attorney as before, p. 275.) — to wit. *Be it remembered*, &c. (here copy the demurrer-book *verbatim*, and then proceed as follows:) At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the de-

clara-

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claration aforesaid, and the matters therein contained, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: But because it is unknown, &c. (as before, p. 260, 1.; or if the damages are assessed by the court; "And because it is suggested, &c." as before, p. 267: or in *debt*; "Therefore it is considered, &c." as before, p. 268, 9.)

(To the end of the issue and demurrer-book, and then as follows:) At which day, before our said lord the king at *Westminster*; come the parties aforesaid, by their attorneys aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: Therefore as well to try the said issue above joined between the said parties, to be tried by the country, as to inquire of and assess the damages by reason of the detention of the said debt in the said first count mentioned, in case judgment shall be given for the said *A. B.* as to the premises whereon the said parties have above put themselves upon the judgment of the court, let a jury, as before, thereupon come before our said lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid at the same place. And because the court here are not yet advised what judgment to give in the premises, whereon the said parties have put themselves upon the judgment

The like, after continuances, on demurrer to one count of a declaration in *debt*, and award of *venire*, to try the issue on other counts, and assess damages on the first, with an *unica taxatio*.

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of the court, a day is given to the said parties, before our said lord the king at *Westminster*, on the said — next after — to hear the judgment of the said court thereupon; for that the said court here is not yet advised thereof, &c. At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the sheriffs have not sent the writ of our said lord the king to them in that behalf directed, nor have they done any thing thereupon: And hereupon all and singular the premises, whereof the said parties have put themselves on the judgment of the court, being seen, and by the court here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said first count of the said declaration, and the matters therein contained, in manner and form as the same are above stated and set forth, are sufficient in law for the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt of — *l.* in the said first count of the said declaration mentioned, together with his damages by him sustained on occasion of the detention thereof, &c.: But because it is unknown by the court here, what damages the said *A. B.* hath sustained by reason thereof; and because it is convenient and necessary that there be but one taxation of damages in this suit; therefore let the giving of judgment in this behalf against the said *C. D.* be stayed, until the trial of the said issue above joined between the said parties, to be tried by the country; and as well to try

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try the said last-mentioned issue, as to inquire of and assess the damages which the said *A. B.* hath sustained by reason of the detention of the said debt in the said first count of the said declaration mentioned, let a jury thereupon come before our said lord the king at *Westminster*, on — next after — by whom, &c. and who neither, &c. to recognize, &c. because as well, &c.; the same day is given to the parties aforesaid at the same place.

For the form of a judgment for the plaintiff, on demurrer to a plea in *debt* on bond, and suggestion of breaches, &c. on the statute 8 & 9 *W. III. c. 11.* § 8. see the very excellent edition of *Saunders*, by *Mr. Serjeant Williams*, 1 *V. p. 58. n. 1.*

(To the end of the demurrer-book, and then as follows:) At which day before our said lord the king at *Westminster*, come the parties aforesaid by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea in manner and form aforesaid by the said *A. B.* above in reply pleaded, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises: But because it is unknown, &c. (as directed in p. 289).

(§ 33.)
The like, on
demurrer to a
replication.

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(§ 34.)

The like, on demurrer to a replication to one of several pleas in trespass, with a *relicta verificatio* as to another.

(To the end of the demurrer-book, and then as follows:) At which day, before our said lord the king at *Westminster*, come the parties aforesaid by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea by the said *A. B.* in manner and form aforesaid above in reply pleaded, to the said plea of the said *C. D.* by him lastly above pleaded in bar, as to the trespasses in the introductory part of that plea mentioned, and the matters therein contained, are sufficient in law for him the said *A. B.* to have and maintain his aforesaid action thereof against the said *C. D.* And hereupon the said *C. D.* relinquishing his said plea by him first above pleaded, says that he cannot deny the action of the said *A. B.* nor but that he the said *A. B.* ought to recover against the said *C. D.* his damages by reason of the premises; wherefore the said *A. B.* ought to recover his damages against the said *C. D.* But because it is unknown, &c. (as before, p. 260, 1.)

(§ 35.)

The like in abatement, on demurrer to a rejoinder.

(To the end of the demurrer-book, and then as follows:) At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea of the said *C. D.* by him above pleaded
by

by way of rejoinder, and the matters therein contained, are not sufficient in law to quash the said bill (or writ) of the said *A. B.* Therefore it is considered, that the said *C. D.* further answer the said *A. B.* to his bill (or writ) and declaration aforesaid; and thereupon a further day is given by the court here to the parties aforesaid, before our said lord the king at *Westminster*, until — next after —, that is to say, for the said *C. D.* to plead in chief to the said declaration of the said *A. B.* At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the said *C. D.* by his said attorney, defends the wrong and injury when, &c. (proceeding with the plea in chief, &c.)

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(To the end of the issue, and then as follows:) (§ 36.)

At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; upon which the record aforesaid being seen and inspected by the said court here, it sufficiently appears to the same court, that there is such a record of recovery against him the said *C. D.* at the suit of the said *A. B.* as he the said *A. B.* hath above in that behalf alleged: Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and also — *l.* for his damages which he hath sustained, as well by reason of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court

Judgment for the plaintiff, on a plea of *nul tiel record* in debt.

Judgment signed, (&c.)

CHAP.
XXXIX.

Mercy.

(§ 37.)
The like, on a
replication of
nul tiel record
in *assumpsit*.

of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided: And the said *C. D.* in mercy, &c.

(To the end of the issue, and then as follows:)
At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his said attorney; and the said *C. D.* although solemnly demanded in open court, to appear and produce the said record by him above in pleading alledged, cometh not, nor produceth the same, but therein wholly fails and makes default; wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the premises: But because it is unknown, &c. (as before, p. 260, 1.)

(§ 38.)
Judgment for
the plaintiff, on
a verdict in *as-*
sumpsit, in a
town cause.

As yet of — term (the term of which issue was joined), in the — year of the reign of King *George* the Third. Witness *Edward* Lord *Ellenborough*.

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of trespass on the case upon promises.

— to wit. The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— to wit. *Be it remembered*, that on — next after — in this same term, before our lord the king at *Westminster*, comes *A. B.* by *E. F.* his attorney,

torney, and brings into the court of our said lord the king before the king himself now here, his certain bill against *C. D.* being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass on the case; &c. ; and there are pledges for the prosecution thereof, to wit, *John Doe* and *Richard Roe*; which said bill follows in these words, that is to say: — (to wit.) *A. B.* complains of *C. D.* being in the custody of the marshal of the marshalsea of our lord the now king before the king himself; for that whereas, &c. (here copy the declaration to the end, omitting the pledges, and proceed on a new line as follows:)

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XXXIX.

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and says that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country; and the said *A. B.* doth the like: Therefore let a jury thereupon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid at the same place: Afterwards the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, before our said lord the king at *Westminster*, until — next after — unless the right honourable *Edward Lord Ellenborough*, his majesty's chief-justice assigned to hold pleas in the court of our said

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XXXIX.

lord the king before the king himself, shall first come on — the — day of — at the *Guildhall* of the city of *London* (or at *Westminster-hall* in the county of *Middlesex*), according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said chief-justice, before whom the said issue was tried, hath sent hither his record had before him in these words, to wit: Afterwards, that is to say, on the day and at the place within contained, before the right honourable *Edward* lord *Ellenborough* the chief-justice within mentioned, *Ewan Law*, esquire being associated to the said chief-justice, according to the form of the statute in such case made and provided, come as well the within-named *A. B.* as the within-named *C. D.* by their respective attornies within-mentioned; and the jurors of the jury whereof mention is within made, being summoned, also come, who to speak the truth of the matters within contained, being chosen tried and sworn, say upon their oath, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages of the said *A. B.* on occasion of the premises, besides his costs and charges by him about his suit in his behalf expended, to — *l.* and for those costs and charges to — *s.* Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said damages costs and charges, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said

costs

Judgment
signed, &c.

costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to ——. And the said *C. D.* in mercy, &c.

CHAP.
XXXIX.

Mercy,

(As in the last, to the end of the issue and award of *venire*, and then as follows:) Afterwards the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, before our said lord the king at *Westminster*, until — next after —, unless his majesty's justices assigned to take the assizes in and for the county of — shall first come on — the — day of — at — in the said county, according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his attorney aforesaid; and the said justices of our said lord the king, before whom the said issue was tried, have sent hither their record had before them in these words, to wit: Afterwards, &c. (here copy the *postea*): And because the court of our said lord the king before the king himself now here, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king at *Westminster*, until — next after —, to hear the judgment of the said court thereupon; for that the court of our said lord the king before the king himself now here, are not yet advised thereof, &c. At which day, before our

(§ 39.)

The like, in a country cause, with a continuance after verdict by *curia advisari vult*.

said

costs

CHAP.
XXXIX.

said lord the king at *Westminster*, come as well the said *A. B.* by his attorney aforesaid, as the said *C. D.* by his attorney aforesaid: And thereupon all and singular the premises being seen, and by the court of our said lord the king before the king himself now here fully understood, and mature deliberation being thereupon had, it is considered by the same court, that the said *A. B.* do recover against the said *C. D.* his said damages, &c. (as in the last).

(§ 40.)

The like, on a special verdict.

(As in the two former to the *postea*, after copying which, proceed as follows:) And because the court of our said lord the king before the king himself now here, are not yet advised, &c. (as in the last, to the words, "not yet advised thereof, &c.") At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* as the said *C. D.* by their respective attorneys aforesaid: And thereupon all and singular the premises being seen, and by the court of our said lord the king before the king himself now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said *C. D.* did undertake, &c. in manner and form as the said *A. B.* hath above thereof complained against him: Therefore it is considered, (&c.)

The like, after a verdict and assessment of damages, on the stat. 8 & 9 W. III. c. 11. § 8.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid, on occasion of the detention thereof, to 1*s.* together with his costs and charges aforesaid to 40*s.* by the said jury in form aforesaid assessed,

assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king before the king himself now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* It is also considered by his majesty's court here, that the said *A. B.* have execution against the said *C. D.* of the damages aforesaid to — *l.* by the said jury in form aforesaid assessed, on occasion of the aforesaid breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided: And the said *C. D.* in mercy, &c.

CHAP.
XXXIX.

Mercy.

(To the end of the *postea.*) And upon this the said *A. B.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on — the said *E. F.* died, to wit at — and the said *C. D.* then and there survived him; which the said *C. D.* doth not deny, but admits the same to be true; therefore let all further proceedings in this cause against the said *E. F.* be stayed; whereupon the said *A. B.* prays judgment against the said *C. D.* of and upon the premises: Therefore it is considered, (&c.)

(§ 41.)
Suggestion of the death of one of the defendants, after verdict, and before judgment.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* as executor (or administrator) as aforesaid, his damages aforesaid by the said jury in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to

(§ 42.)
Judgment for the plaintiff, on a verdict in *assumpsit*, against an executor or administrator.

CHAP.
XXXIX.

to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* as executor (or administrator) as aforesaid to be administered, if he hath so much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then the said sum of — *l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.* And the said *C. D.* in mercy, &c.

Mercy.

(§ 43.)
The like, in
debt.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid to — *l.* by the said jury in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* And the said *C. D.* in mercy, &c. (Or if the defendant has denied his deed, a *capiatur* should be entered, instead of a *misericordia*, thus: And let the said *C. D.* inasmuch as he has denied his deed, be taken, &c.)

Mercy.

Capiatur.

(§ 44.)
The like, in
debt *qui tam*,
where part is
found for the
plaintiff, and
part for the de-
fendant.

Therefore it is considered, that the said *A. B.* who sues as aforesaid, do recover against the said *C. D.* for himself and our said lord the king, the said sum of — *l.* in the said — count of the said declaration mentioned, parcel of the said sum of — *l.* above demanded; and that the said *A. B.* who sues

as aforesaid have one moiety thereof to his own use, and that our said lord the king have the other moiety thereof to his own use, according to the form of the statute in such case made and provided: And the said *C. D.* in mercy, &c. And let the said *A. B.* who sues as aforesaid, be in mercy for his false complaint against the said *C. D.* for the residue of the said sum of —*l.* whereof the said *C. D.* is acquitted; and the said *C. D.* go thereof without day, &c.

CHAP.
XXXIX.

Mercy.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his said debt, and also his damages aforesaid by the said jury in form aforesaid assessed, and likewise —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* to be levied as to the sum of —*l.* parcel of the said debt, being the value of the said goods and chattels of the said *E. F.* so found by the said jury to be in the hands of the said *C. D.* to be administered, and also as to the said —*l.* for the damages costs and charges aforesaid, of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then the said —*l.* for the damages costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.* and as to

(§ 45.)

The like, against an executor or administrator, where the jury find assets to the amount of part of the debt.

the said *A. B.* do recover against the said *C. D.* executor (or administrator) as aforesaid, his said debt, and also his damages aforesaid by the said jury in form aforesaid assessed, and likewise —*l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to —*l.* to be levied as to the sum of —*l.* parcel of the said debt, being the value of the said goods and chattels of the said *E. F.* so found by the said jury to be in the hands of the said *C. D.* to be administered, and also as to the said —*l.* for the damages costs and charges aforesaid, of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, if he hath so much thereof in his hands to be administered, and if he hath not so much thereof in his hands to be administered, then the said —*l.* for the damages costs and charges aforesaid, to be levied of the proper goods and chattels of the said *C. D.* and as to

CHAP.
XXXIX.

the residue of the said debt, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which shall hereafter come to the hands of the said *C. D.* to be administered. And the said *C. D.* in mercy, &c.

(§ 46.)
The like, against an heir.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his said debt, and his damages aforesaid to — *l.* by the said jury in form aforesaid assessed, and also — for his costs and charges aforesaid, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which damages costs and charges in the whole amount to — *l.* to be levied of the lands and tenements which were of the said *E. F.* in fee-simple at the time of his death, and which came to and are now in the hands of the said *C. D.* by hereditary descent from the said *E. F.* And the said *C. D.* in mercy, &c.

(§ 47.)
The like, in detinue.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the goods and chattels aforesaid, or the said — *l.* for the value of the same, if the said *A. B.* cannot have again the said goods and chattels, and his said damages to — *s.* beyond the value aforesaid, by the said jury in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* And the said *C. D.* in mercy, &c. And hereupon the sheriff is commanded, that he distrain the said *C. D.*

by

by all his lands, (&c.) and that he answer for the issues, (&c.) so that he render to the said *A. B.* the goods and chattels aforesaid, or the said — *l.* for the value of the same; and in what manner, (&c.)

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XXXIX.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* the goods and chattels, which by the jurors aforesaid are above found to be detained by the said *C. D.* from the said *A. B.* or the said — *l.* for the value of the same, if the said *A. B.* cannot have again those goods and chattels, and his said damages to — beyond the value aforesaid, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *A. B.* and with his assent; which said damages costs and charges in the whole amount to — *l.* And the said *C. D.* in mercy, &c. And the said *A. B.* also in mercy for his false claim, of the residue of the said goods and chattels, whereof the said *C. D.* by the jurors aforesaid is above acquitted; and let the said *C. D.* go thereof without day, &c. And hereupon the sheriff is commanded, that he distrain, &c. (as in the last).

(§ 48.)

The like, where part is found for the plaintiff, and part for the defendant.

Mercy.

For these sections, vide post, Chap. XLV.

(§ 49, 50.)

CHAP.
XXXIX.

As yet of — term, (&c.)

(§ 51.)
Judgment of
non-pros, for
want of a de-
claration, on
common pro-
cess by bill,

— to wit. *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of trespass.

— to wit. *C. D.* according to the form of the statute in such case made and provided, was served with a copy of a certain precept called a bill of *Middlesex*, (or of a certain writ of our lord the king called a *latitat*, or *alias capias*, &c.) issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, (if a *latitat* or *alias capias*, &c.) and returnable before our said lord the king at *Westminster*, on — next after — in — term now last past, to answer *A. B.* in a plea of trespass; and the said *C. D.* at the same day appeared by *G. H.* his attorney, according to the form of the statute in such case made and provided: And the said *A. B.* hath not declared in the said court of our said lord the king before the king himself at *Westminster* aforesaid, by his bill or declaration in any personal action or ejectment against the said *C. D.* before the end of this present — term, (or of — term then next ensuing,) being the next term after the appearance of him the said *C. D.* at the suit of the said *A. B.* Therefore it is considered, that the said *A. B.* take nothing by his said precept (or writ), but that he be in mercy, &c. And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.*: — *l.* for his costs and charges by him laid out about his defence in this behalf, by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the

Judgment
signed, (&c.)

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the sa

the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

CHAP.
XXXIX.

Execution.

— to wit. *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of trespass on the case upon promises (or as the plea is).

(§ 52.)

The like, by original.

— to wit. *C. D.* late of —, according to the form of the statute in such case made and provided, was served with a copy of a certain writ of our lord the king called a special *capias ad respondendum*, issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, and returnable before our said lord the king, on — wheresoever our said lord the king should then be in *England*, to answer *A. B.* in a plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or as the plea is); and the said *C. D.* at the same day appeared, &c. (as in the last).

(Entry of warrant of attorney for the defendant, as before, p. 304.)

(§ 53.)

The like, on bailable process by bill.

— to wit. *C. D.* was arrested by virtue of a precept called a bill of *Middlesex*, (or of a certain writ of our lord the king called a *latitat*, or *alias capias*, &c.) issuing out of the court of our said lord the king before the king himself, directed to the sheriff of —, (if a *latitat* or *alias capias*, &c.) and returnable before our said lord the king at *Westminster*, on — next after — in — term now last past, to answer *A. B.* in a plea of trespass, and also to a bill of the said *A. B.* to be exhibited against the said *C. D.* for — *l.* on promises, (or as the ac-

X

etiam

CHAP.
XXXIX.

etiam is) according to the custom of the court of our said lord the king before the king himself: And the said *C. D.* at the same day appeared, and put in special bail by *G. II.* his attorney, at the suit of the said *A. B.* And the said *A. B.* hath not declared, &c. (as before, p. 304, 5.)

(§ 54.)
The like, in a
county-palati-
tine.

— to wit. *C. D.* was arrested by virtue of a certain writ or mandate, directed to the sheriff of the county-palatine of *Lancaster*, and grounded upon a certain writ of our said lord the king called a *latitat*, (or *alias capius*, &c.) issuing out of the court of our said lord the king before the king himself, directed to the chancellor of the said county-palatine, and returnable, &c. (as in the last.)

(§ 55.)
The like, after
the defendant's
appearance on
an *exigi facias*.

— to wit. *A. B.* who brought a writ of *exigi facias* of the lord the king before the king himself, against *C. D.* late of — of a plea, &c. did not prosecute his writ aforesaid: Therefore he and his pledges to prosecute are thereupon in mercy, &c. and let the names of the pledges be inquired, &c. and the said *C. D.* go thereof without day, &c. It is also considered, &c. (as before, p. 304, 5.)

(§ 56.)
The like, in
debt *qui tam*.

— to wit. *C. D.* puts in his place *G. II.* his attorney, at the suit of *A. B.* who as well, &c. in a plea of debt on statute.

Judgment
signed, (&c.)

— to wit. *A. B.* who brought a writ of our lord the king, as well for our said lord the king as for himself, against *C. D.* of a plea of debt on statute, hath not prosecuted his writ aforesaid: There-

fore

the court of our
self: And the
d, and put in
the suit of the
not declared,

by virtue of a
to the sheriff of
grounded upon
king called a
out of the court
the king himself,
said county-pala-
e last.)

ht a writ of *exigi*
the king himself,
plea, &c. did not
therefore he and his
pon in mercy, &c.
be inquired, &c.
thout day, &c. It
, p. 304, 5.)

is place *G. II.* his
no as well, &c. in

ght a writ of our
did lord the king as
plea of debt on sta-
taforesaid: There
fore

fore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy: And it is further considered, &c. (as before, p. 304, 5.)

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XXXIX.

For these sections, vide post, Chap. XLIV. (§ 57, 8, 9, 60.)

(Entry of warrant of attorney for the defendant.) (§ 61.)

— to wit. *Be it remembered*, &c. (as in an issue, to the end of defendant's plea, and then as follows:) Judgment of non-pros, for not replying.

And upon this the said *C. D.* prays that the said *A. B.* may reply to the aforesaid plea of him the said *C. D.* and thereupon a day is given by the court here to the said *A. B.* before our lord the king at *Westminster*, until — days next after the end of this same term, that is to say, for him the said *A. B.* to reply to the aforesaid plea of the said *C. D.* the same day is given to the said *C. D.* at the same place: At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the said *A. B.* although at that day solemnly called, comes not, nor hath he replied to the aforesaid plea of the said *C. D.* nor doth he further prosecute his said suit: Therefore it is considered by the court here, that the said *A. B.* take nothing by his said bill (or writ,) but that he and his pledges to prosecute be in mercy, &c. And it is further considered by his majesty's court here, &c. (as before, p. 304, 5.)

Judgment
signed, (&c.)

CHAP.
XXXIX.

(§ 62.)

The like, for
not entering
the issue.

(Enter the warrants of attorney for both parties; and after copying the issue, to the end of the award of the *venire facias*, proceed as follows:)

At which day, before our said lord the king at *Westminster*, came as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Therefore, as before, let a jury thereupon come before our said lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid at the same place: At which day, before our said lord the king at *Westminster*, came the parties aforesaid by their attornies aforesaid; and the sheriff did not send the writ of our said lord the king to him in that behalf directed, nor did he do any thing thereupon: Whereupon the said *C. D.* prays the court of our said lord the king now here, that the said *A. B.* may enter the said issue above joined between the parties aforesaid: And hereupon the said *A. B.* is ordered by the court of our said lord the king now here, that he enter the said issue on — next after — in this same term, on the peril attending the neglect thereof; the same day is given to the said *C. D.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his said attorney, and the said *A. B.* although solemnly called, comes not, but makes default, nor hath he entered the said issue above joined in the plea aforesaid: Therefore it is considered by the court here, that the said *A. B.* take nothing

Judgment
signed, (&c.)

both parties;
of the award
))
the king at
B. as the said
the sheriff
the king to
do any thing
a jury there-
king at *West-*
by whom, &c.
c. because as
parties afore-
ay, before our
me, the parties
and the sheriff
rd the king to
e do any thing
D. prays the
here, that the
above joined
hereupon the
f our said lord
e said issue on
n, on the peril
me day is given
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id *A. B.* take
nothing

nothing by his said bill (or writ,) but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 304, 5.)

CHAP.
XXXIX.

(As in the last, to the end of the second award of the *venire*, and then as follows:)

(§ 63.)

Judgment as in case of a non-suit.

At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his said attorney; and the said *A. B.* although solemnly called, comes not: And it appearing to the court of our said lord the king now here, that the said *A. B.* hath neglected to bring the issue above joined on to be tried, according to the course and practice of the said court: Therefore, according to the form of the statute in such case made and provided, it is considered, that the said *A. B.* take nothing by his said bill (or writ,) but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 304, 5.)

Judgment signed, (&c.)

Therefore it is considered, that the said *A. B.* take nothing by his said bill (or writ), but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c.: And it is further considered, &c. (as before, p. 304, 5.)

Judgment of nonsuit.

(To the end of the *postea*, and then as follows:)

(§ 64.)

But because it is suggested and proved, and manifestly appears to the court here, that the cause of action aforesaid arose in the principality of *Wales*, and that the said *C. D.* was resident within the do-

The like, on the *Welsh-judicature-act.*

CHAP.
XXXIX.

minion of *Wales*, at the time of the service of the writ of — served on him in this action: Therefore it is considered, that the said *A. B.* take nothing by his said writ, (or by his bill aforesaid), against the said *C. D.* but that he be in mercy for his false claim; and that the said *C. D.* do go thereof without day, &c. It is also considered, &c. (as before, p. 304, 5.)

(§ 65.)
Entry of discontinuance,
by bill.

Afterwards, to wit, on — next after — in — term, in the — year of the reign of our lord the now king, before our said lord the king at *Westminster*, came the said *C. D.* by his attorney aforesaid; and the said *A. B.* did not then and there prosecute his said bill against the said *C. D.* with effect, but voluntarily permitted his suit to be discontinued: Therefore it is considered, that the said *A. B.* take nothing by his said bill, but that he and his pledges to prosecute be in mercy, &c. And it is further considered, &c. (as before, p. 304, 5.)

(§ 66.)
The like, by
original.

It is recorded by the court, on — in — term in the — year of the reign of our lord the now king, that the plea aforesaid hath not a day of continuance by the same roll, beyond the aforesaid —: Therefore let the plea aforesaid be discontinued, at the request of the said *A. B.* &c.

(§ 67.)
Judgment for
the defendant,
on a *nolle prosequi*.

And hereupon the said *A. B.* inasmuch as he cannot deny the several matters above pleaded by the said *C. D.* freely here in court confesses, that he will not

service of the
ction: There-
B. take nothing
said), against
y for his false
thereof with-
&c. (as before,

not further prosecute his suit against the said *C. D.*
Therefore it is considered by the court here, that the
said *A. B.* take nothing by his said bill (or writ),
but that he and his pledges to prosecute be in
mercy, &c. and that the said *C. D.* do go thereof
without day, &c. And it is further considered, &c.
(as before, p. 304, 5.)

CHAP.
XXXIX.

And hereupon the said *A. B.* freely here in court
confesses, that he will not further prosecute his suit
against the said *C. D.* in respect of the premises in
the — count of the said declaration mentioned:
Therefore, as to the premises in that count mention-
ed, let the said *C. D.* be acquitted, and go thereof
without day, &c.

(§ 68.)
The like, as to
a particular
count.

after — in
ign of our lord
e king at West-
attorney afore-
hen and there
aid *C. D.* with
suit to be dis-
ered, that the
d bill, but that
in mercy, &c.
ore, p. 304, 5.)

And hereupon the said *A. B.* inasmuch as he
cannot deny the several matters above pleaded
by the said *C. D.* but admits the same to be true,
prays judgment, and that the said bill (or writ)
of him the said *A. B.* may be quashed, to the intent
that he the said *A. B.* may exhibit a better bill (or
sue out a better writ) against the said *C. D.* There-
fore it is considered by the court of our said lord
the king before the king himself now here, that
the said bill (or writ) of the said *A. B.* be quashed,
&c.

(§ 69.)
*Cassetur billa
vel breve.*

in — term
lord the now
t a day of con-
aforesaid —
scontinued, at

such as he can-
pleaded by the
es, that he will
not

CHAP. (To the end of the demurrer-book, and then as
XXXIX. follows:)

(§ 70.)

Judgment for
the defendant,
on demurrer to
a plea.

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea above pleaded by the said *C. D.* in manner and form aforesaid, and the matters therein contained, are sufficient in law to bar the said *A. B.* from having or maintaining his said action against the said *C. D.* Therefore it is considered, that the said *A. B.* take nothing by his said bill, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 304, 5.)

Judgment
signed, (&c.)

(§ 71.) (To the end of the issue, and then as follows:)

The like, on a
plea of *nul tiel*
record.

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; and the said *A. B.* hath not here in court the record of the supposed recovery in the said declaration mentioned, but hath failed and made default in producing the same: Therefore it is considered, that the said *A. B.* take nothing by his said bill, but that he and his pledges to prosecute be in mercy, &c. and that the said

Judgment
signed, (&c.)

and then as

the king at
aid, by their
and singular
court of our
derstood, and
ad, it appears
aid plea above
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from having or
the said *C. D.*
aid *A. B.* take
and his pledges
at the said *C. D.*
nd it is further
5.)

as follows:)
lord the king
s aforesaid, by
said *A. B.* hath
supposed reco-
tioned, but hath
ucing the same:
said *A. B.* take
and his pledges
and that the
said

said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 304, 5.)

CHAP. XXXIX.

(To the end of the issue, and then as follows:)

(§ 72.)

Judgment for the defendant, on a verdict at the assizes.

Afterwards the process thereof is continued between the parties aforesaid, of the plea aforesaid, by the jury being respited between them, before our said lord the king at *Westminster*, until — next after —, unless his majesty's justices assigned to take the assizes in and for the county aforesaid, shall first come on — the — day of — in the — year of the reign of our said lord the king, at — in the county aforesaid, according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: And now here at this day, comes the said *C. D.* by his attorney aforesaid; and the said justices of assize, before whom the said issued was tried, have sent hither their record had before them in these words, to wit: Afterwards, &c. (to the end of the *postea*). Therefore it is considered, that the said *A. B.* take nothing by his said bill (or writ), but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 304, 5.)

Judgment signed, (&c.)

(As in the last, to the words "none of them did appear," and then as follows:)

(§ 73.)

The like, for a surviving defendant.

At which day, before our said lord the king at *Westminster*, come as well the said *A. B.* by his attorney

CHAP.
XXXIX.

torney aforesaid, as the said *C. D.* by his attorney aforesaid; and the said *E. F.* comes not: And the said justices of assize, before whom, (&c.) have sent hither their record had before them in these words, to wit: Afterwards, &c. (here copy the *postea*). And upon this the said *C. D.* gives the court here to understand and be informed, that after the last continuance of the plea aforesaid, and before this day, to wit, on — the said *E. F.* died, to wit, at — and the said *C. D.* there survived him, which the said *A. B.* does not deny, but admits the same to be true; wherefore the said *C. D.* prays judgment of and upon the premises: Therefore it is considered, that the said *A. B.* take nothing by his bill aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that all further proceedings as to the said *E. F.* be stayed, and the said *C. D.* do go thereof without day, &c. And it is further considered, &c. (as before, p. 304, 5.)

Judgment
signed, (&c.)

(§ 74.)

For this section, *vide post*, Chap. XLIV.

(§ 75.)

The like, for
double costs,
on the court
of conscience
act for *Middlesex*.

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, by the jurors aforesaid in form aforesaid assessed: And because it is suggested and proved, and manifestly appears to the court here, that the said *C. D.* at the time of bringing this action, did live and reside in the said county of *Middlesex*, and was liable to be summoned to the county-court of *Middlesex* aforesaid: It is further considered by the said court here, that the said *C. D.* do recover against the said *A. B.* the sum of — *l.* for his double costs of suit in this behalf, by the said court here adjudged to the
said

Judgment
signed, (&c.)

said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

CHAP.
XXXIX.
Execution.

(After the *postea*, proceed as follows:)

Therefore it is considered, that the said *A. B.* do recover against the said *C. D.* his damages aforesaid, in form aforesaid assessed: And upon this the said *C. D.* gives the court here to understand and be informed, that this action was brought against him the said *C. D.* by the said *A. B.* after the first day of June, in the year of our Lord 1803; and that he the said *C. D.* was arrested and held to special bail therein to the amount of the sum of —*l.* which the said *A. B.* doth not deny, but admits the same to be true: And because it has been also suggested, and made appear to the satisfaction of the court here, upon motion made in court for that purpose, and upon hearing the said parties by affidavit, according to the form of the statute in such case lately made and provided, that the said *A. B.* the plaintiff in the said action, had not any reasonable or probable cause for causing the said *C. D.* to be arrested and held to special bail in such amount as aforesaid; therefore by a rule or order of the same court here in that behalf made, according to the form of the statute aforesaid, it is ordered and directed, that the said *C. D.* be allowed his costs of this action, to be taxed by the master; and which costs were afterwards duly taxed by him, at the sum of —*l.* And thereupon it is further considered by the said court here, that the said *C. D.* after deducting the said sum of —*l.* so recovered by the said

Suggestion on
stat. 43 Geo.
III. c. 46, § 3.
to intitle the
defendant to
costs, where
the plaintiff
recovers less
than the sum
for which the
defendant was
held to bail.

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his attorney
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the *postea*).
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304, 5.)
LIV.
said *A. B.* do
ges aforesaid,
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ed, and mani-
he said *C. D.*
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and was liable
of *Middlesex*
the said court
gainst the said
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said

CHAP.
XXXIX.

said *A. B.* in this action as aforesaid, from the amount of his the said *C. D.*'s said costs so taxed as aforesaid, have his execution against the said *A. B.* for the residue of such costs, according to the form of the statute aforesaid, &c.

In this case, the sum recovered was less than the amount of the defendants costs: Where it happens otherwise, there is no occasion for the latter part of the above entry.

(§ 76.)
Memorial of a
judgment.

A memorial to be registered, pursuant to the statute, (&c.)

Of a judgment in his majesty's court of King's Bench, of — term, in the — year of the reign of king *George the Third*, between *A. B.* plaintiff and *C. D.* defendant, in a plea of, (&c.) Roll—.

(§ 77.)
Certificate of
the master
thereon.

I do hereby certify, that judgment was signed in the above cause, the — day of — 18—.

Robert Forster.

(§ 78.)
Affidavit of
signature.

E. F. of — maketh oath and saith, that he was present and did see *Robert Forster* esquire, secondary of the court of King's Bench, sign the certificate of the judgment in the memorial above-mentioned.

Sworn, (&c.)

E. F.

CHAP. XL.

Of Costs.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant. (§ 1.)

Affidavit for leave to enter suggestion for costs, on the court of conscience act for London.

C. D. of — maketh oath and saith, that he this deponent and the above-named plaintiff at the time of the commencement of this suit were, and ever since have been, and still are respectively inhabiting and resiant in the city of London; and that he this deponent hath been for and during all that time, and still is liable to be summoned to the court of requests held at the *Guildhall* of the said city; and that the said plaintiff, on the trial of the said cause, obtained a verdict for — and no more.

Sworn, (&c.) *C. D.*

A. B. } It is ordered, that the attorney for the — (§ 2.)
v. } shall give notice to Mr. — attorney for
C. D. } the — of the time of taxing costs between the parties, that he may be present if he thinks fit. Rule to be present at taxing costs.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant. (§ 3.)

Affidavit of increased costs.

E. F. of — gentleman, attorney for the above-named plaintiff, and *A. B.* of — the said plaintiff, severally

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ne said *A. B.*
to the form

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A. B. plaintiff
(c.) Roll—

was signed in
— 18—.

Robert Forster.

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quire, secon-
sign the certi-
al above-men-

E. F.

CHAP
XL.

severally make oath and say; and first this deponent *E. F.* for himself saith, that notice of trial was given in this cause for the last assizes to be holden at — in the county of —, and that the same was tried before a special jury of the said county; and that he did cause — *subpœnas* to be issued out on the part of the plaintiff, and that *G. H.* of — *J. K.* of — (&c.) were all of them severally subpœnaed on the part of the plaintiff, and received one shilling each with their *subpœnas*: And this deponent further saith, that the places of residence of the said *G. H.* and *J. K.* (&c.) are distant from this deponent's residence — miles: And this deponent further saith, that all the said witnesses were material and necessary for the said plaintiff; and that he this deponent was necessarily absent from his place of residence, in going to, staying at and returning from the assizes — days, and that his said place of residence is distant from — aforesaid — miles, and that he did pay for conveying himself to and from — aforesaid, and for his expences on the road, the sum of — *l.* And this deponent further saith, that he did pay to Mr. — with his brief and his clerk — *l.* and to Mr. — and his clerk — *l.* (&c.) and also the following court-fees; to the under-sheriff for returning the *distringas* —, to the marshal for entering the record —, to the marshal —, to the cryer —, and to the associate —: And this deponent *A. B.* for himself saith, that the said *G. H.* *J. K.* (&c.) were necessarily absent from their places of abode, in going to, staying at and returning from the assizes — days; and that he this deponent did pay to the said *G. H.* *J. K.* (&c.)

for

for their loss of time and chaise-hire — *l.* their
 places of abode being distant from — aforesaid
 — miles.

CHAP.
 XL.

E. F.

A. B.

Sworn, (&c.)

this deponent
 ial was given
 lden at —
 me was tried
 ; and that he
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 the said *G. H.*
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H. J. K. (&c.)
 for

CHAP. XLI.

Of EXECUTION.

(§ 1.)
*Fieri facias in
 assumpsit.*

GEORGE the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his damages aforesaid; and have there then this writ *. Witness *Edward Lord Ellenborough* at *Westminster*, the — day of — in the — year of our reign.

Way.

(§ 2.)
 The like, by
 and against
 surviving part-
 ners.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and

* This and the following writs are drawn, as if the proceedings were by *bill*; but they may be easily adapted to proceedings by *original*, by making them returnable on a general return-day, wheresoever, &c. and instead of the words, "have there then this writ," by saying, "have there this writ."

chattels

chattels of *G. H.* and *J. K.* in your bailiwick, you cause to be made — *l.* which *A. B. C. D.* and *E. F.* in the life-time of the said *E. F.* now deceased, and whom the said *A. B.* and *C. D.* have survived, lately in our court before us at *Westminster*, recovered against them the said *G. H.* and *J. K.* and one *L. M.* in his life-time now deceased, and whom the said *G. H.* and *J. K.* have survived, for their damages which they had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *G. H. J. K.* and *L. M.* to the said *A. B. C. D.* and *E. F.* as for their costs and charges, (&c.) whereof the said *G. H. J. K.* and *L. M.* are convicted, as appears to us of record: And have that money, &c. (as in the last.)

CHAP.
XII.

George the Third, (&c.) To the sheriff of —
greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* in his life-time lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, (&c.) whereof the said *C. D.* is convicted, as appears to us of record: And whereupon it is considered in our said court before us, that *E. F.* executor of the last will and testament of the said *A. B.* deceased, (or administrator of all and singular the goods, chattels and credits, which were of the said *A. B.* deceased at the time of his death, who died intestate,) have execution against the said *C. D.* for the damages aforesaid, according to the force, form and effect of the said recovery, by the default of the said *C. D.* as also appears to us of record: And

(§ 3.)

The like, for an executor or administrator, on a judgment by the testator or intestate.

Y

have

CHAP.
XLI.

have that money before us at *Westminster*, on — next after — to render to the said *E. F.* executor (or administrator) as aforesaid, for the damages aforesaid; and have there then this writ. Witness, (&c.)

(§ 4.)

The like, upon a judgment by an executor or administrator.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* which *A. B.* executor of the last will and testament of *E. F.* deceased, (or administrator of all and singular the goods, chattels and credits which were of *E. F.* deceased at the time of his death, who died intestate,) lately in our court before us at *Westminster*, recovered against him, (&c.) whereof the said *C. D.* is convicted, as appears to us of record: And have that money, &c. (as in the last).

(§ 5.)

The like, against an executor or administrator, on a judgment against the testator or intestate.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels which were of *C. D.* deceased at the time of his death, in the hands of *E. F.* executor, &c. (or administrator, &c.) to be administered, in your bailiwick, you cause to be made — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* for his damages, (&c.) whereof the said *C. D.* was convicted, as appears to us of record: And whereupon it is considered in our said court before us at *Westminster* aforesaid, that the said *A. B.* have his execution against the said *E. F.* as executor (or administrator) as aforesaid, of the damages aforesaid, of the goods and chattels which were of the said *C. D.* at the time of his

his death, in the hands of the said *E. F.* as executor (or administrator) as aforesaid to be administered, according to the form and effect of the said recovery: And have that money, &c. (as before, p. 320.) and have there then this writ. Witness, (&c.)

CHAP.
XLI.

George the Third, (&c.) To the sheriff of ———
greeting: We command you, that of the goods and chattels in your bailiwick, which were of *E. F.* deceased at the time of his death, in the hands of *C. D.* executor, &c. (or administrator, &c.) to be administered, you cause to be made ———*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* as executor (or administrator) as aforesaid, for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, made by the said *E. F.* in his life-time to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended, whereof the said *C. D.* hath so much thereof in his hands to be administered; and if he hath not so much thereof in his hands to be administered, then that you cause to be made ———*l.* parcel of the damages aforesaid, being for the costs and charges aforesaid, of the proper goods and chattels of the said *C. D.* in your bailiwick; and have that money, &c. (as before, p. 320.)

(§ 6.)

The like, on a judgment against an executor or administrator, de bonis testatoris, &c.

George the Third, (&c.) To the sheriff of ———
greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of ———*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against

(§ 7.)

Fieri facias in debet.

CHAP.
XLI.

him, and also — *l.* which in our same court before us at *Westminster* aforesaid, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his debt and damages aforesaid; and have there then this writ. Witness, (&c.)

(§ 8.)
The like, in
debt *qui tam*.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick you cause to be made a certain debt of — *l.* which *A. B.* who sued as well for us as for himself in that behalf, lately in our court before us at *Westminster*, recovered against the said *C. D.* that is to say, one moiety thereof to the said *A. B.* who sued as aforesaid, to his own proper use, and the other moiety thereof to our own proper use; (and if the judgment was for costs, add, “and also — *l.* which in our said court before us were adjudged to the said *A. B.* who sued as aforesaid, and with his assent, according to the form of the statute in such case made and provided, for his costs and charges by him about his suit in that behalf expended;”) whereof the said *C. D.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after — to render one moiety thereof to us, and the other moiety thereof to the said *A. B.* who sued as aforesaid; (or if there are costs, “one moiety of the said debt of — *l.* to us, and the residue thereof,

of, as well as the said sum of — *l.* for the costs and charges aforesaid, to the said *A. B.* who sued as aforesaid;”) and have there then this writ. Witness, (&c.)

CHAP.
XLI.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also — *l.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, and of a certain metal watch, which the said *A. B.* also in our said court before us at *Westminster* aforesaid recovered against him, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And have that money, (&c.): We also command you, that you distrain the said *C. D.* by all his lands and chattels in your bailiwick, so that neither he nor any one by him do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues of the same, so that he render the said watch to the said *A. B.*; whereof the said *C. D.* is also convicted, as appears to us of record: And have there then this writ. Witness, (&c.)

(§ 9.)

The like in debt, and distresses in detinue, on stat. 9 Ann. c. 14.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *G. H.* and *J. K.* in your bailiwick, you cause to be made a certain debt of — *l.* which *A. B. C. D.* and *E. F.*, in the life-time of the said

(§ 10.)

The like in debt, by and against surviving partners.

CHAP.
XLI.

E. F. now deceased, and whom the said *A. B.* and *C. D.* have survived, lately in our court before us at *Westminster*, recovered against the said *G. H.* and *J. K.* and *L. M.* in his life-time now deceased, and whom the said *G. H.* and *J. K.* have survived, and also — *l.* which in our same court before us at *Westminster* aforesaid, were adjudged to the said *A. B. C. D.* and *E. F.* for their damages, (&c.) whereof the said *G. H. J. K.* and *L. M.* were convicted, as appears to us of record: And have that money, &c. (as before, p. 320.)

(§ 11.)

The like,
against an ex-
ecutor or admi-
nistrator, *de*
bonis testatoris,
&c.

George the Third, (&c.) To the sheriff of —
greeting: We command you, that of the goods and
chattels, (&c.) you cause to be made a certain debt of
— *l.* which *A. B.* lately in our court before us at
Westminster, recovered against the said *C. D.* as
executor (or administrator) as aforesaid, and also
— *l.* which in our said court before us at *West-*
minster aforesaid, were adjudged to the said *A. B.*
for his damages, &c. (as in a common *feri facias* in
debt,) if the said *C. D.* hath so much thereof in his
hands to be administered; and if he hath not so
much thereof in his hands to be administered, then
that you cause the damages aforesaid to be made of
the proper goods and chattels in your bailiwick of
the said *C. D.* And have that money, &c. (as before,
p. 320.)

(§ 12.)

Fieri facias in
covenant.

George the Third, (&c.) To the sheriff of —
greeting: We command you, that of the goods and
chattels of *C. D.* in your bailiwick, you cause to be
made — *l.* which *A. B.* lately in our court before
us at *Westminster*, recovered against the said *C. D.*
for

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for his damages which he had sustained, as well on occasion of the breach of a certain covenant made between the said *A. B.* and the said *C. D.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And have that money, &c. (as before, p. 320.)

For his damages which he had sustained, as well on occasion of a certain grievance then lately committed by the said *C. D.* to the said *A. B.* as for his costs, (&c.)

(§ 13.)
In case.

For his damages which he had sustained, as well on occasion of the converting and disposing of certain goods and chattels of the said *A. B.* by the said *C. D.* as for his costs, (&c.)

(§ 14.)
In trover.

For his damages which he had sustained, as well on occasion of the speaking and publishing of certain, false, scandalous, malicious and defamatory words, then lately spoken and published by the said *C. D.* to of and concerning the said *A. B.* as for his costs, (&c.)

(§ 15.)
In an action for words.

For this section, vide post, Chap. XLIV. (§ 16.)

For his damages which he had sustained, as well on occasion of a certain trespass then lately committed by the said *C. D.* as for his costs, (&c.)

(§ 17.)
In trespass.

For his damages which he had sustained, as well on occasion of a certain trespass and assault then

(§ 18.)
In trespass and assault.

Y +

lately

CHAP. lately committed by the said *C. D.* on the said *A. B.*
XLI. as for his costs, (&c.)

(§ 19.) *For this section, vide post, Chap. XLV.*

(§ 20.) *George the Third, (&c.)* To the chancellor of
To a county- our county-palatine of *Lancaster*, or to his deputy
palatine. there, greeting: We command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of *C. D.* in his bailiwick, he cause to be made, (&c.) whereof the said *C. D.* is convicted, as appears to us of record: And have you that money before us at *Westminster*, on — next after — to render to the said *A. B.* for his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 21.) (As in a common *feri facias*, to the words,
After *scire facias*, by de- “ whereof the said *C. D.* is convicted, as appears
fault. to us of record:”) And whereupon it is considered in our same court before us, that the said *A. B.* have his execution against the said *C. D.* of the damages (or debt and damages) aforesaid, according to the force form and effect of the said recovery, by the default of the said *C. D.* as also appears to us of record: And have that money, &c. (as before, p. 320.)

(§ 22.) — whereof the said *C. D.* is convicted, (&c.)
The like, after and also — *l.* which in our said court before us
plea or demur- were adjudged to the said *A. B.* according to the
ger. form of the statute in such case made and provided,
for

for his costs and charges by him laid out in and about the prosecution of our writ of *scire facias*, for having execution upon the said judgment, for the damages (or debt and damages) aforesaid: And whereupon it was after plea pleaded (or demurrer joined) therein, considered in our same court before us, that the said *A. B.* should have his execution against the said *C. D.* of the damages (or debt and damages) aforesaid, according to the force form and effect of the said recovery, as also appears to us of record: And have the said monies, &c. (as before, p. 320.)

George the Third, (&c.) To the sheriff of —
greeting: We command you, that of the lands goods and chattels of *C. D.* in your bailiwick, you cause to be levied and made a certain debt of —*l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also —*l.* which in our said court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* was convicted, as appears to us of record: And whereupon it is considered, in our same court before us, that the said *A. B.* have his execution against the said *C. D.* for the debt and damages aforesaid, to be levied not on the person, but on the lands, goods and chattels of the said *C. D.* as also appears to us of record: And have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his debt and damages aforesaid: We also command you, that you take

(§ 25.)

The like, against the lands, &c. of a defendant discharged under an insolvent-act, with a *ca. sa.* for the costs in *scire facias*.

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take the said *C. D.* if he be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on the return-day aforesaid, to satisfy the said *A. B.* — *l.* which in our said court before us were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about the prosecution of our writ of *scire facias*, for having execution upon the said first-mentioned judgment, for the debt and damages aforesaid: And have there then this writ. Witness, (&c.)

(§ 24.)

Entry of *feri facias* on the roll, and award of *alias*.

Afterwards, to wit, on the — day of — in this same term, the said *A. B.* comes here into court by his attorney aforesaid, and prays the writ of the lord the king of *feri facias*, to be directed to the sheriff of —, commanding him that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or debt and damages) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said sheriff of — hath not sent the said writ, nor hath he done any thing thereupon: Therefore, as before, let another writ be thereupon made, and directed to the said sheriff of —, commanding him in form aforesaid; and it is granted, &c. returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place.

George

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made — *l.* which lately in our court before us at *Westminster*, were adjudged to *C. D.* according to the form of the statute in such case made and provided, for his costs and charges by him laid out in and about his defence of and upon a certain precept called a bill of *Middlesex*, (or our certain writ of —,) issued out of our said court before us, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not declared thereupon, in our said court before us, by his bill or declaration in any personal action or ejectment against the said *C. D.* before the end of — term, in the — year of our reign, being the next term after the appearance of the said *C. D.* at the suit of the said *A. B.* whereof the said *A. B.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, to render to the said *C. D.* for his costs and charges aforesaid; and have there then this writ. Witness, (&c.)

For his costs and charges by him laid out in and about his defence in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or as the plea is) then lately commenced and depending in our said court before us, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not prosecuted his writ against the said *C. D.* in the plea aforesaid; whereof the said *A. B.* is convicted, &c. (as in the last.)

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XLI.

(§ 25.)

Fieri facias on a non-pros, for not declaring on a bill of *Middlesex* or *latitat*, &c.

(§ 25.)

The like, by original.

For

George

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XLI.

(§ 27.)

The like, for
not replying.

For his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises (or as the action is), then lately commenced and depending in our said court before us, at the suit of the said *A. B.* against the said *C. D.* for that the said *A. B.* had not replied to certain pleas then lately pleaded by the said *C. D.* in the said action, or further prosecuted the same; whereof the said *A. B.* is convicted, &c. (as in the two last.)

(§ 28.)

The like, for
not surrejoin-
ing.

For his costs and charges, (&c.) for that the said *A. B.* had not surrejoined to certain rejoinders then lately made by the said *C. D.* in the said action, or further prosecuted the same; whereof, &c. (as before.)

(§ 29.)

The like, for
not entering
the issue.

For his costs and charges, (&c.) for that the said *A. B.* had not entered a certain issue (or certain issues) then lately joined between the said *A. B.* and the said *C. D.* in the said action, or further prosecuted the same; whereof, &c. (as before.)

(§ 30.)

The like, on a
judgment as in
case of a non-
suit.

For his costs and charges, (&c.) for that the said *A. B.* had neglected to bring a certain issue before then joined in the said action, on to be tried, according to the course and practice of the said court; whereof, &c. (as before.)

(§ 31)

The like, on a
nonsuit.

For his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises (or as the action is), lately brought in our said court before us, by the said

A. B.

A. B. against the said *C. D.* for that the said *A. B.* did not prosecute the said action; whereof, &c. (as before.)

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For his costs and charges by him laid out in and about his defence in a certain action of trespass on the case upon promises (or as the action is), lately prosecuted in our said court before us, by the said *A. B.* against the said *C. D.* whereof, &c. (as before.)

(§ 32.)

The lib., on a verdict for defendant.

The within-named *C. D.* has no goods or chattels in my bailiwick, whereof I can cause to be made the damages (or debt and damages) within-mentioned, or any part thereof, according to the exigency of this writ.

(, 33.)

Ret. n of nulla bona.

The answer of — sheriff.

The within-named *C. D.* has no goods or chattels, nor any lay fee, in my bailiwick, whereof I can cause to be made the damages (or debt and damages) within-mentioned, or any part thereof, as within I am commanded; but I do hereby certify, that the said *C. D.* is a beneficed clerk, to wit, rector of the rectory (or vicar of the vicarage) and parish church of — in my county; which said rectory (or vicarage) and parish church are within the diocese of the reverend father in God — by divine permission, lord bishop of —.

(§ 34.)

Nulla bona, and that the defendant is a beneficed clerk, &c.

The answer, (&c.)

The

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XLI.

(§ 35.)

Nulla bona testatoris nec propria, in an action against an executor or administrator.

The within-named *C. D.* has no goods or chattels which were of the within-named *E. F.* at the time of his death, in his hands to be administered, in my bailiwick, whereof I can cause to be made the damages (or debt and damages) within-mentioned, or any part thereof; and he has not any of his own proper goods or chattels, in my bailiwick, whereof I can cause to be made the within-mentioned sum of — *l.* parcel, &c. (or in debt, “the damages aforesaid,”) or any part thereof, according to the exigency of this writ.

The answer, (&c.)

(§ 36.)

The like, with a devastavit.

The within-named *C. D.* has no goods or chattels, &c. (as before) but divers goods and chattels which were of the said *E. F.* at the time of his death, to the value of the damages (or debt and damages) within-mentioned, after the death of the said *E. F.* came to the hands of the said *C. D.* to be administered; which said goods and chattels the said *C. D.* hath before the coming of this writ to me directed, eloigned, wasted, and converted to his own use.

The answer, (&c.)

(§ 37.)

Fieri faci.

By virtue of this writ to me directed, I have caused to be made of the goods and chattels of the within-named *C. D.* the damages (or debt and damages) within-mentioned; which I have ready before the lord the king, at the day and place within contained, to render to the said *A. B.* for his damages (or debt and damages) aforesaid, as within I am commanded.

The answer, (&c.)

By

By virtue, (&c.) I made my mandate to the bailiff of *E. F.* esquire, of his liberty of —, who hath the execution and return of all writs and process within the said liberty, and without whom no execution of this writ could be made by me within the same; which said bailiff hath returned to me, that by virtue of my said mandate to him thereupon directed, he hath caused to be made of the goods and chattels of the within-named *C. D.* the damages (or debt and damages) within-mentioned; and that he hath that money ready before the lord the king, at the day and place within contained, as by my said mandate he was commanded.

The answer, (&c.)

By virtue, (&c.) I have caused to be made of the goods and chattels of the within-named *C. D.* the sum of —*l.* which money I have ready before the lord the king, at the day and place within contained, to render to the said *A. B.* in part of his damages (or debt and damages) within-mentioned: And I further certify to our said lord the king, that the said *C. D.* has not any other or more goods or chattels in my bailiwick, whereof I can cause to be made the residue of the damages (or debt and damages) aforesaid, according to the exigency of this writ.

The answer, (&c.)

By virtue of this writ to me directed, I have caused to be made of the goods and chattels of the within-named *C. D.* to the value of —*l.* And I further certify, that I have paid to — the landlord of the premises on which the said goods and chattels

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XLI.

(§ 38.)

The like, upon a *mandavi bair-*
co.

(§ 39.)

Fieri feci for part, and *nul-*
la bona as to the residue.

(§ 40.)

The like, and that the sheriff has paid part of the sum levied to the landlord for rent.

By

CHAP.
XLI.

chattels were taken, the sum of —*l.* for —*l.* rent due to him for the said premises at — last; and that I have retained in my hands the sum of —*l.* for poundage upon the said sum of —*l.* making together with the said sum of —*l.* the sum of —*l.* and the remaining sum of —*l.* I have ready, as within I am commanded: And the said *C. D.* hath not any other or more goods or chattels in my bailiwick, whereof I can cause to be made the residue of the damages (or debt and damages) within-mentioned, or any part thereof.

The answer, (&c.)

(§ 41.)
The like, upon
a *mandavi bali-*
lico, under
special cir-
cumstances.

By virtue, (&c.) I have sent my mandate to the bailiff of the liberty of — in my county, who hath the execution and return of all writs and process within the same liberty, and without whom no execution of this writ by me could be made within the same liberty; which said bailiff hath answered me, that by virtue of the said mandate to him directed, he took in execution divers goods and chattels of the within-named *C. D.* which he kept possession of for the space of — days, and at the expiration of that time sold by public auction, by the direction of *E. F.* the attorney of and for the within-named *A. B.* and that the said *E. F.* as such attorney of and for the said *A. B.* was the highest bidder for, and declared the buyer at such sale of divers of the said goods and chattels, to the amount of —*l.* which sum still remains unpaid; and that the said bailiff caused to be made of the said goods and chattels so taken in execution, over and besides the said sum of —*l.* the sum of —*l.* out of which last-mentioned sum

of

—*l.* for —
 es at — last;
 nds the sum of
 d sum of —*l.*
 n of —*l.* the
 sum of —*l.* I
 nded: And the
 more goods or
 can cause to be
 or debt and da-
 mages thereof.

The answer, (&c.)

my mandate to
 in my county,
 rn of all writs
 erty, and with-
 rit by me could
 which said bai-
 rtue of the said
 bk in execution
 hin-named *C. D.*
 e space of —
 at time sold by
E. F. the attor-
A. B. and that
 and for the said
 nd declared the
 said goods and
 ich sum still re-
 liff caused to be
 so taken in exe-
 sum of —*l.*
 -mentioned sum
 of

of money he paid to *G. H.* the landlord of the pre-
 mises whereon the said goods and chattels were
 taken, the sum of —*l.* for rent due to him at —
 last; and that he also paid the sum of —*l.* for
 king's taxes, due for and in respect of the said pre-
 mises, at the time of taking the said goods and chat-
 tels; and that he hath retained the sum of —*l.*
 with the consent of the said *E. F.* for the necessary
 charges and expences of, and attending the keeping
 possession of and selling the said goods and chattels
 by auction as aforesaid, and also the sum of —*l.*
 for poundage; and the remainder of the said sum of
 —*l.* the said bailiff hath paid to me, and I have the
 same ready to render to the said *A. B.* as within I
 am commanded: And the said bailiff hath further
 answered me, that the said *C. D.* hath not any other
 or more goods or chattels in his liberty, whereof he
 can cause to be made the residue of the damages (or
 debt and damages) within-mentioned, or any part
 thereof: And I further certify and return, that the
 said *C. D.* hath not any other or more goods or chat-
 tels in my bailiwick, whereof I can cause to be made
 the residue of the damages (or debt and damages)
 aforesaid, or any part thereof.

The answer, (&c.)

By virtue, (&c.) I have taken goods and chattels
 of the within-named *C. D.* to the value of the da-
 mages (or debt and damages) within-mentioned,
 which goods and chattels remain in my hands un-
 sold, for want of buyers; therefore I cannot have
 that money before the lord the king, at the day and
 place within contained, as I am within commanded.

The answer, (&c.)

Z

By

CHAP.
 XLI.

(§ 42.)
 That the she-
 riff has taken
 goods, which
 remain in his
 hands for want
 of buyers.

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XLI.

(§ 43.)

The like, where
part of the
goods have
been sold, and
the rest remain
in his hands,
&c.

By virtue, (&c.) I have taken goods and chattels of the within named *C. D.* to the value of — *l.* and have exposed them to sale from day to day, and have thereof sold to the value of — *l.* which money I have ready before the lord the king, at the day and place within contained, to render to the within-named *A. B.* as within I am commanded; and the residue of the goods and chattels aforesaid still remain in my hands unsold, for want of buyers.

The answer, (&c.)

(§ 44.)

*Alias or pluries
feri facias.*

George the Third, (&c.) To the sheriff of — greeting: We command you, as before (or as oftentimes before) we have commanded you, that of the goods and chattels, &c. (as in the former writs, altering the return.)

(§ 45.)

*Non omittas
feri facias.*

George the Third, (&c.) To the sheriff of — greeting: We command you, that you do not omit by reason of any liberty in your county, but that you enter the same, and of the goods and chattels, &c. (as before.)

(§ 46.)

*Testatum fieri
facias, in as-
sumpsit.*

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded our sheriff of — that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.*

ods and chattels
value of — l.
day to day, and
— l. which mo-
the king, at the
o render to the
commanded; and
els aforesaid still
ant of buyers.
he answer, (Sc.)

he sheriff of —
efore (or as often-
d you, that of the
the former writs,

the sheriff of —
at you do not omit
county, but that
ods and chattels,

the sheriff of —
manded our sheriff
attels of C. D. in
o be made — l.
efore us at West-
for his damages
on occasion of the
and undertakings,
to the said A. B.

as

as for his costs and charges by him about his suit in that behalf expended; whereof the said C. D. was convicted, as appeared to us of record; and that the said sheriff of — should have that money before us at *Westminster*, on — next after — to render to the said A. B. for his damages aforesaid: And our said sheriff of — at that day returned to us, that the said C. D. had not any goods or chattels in his bailiwick, whereof he could cause to be made the damages aforesaid, or any part thereof: Whereupon on the behalf of the said A. B. it is sufficiently testified in our said court before us at *Westminster* aforesaid, that the said C. D. hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages aforesaid, and every part thereof: Therefore we command you, that of the goods and chattels of the said C. D. in your bailiwick, you cause to be made the said — l. for the damages aforesaid; and that you have that money before us at *Westminster*, on — next after —, to render to the said A. B. for his damages aforesaid; and have there then this writ. Witness, (Sc.)

Afterwards, that is to say, on the — day of — in this same term, the said A. B. comes here into court, by his attorney aforesaid, and prays the writ of the said lord the king of *feri facias*, to be directed to the sheriff of —, commanding him that of the goods and chattels of the said C. D. in his bailiwick, he cause to be made the damages (or debt and damages) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said

(§ 47.)
Entry of *feri facias* and *testatum* on the roll.

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A. B. at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the county aforesaid, thereupon returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* hath not any goods or chattels in his bailiwick; whereof he can cause to be made the damages (or debt and damages) aforesaid, or any part thereof: Whereupon on the behalf of the said *A. B.* it is sufficiently testified in the said court of the said lord the king before the king himself, that the said *C. D.* hath sufficient goods and chattels in the county of —, whereof the sheriff of that county may cause to be made the damages (or debt and damages) aforesaid, and every part thereof: And thereupon the said *A. B.* prays the writ of the said lord the king of *testatum feri facias*, to be directed to the sheriff of the said county of —, commanding him that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or debt and damages) aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said sheriff of — thereupon returns to the said lord the king at *Westminster* aforesaid, that he hath caused to be made of the goods and chattels of the said *C. D.* in his bailiwick, the sum of —*l.* which money he has paid to the said *A. B.* in part satisfaction of the damages (or debt and damages) aforesaid; and that the said *C. D.* hath not any other or more goods or chattels in his baili-

bailiwick, whereof he can cause to be made the residue of the damages (or debt and damages) aforesaid, or any part thereof.

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George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there; greeting: Whereas we lately commanded our sheriff of — that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made, &c. (reciting the former writ to the end): And our said sheriff of — at that day returned to us at *Westminster* aforesaid, that the said *C. D.* had not any goods or chattels in his bailiwick, whereof he could cause to be made the damages (or debt and damages) aforesaid, or any part thereof: Whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us at *Westminster* aforesaid, that the said *C. D.* hath sufficient goods and chattels in our said county-palatine, whereof the damages (or debt and damages) aforesaid may be made: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or debt and damages) aforesaid, so that you may have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 48.)

Testatum fieri facias, into a county-palatine.

George the Thrd, (&c.) To the sheriff of — greeting: Whereas we lately commanded our chancellor

(§ 49.)

The like, from a county-palatine.

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XLI.

cellor of our county-palatine of *Lancaster*, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, he should command the said sheriff, that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made, &c. (reciting the former writ): And our said chancellor of our said county-palatine at that day returned to us, that by virtue of the said writ to him directed, he had by another writ under the seal of our said county-palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said first-mentioned writ he was commanded; which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (or debt and damages) aforesaid, or any part thereof: Whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us at *Westminster* aforesaid, that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages (or debt and damages) aforesaid, and every part thereof: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made the damages (or debt and damages) aforesaid; and have that money, (&c.) and have there then this writ. Witness, (&c.)

(§ 30.)

The like, from one county-palatine to another.

George the Third, (&c.). To the reverend father in God — by divine permission, lord bishop of *Durham*, or to his chancellor there, greeting: Whereas we lately commanded our chancellor of

our

our county-palatine of *Lancaster*, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine of *Lancaster*, he should command the same sheriff, that he should cause to be made, &c. (reciting the former writ): And our said chancellor of our said county-palatine of *Lancaster* at that day returned to us, that by virtue of our said writ to him directed, he had by another writ, &c. (as in the last); which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (or debt and damages) aforesaid, or any part thereof: Whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us at *Westminster* aforesaid, that the said *C. D.* hath sufficient goods and chattels in your bishoprick, whereof you may cause to be made the damages (or debt and damages) aforesaid, and every part thereof: Therefore we command you, that by our writ under the seal of your said bishoprick to be duly made, and directed to the sheriff of the county of *Durham*, you command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the damages (or debt and damages) aforesaid; and have that money, (&c.) and have there the said writ. Witness, (&c.)

George the Third, (&c.) To the reverend father (§ 51.)
in God — by divine permission, lord bishop of *Fieri facias de*
— greeting: We command you, that of the ec- *bonis ecclesiasti-*
cis, in debt.

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clesiastical goods of *C. D.* clerk, in your diocese, you cause to be made a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also — *l.* which in our said court before us at *Westminster* aforesaid, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his debt and damages aforesaid: And whereupon our sheriff of — returned to us at *Westminster* aforesaid, on — next after — in this same term, (or in — term last past,) that the said *C. D.* had not any goods or chattels, or any lay fee, in his bailiwick, whereof he could cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* was a beneficed clerk, to wit, rector of the rectory (or vicar of the vicarage) and parish church of — in the said sheriff's county, and within your diocese; and have there then this writ. Witness, (&c.)

(§ 52.)
Entry thereof.

The sheriff was commanded, that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made a certain debt of — *l.* which *A. B.* lately in the court of the lord the king before the king himself here, recovered against him, and also — *l.* which in the same court here were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that

in your diocese,
of — *l.* which
at *Westminster*,
— *l.* which in our
aforesaid, were
damages which
on of the deten-
and charges by
pended; where-
appears to us of
ore us at *West-*
to render to the
ages aforesaid:
— returned to us
ext after — in
st past,) that the
attels, or any lay
could cause to be
said, or any part
was a beneficed
y (or vicar of the
— in the said
diocese; and have
(*r.*)

t of the goods and
he should cause to
which *A. B.* lately
fore the king him-
, and also — *l.*
e adjudged to the
he had sustained,
n of the said debt,
n about his suit in
that

that behalf expended, whereof the said *C. D.* was convicted; and that the said sheriff should have that money before the said lord the king here, on this day, that is to say, on — next after — to render to the said *A. B.* for his debt and damages aforesaid: And now here at this day, comes the said *A. B.* by — his attorney; and the sheriff now here returns, that the said *C. D.* hath no goods or chattels, nor any lay fee, in his bailiwick, whereof he can cause to be made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* is a beneficed clerk, to wit, rector of the rectory (or vicar of the vicarage) and parish church of — in the said sheriff's county, and within the diocese of —: Therefore it is commanded to the reverend father in God — by divine permission lord bishop of — that of the ecclesiastical goods of the said *C. D.* in his diocese, he cause to be made the debt and damages aforesaid; and that he have that money here, on — next after — to render to the said *A. B.* for his debt and damages aforesaid, &c.

George the Third, (Sc.) To the right reverend father in God — by divine permission, lord bishop of — greeting: Whereas we lately commanded our sheriff of — that he should cause to be made, &c. (reciting the former writ:) And whereupon our said sheriff of — on that day returned to us at *Westminster*, that the said *C. D.* was a beneficed clerk, to wit, rector of the rectory and parish church of — in the county of — and in your diocese, and had not any goods or chattels in his bailiwick, whereof he could cause to be made the said debt and damages, or any part thereof: Therefore we command

(§ 53.)
Sequestrari fecit.

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XLI.

command you, that you enter into the said rectory and parish church of — and take and sequester the same into your possession, and that you hold the same in your possession, until you shall have levied the said debt and damages, of the rents, tithes, oblations, obventions, fruits, issues and profits thereof, and other ecclesiastical goods of the said *C. D.* in your diocese, to render to the said *A. B.* for his debt and damages aforesaid; whereof the said *C. D.* is convicted: And what you shall do therein, make appear to us at *Westminster*, on — next after —; and have there then this writ. Witness, (&c.)

(§ 54.)
*Testatum fieri
facias for the
revenue, de bo-
nis ecclesiasticis.*

George the Third, (&c.) To the reverend father in God — by divine permission, lord bishop of — greeting: Whereas by our writ we lately commanded you, that of the ecclesiastical goods of *C. D.* clerk, in your diocese, you should cause to be made a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also — *l.* which in our said court before us at *Westminster* aforesaid, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* was convicted, as appeared to us of record; and that you should have that money before us at *Westminster*, on — next after — to render to the said *A. B.* for his debt and damages aforesaid: And whereupon our sheriff of — had then lately returned to us at *Westminster* aforesaid, that the said *C. D.* had no goods or chattels, nor any lay fee, in
his

&c.

the said rectory
and sequester
that you hold
you shall have
of the rents,
issues and pro-
fits of the said
the said *A. B.*
; whereof the
you shall do
Westminster, on —
then this writ.

reverend father
lord bishop of
we lately com-
mited goods of
could cause to be
A. B. lately in
Westminster, recovered
our said court
were adjudged
which he had sus-
tention of the
things by him about
whereof the said
to us of record;
they before us at
— to render to
damages aforesaid:
had then lately
said, that the said
any lay fee, in
his

AGAINST BENEFICED CLERKS.

his bailiwick, whereof he could cause to be made
the debt and damages aforesaid, or any part thereof;
and that the said *C. D.* was a beneficed clerk, to
wit, rector of the rectory (or vicar of the vicarage)
and parish church of —, in the said sheriff's coun-
ty, and within your diocese: And you at that day
returned to us, that by virtue of the said writ to
you directed, you had caused to be made of the ec-
clesiastical goods of the said *C. D.* in your diocese,
— *l.* parcel of the debt and damages aforesaid;
and that the said *C. D.* had no ecclesiastical goods
in your said diocese, whereof the residue of the
debt and damages aforesaid, or any part thereof,
could be made: Therefore we command you, that
of the ecclesiastical goods of the said *C. D.* in your
diocese, you cause to be made — *l.* residue of the
debt and damages aforesaid; and that you have that
money before us at *Westminster*, on — next after
— to render to the said *A. B.* for the residue of
his debt and damages aforesaid; and have there
then this writ. Witness, (&c.).

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XLI.

George the Third, (&c.) To the right reverend
father in God — by divine providence, archbishop
of *Canterbury*, primate of all *England*, and metropo-
litan, greeting: We command you, that of the ec-
clesiastical goods of *C. D.* clerk, in the diocese of
— which is within the province of *Canterbury*, as
ordinary of that church, the episcopal see of —
now being vacant, you cause to be made, &c. (as in
the last.)

(§55.)
Fieri facias to
the archbi-
shop, *de bonis*
ecclesiasticis,
during the va-
cancy of a bi-
shop's see.

— by divine permission, bishop of — To
our well-beloved in *Christ*, *E. F.* of — greeting: Whereas

(§56.)
Sequestration.

CHAP.
XLI.

Whereas we have with all due reverence, lately received his majesty's writ hereafter set forth, issuing out of his said majesty's court of King's Bench, in the words following, to wit: *George the Third, &c.* (here copy the *fieri facias de bonis ecclesiasticis* to the end, and then proceed as follows:) On which said writ, there was and is a certain indorsement in writing, directing us to levy — *l.* and the yearly payment of — *l.* besides all expences of sequestration and levy: We therefore, proceeding by virtue of and in obedience to the said writ, and inasmuch as in us lies duly executing the same, have sequestered all and singular the tithes, fruits, profits, oblations, obventions, and all other ecclesiastical rights and emoluments of and belonging to the rectory (or vicarage) and parish church of — in the county of — and diocese of —, of which the said *C. D.* mentioned in the said writ, is the present rector (or vicar), and by these presents do sequester the same, and give and grant unto you the said *E. F.* full power and authority to sequester, collect, levy, gather and receive all and singular the tithes, fruits, profits, oblations, obventions, and all other ecclesiastical rights and emoluments of and belonging to the rectory (or vicarage) and parish church of — aforesaid, and the same to sell and dispose of, and the money arising therefrom to apply to and for the due payment of the debt and costs in the said writ mentioned, subject to the said indorsement on the said writ, and also subject to a decree made and interposed by us, on the — day of — in the year of our Lord 18—, in a certain cause or business depending before us in judgment against the said *C. D.* that the said fruits, profits and emoluments what-

soever

soever of the said rectory (or vicarage) and parish church of — should be sequestered for and during the space of three years, to the end that the said parish church and cure of souls within the same might be duly supplied with the performance of divine service, and that the parsonage-house, together with the other buildings and fences on the premises, might be put and kept in substantial repair, and that all duties and impositions incumbent on the said rectory (or vicarage), might be discharged, and subject also to the execution of the same decree; and also to publish or cause to be published this our present sequestration, in the parish church of — aforesaid, during the celebration of divine service therein; and in such fit terms, and in such fit places, as to you shall seem most proper and expedient: hereby requiring you to take care and provide, that during this our present sequestration, the cure of souls within the said parish of — be well, duly and canonically supplied with the performance of divine service, by some fit and able minister, to be approved of or nominated by us or our successors, if occasion shall require, and that the said parsonage-house, together with the other buildings and fences on the premises, may be repaired and kept and continued in substantial repair, and all tenths, subsidies, procurations, synodals, and all other impositions, both ordinary and extraordinary whatsoever, incumbent on and payable out of the said rectory (or vicarage) be well and duly satisfied, answered and paid, during the continuance of this our present sequestration: and lastly, that you make and render before us, or our vicar-general and official principal, or other competent judge in this behalf, a true
just

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XLI.

just and faithful account of and upon your receipts and disbursements in your office of sequestrator, when and at such time or times as you shall be thereunto lawfully required: In witness whereof, we have caused the seal of office of the worshipful— doctor of laws, our vicar-general and official principal, which we use in this behalf, to be affixed to these presents. Dated at —, the — day of — in the year of our Lord 18—, and in the — year of our translation.

(§ 57.)

Fieri facias against an executor or administrator *de bonis propriis*, after a return of *devastavit*.

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded you, that of the goods and chattels which were of *E. F.* deceased at the time of his death, in the hands of *C. D.* executor of the last will and testament of the said *E. F.* (or administrator of all and singular the goods chattels and credits which were of the said *E. F.* at the time of his death, who died intestate) to be administered, in your bailiwick, you should cause to be made, &c. (reciting the *fieri facias de bonis testatoris*, &c.) And you at that day returned to us, that the said *C. D.* had no goods or chattels, which were of the said *E. F.* &c. (reciting the sheriff's return): Therefore we command you, that of the proper goods and chattels of the said *C. D.* in your bailiwick, you cause to be made the said — *l.* and have that money before us at *Westminster*, on — next after — to render to the said *A. B.* for his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 58.)

The like, after a *devastavit* returned on a *testatum fieri facias*.

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded our sheriff

of

of — that of the goods and chattels, &c. (reciting the first writ of *feri facias de bonis testatoris*, &c.) And our said sheriff of — at that day returned to us at *Westminster* aforesaid, that the said *C. D.* had no goods or chattels, &c. (reciting the sheriff's return of *nulla bona*, for which *vide ante*, p. 334.) Whereupon on behalf of the said *A. B.* it was sufficiently testified in our said court before us, that the said *C. D.* had sufficient goods and chattels, which were of the said *E. F.* at the time of his death, in the hands of him the said *C. D.* to be administered, in your bailiwick, whereof you might cause to be made the damages (or debt and damages) aforesaid; and we therefore commanded you, that of the goods and chattels, &c. (reciting the *testatum fieri facias de bonis testatoris*, &c.) And you at that day returned to us, &c. (reciting the return of *deceitavit*, for which *vide ante*, p. 334.) Therefore we command you, that of the proper goods and chattels of the said *C. D.* in your bailiwick, you cause to be made the damages (or debt and damages) aforesaid; and have that money, &c. (as in the last.)

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that of the goods and chattels of *C. D.* in your bailiwick, you should cause to be made — *l.* which *A. B.* then lately in our court before us at *Westminster*, had recovered against *C. D.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about

(§ 59.)

Fieri facias for the residue, in *assumpsit*.

his

CHAP.
XLI.

his suit in that behalf expended; whereof the said *C. D.* was convicted, as appeared to us of record; and that you should have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his damages aforesaid: And you at that day returned to us, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said *C. D.* — *l.* parcel of the damages aforesaid, which money you had ready at the day and place in the said writ contained, as by the said writ you were commanded; and that the said *C. D.* had not any other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages aforesaid; and have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for the residue of his damages aforesaid; and have there then this writ. Witness, (&c.)

(§ 60.)
The like, in
debt.

George the Third, (&c.) To the sheriff of —, greeting: Whereas we lately commanded you, that of the goods and chattels of *C. D.* in your bailiwick, you should cause to be made, &c. (to the end of the *fierifacias*): And you at that day returned to us at *Westminster*, that by virtue of the said writ to you directed, you had caused to be made of the goods and chattels of the said *C. D.* in your bailiwick, the sum of — *l.* parcel of the debt and damages aforesaid, which money you had ready before us, at the day and place in the said writ contained, as by the
said

said writ you were commanded; and that the said *C. D.* had not any other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the debt and damages aforesaid, or any part thereof: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the debt and damages aforesaid; and have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for the residue of his debt and damages aforesaid; and have there then this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — (§ 61.)
greeting: Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (to the end of the *fieri facias*, and then as follows): And our said sheriff of — at that day returned to us, that by virtue of the said writ to him directed, he had caused to be made of the goods and chattels of the said *C. D.* — *l.* parcel of the damages (or debt and damages) aforesaid; which money he had ready before us, at the day and place in the said writ contained, as by the said writ he was commanded; and that the said *C. D.* had not any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (or debt and damages) aforesaid, or any part thereof: And because it is sufficiently testified in our said court before us, that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof you may cause to be made the residue of the damages (or debt and damages)

Testatum fieri facias for the residue.

CHAP.
XLI.

aforsaid; therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (or debt and damages) aforsaid; and have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for the residue of his damages (or debt and damages) aforsaid; and have there then this writ. Witness, (&c.)

(§ 62.)

The like, where part had been levied upon a *testatum* to a former sheriff.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (here recite the first *feri facias*): And our said sheriff of — at that day returned to us, that the said *C. D.* had not any goods or chattels in his bailiwick, whereof he could cause to be made the damages (or debt and damages) aforsaid, or any part thereof: And thereupon, on behalf of the said *A. B.* it was sufficiently testified in our said court before us, that the said *C. D.* had sufficient goods and chattels in your county, whereof the damages (or debt and damages) aforsaid might be fully made; whereupon, by our certain other writ, we commanded the then sheriff of your said county, that of the goods and chattels of the said *C. D.* in his bailiwick, he should cause to be made the damages (or debt and damages) aforsaid; and that he should have that money before us at *Westminster*, on — next after — last past, to render to the said *A. B.* for his damages (or debt and damages) aforsaid: And the said then sheriff of your said county on that day returned to us, that by virtue of the said writ to him directed, he had caused to be made,

&c.

&c. (as in the last): And now on behalf of the said *A. B.* it is further sufficiently testified in our said court before us; that the said *C. D.* hath sufficient goods and chattels in your bailiwick, whereof the residue of the damages (or debt and damages) aforesaid may be fully made: Therefore we command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (or debt and damages) aforesaid; and have that money, &c. (as before, p. 320.)

CHAP.
XLI.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: Whereas by our writ we lately commanded our sheriff of —, that of the goods and chattels, &c. (reciting the first *feri facias*): And our said sheriff of — at that day returned to us, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the damages (or debt and damages) aforesaid, or any part thereof: And it was thereupon sufficiently testified in our said court before us, that the said *C. D.* had sufficient goods and chattels in our said county-palatine, whereof the damages (or debt and damages) aforesaid might be fully made: Whereupon by our writ of *testatum fieri facias*, we lately commanded our chancellor of our said county-palatine, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the said county; he should command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he should cause to be made

(§ 63.)
Thelike, where
the *testatum*
issued into a
county-palati-
ne.

CHAP.
XLI.

the damages (or debt and damages) aforesaid; and that the said sheriff should have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his damages (or debt and damages) aforesaid: And our said chancellor of our said county-palatine at that day returned to us, that by virtue of the said writ to him directed, he had by another writ under the seal of our said county-palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said writ of *testatum fieri facias* he was commanded; which said sheriff, in answer to the said last-mentioned writ, had returned to our said chancellor, that by virtue of the said writ to him directed; he had caused to be made, &c. (as in the two former writs): And now on behalf of the said *A. B.* it is further sufficiently testified in our said court before us, that the said *C. D.* hath sufficient goods and chattels in our said county-palatine, whereof the residue of the damages (or debt and damages) aforesaid may be fully made: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made — *l.* residue of the damages (or debt and damages) aforesaid; and that he have that money, &c. (as before, p. 320.)

George the Third, (&c.) To the sheriff of —
greeting: Whereas by our writ we lately commanded you, that of the goods and chattels, &c. (here recite the *feri facias* to the end): And you at that day returned to us at *Westminster* aforesaid, that by virtue of the said writ to you directed, you had taken goods and chattels of the said *C. D.* to the value of the damages (or debt and damages) aforesaid; which said goods and chattels remained in your hands unsold, for want of buyers: Therefore we being desirous that the said *A. B.* should be satisfied his damages (or debt and damages) aforesaid, command you, that you sell or cause to be sold the goods and chattels of the said *C. D.* by you in form aforesaid taken, and every part thereof, for the best price that can be got for the same, and at least for the damages (or debt and damages) aforesaid: And have the money arising from such sale, before us at *Westminster*, on — next after — to render to the said *A. B.* for his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of —
greeting: Whereas by our writ we lately commanded you, that of the goods and chattels, &c. (reciting the *feri facias*): And you at that day returned to us at *Westminster* aforesaid, that by virtue of the said writ to you directed, you had taken goods and chattels of the said *C. D.* to the value of — *l.* parcel of the damages (or debt and damages) aforesaid; which said goods and chattels remained in your hands unsold, for want of buyers, and therefore that you could not have that money before us at *West-*

CHAP.
XLI.

(§ 64.)

Venditioni exponas.

(§ 65.)

The like for part, and *feri facias* for the residue.

CHAP.
XLI.

minster, at the day aforesaid; and that the said *C. D.* had no other or more goods or chattels in your bailiwick, whereof you could cause to be made the residue of the damages (or debt and damages) aforesaid, or any part thereof, as by the said writ you were commanded: Therefore we command you, that you expose to sale the goods and chattels of the said *C. D.* by you in form aforesaid taken; and have the said — *l.* parcel, &c. before us at *Westminster*, on — next after —, to render to the said *A. B.* for so much of the damages (or debt and damages) aforesaid: We also command you, that of the goods and chattels of the said *C. D.* in your bailiwick, you cause to be made — *l.* residue of the damages (or debt and damages) aforesaid; and have that money, together with the said — *l.* parcel, &c. before us, at the day and place aforesaid, to render to the said *A. B.* for his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 66)
Entry of *venditioni exbonas*
and return,
and award of
pro factis for
the residue.

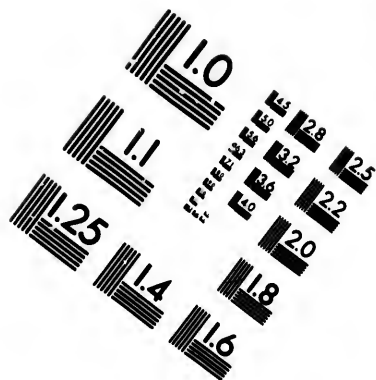
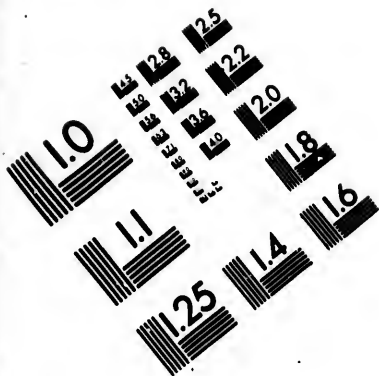
The sheriff was commanded, that of the goods and chattels of *C. D.* in his bailiwick, he should cause to be made — *l.* and that he should have that money before the lord the king at *Westminster*, on — next after —, to render to *A. B.* for his damages, (or debt and damages,) &c. (as in a *feri facias*): At which day, before the said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the sheriff returns, that by virtue of the writ of the said lord the king to him thereupon directed, he hath taken goods and chattels of the said *C. D.* to the value of — *l.* which remain in the hands of the said sheriff unsold, for want of buyers, where-

wherefore he cannot have the said money before the said lord the king at *Westminster*; on the day aforesaid; and that the said *C. D.* hath no other goods or chattels in the bailiwick of the said sheriff, whereof he can cause to be made any more of the money in the said writ contained: Therefore the sheriff is commanded, that he expose to sale the goods and chattels aforesaid, by him in form aforesaid; and that he have the money arising from the same, before the said lord the king at *Westminster*, on — next after —, to render to the said *A. B. &c.* The said sheriff is also commanded, that of the goods and chattels of the said *C. D.* in his bailiwick, he cause to be made — *l.* residue of the damages (or debt and damages) aforesaid; and that he have that money before the said lord the king at *Westminster*, on the day aforesaid, to render to the said *A. B.* for his damages aforesaid; the same day is given to the said *A. B.* there, &c.

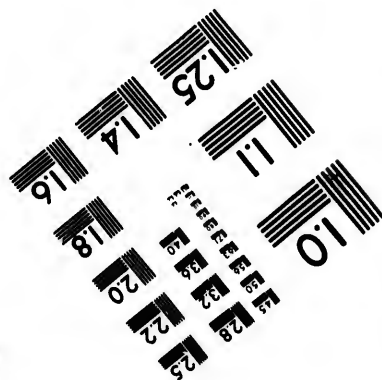
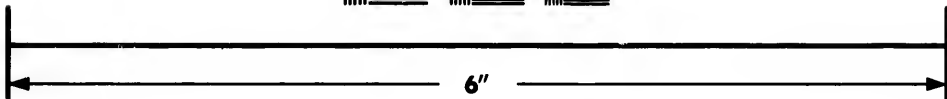
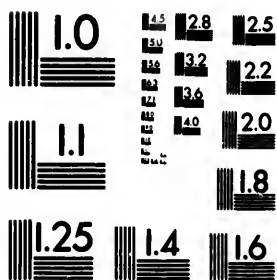
George the Third, (S.c.) To the sheriff of — greeting: We command you, that you distrain *E. F.* late sheriff of your county, by all his lands and chattels in your bailiwick, so that neither he, nor any one by him, do lay hands on the same, until you have another command from us in that behalf, and that you answer to us for the issues of the same; so that he expose to sale those goods and chattels which were of *C. D.* in your bailiwick, to the value of — *l.* which lately in our court before us were adjudged to *A. B.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges

(§ 67.)
Distringas nuper vicecomitem, to expose to sale goods taken on a fieri facias in assumpsit.





**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

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CHAP.
XLI.

charges by him about his suit in that behalf expended, whereof the said *C. D.* is convicted, as appears to us of record; and which goods and chattels he lately took by virtue of our writ, and which remain in his hands unsold for want of buyers, as the said late sheriff returned to us at *Westminster*, at the return-day of the writ aforesaid; and have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for his damages aforesaid; and have there then this writ. Witness, (&c.)

(§ 68.)

The like for
part, in debt,
and *feri facias*
for the residue.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain *E. F.* &c. (as in last writ, to the words “ issues of the same,” and then as follows:) so that he expose to sale those goods and chattels which were of *C. D.* in your bailiwick, to the value of — *l.* parcel of a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against him, and also — *l.* which in our said court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended, whereof the said *C. D.* is convicted, as appears to us of record; and which goods and chattels he lately took by virtue of our writ, and which remain in his hands unsold for want of buyers, as the said late sheriff returned to us at *Westminster*, on — last past; and have that money before us at *Westminster*, on — next after —, to render to the said *A. B.* for so much of his debt and damages aforesaid: We also command you, that of the goods and chattels of the said

said *C. D.* in your bailiwick, you cause to be made
 — *l.* residue of the debt and damages aforesaid ;
 and have that money before us at *Westminster*, on
 the day last aforesaid, to render to the said *A. B.* for
 the residue of his debt and damages aforesaid ; and
 have there then this writ. Witness, (&c.)

CHAP.
 XLI.

George the Third, (&c.) To the sheriff of — (§ 69.)
 greeting : Whereas *A. B.* lately in our court before *Elegit.*
 us at *Westminster*, by bill without our writ, (or by
original, by our writ,) and by the judgment of the
 same court, recovered against *C. D.* — *l.* which in
 our said court before us were adjudged to the said
A. B. for his damages which he had sustained, as
 well on occasion of the not performing certain pro-
 mises and undertakings then lately made by the said
C. D. to the said *A. B.* (or if in *debt*, “ recovered
 against the said *C. D.* a certain debt of — *l.* and
 also — which in our same court were adjudged
 to the said *A. B.* for his damages which he had sus-
 tained, as well on occasion of the detention of the
 said debt,”) as for his costs and charges by him
 about his suit in that behalf expended ; whereof the
 said *C. D.* is convicted, as appears to us of record :
 And afterwards, the said *A. B.* came into our court
 before us, and according to the form of the statute
 in such case made and provided, chose to be de-
 livered to him all the goods and chattels of the said
C. D. except the oxen and beasts of his plough,
 and also a moiety of all the lands and tenements of
 the said *C. D.* in your bailiwick ; to hold to him the
 said goods and chattels, as his proper goods and
 chattels,

CHAP.
XLI.

chattels, and to hold a moiety of the lands and tenements aforesaid to him and his assigns, as his freehold, according to the form of the said statute, until the damages (or debt and damages) aforesaid should be thereof fully levied: Therefore we command you, that without delay you cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* in your bailiwick, except the oxen and beasts of his plough, and also a moiety of all the lands and tenements in your bailiwick, whereof the said *C. D.* or any person or persons in trust for him, on the — day of — in the — year of our reign, (the day of signing judgment,) on which day the judgment aforesaid was given, or ever afterwards, was seized; to hold the said goods and chattels to the said *A. B.* as his proper goods and chattels, and also to hold the said moiety of the lands and tenements aforesaid to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the damages (or debt and damages) aforesaid shall be thereof fully levied; and what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after —, under your seal, and the seals of those by whose oath you shall make the said extent and appraisement; and have there then this writ. Witness, (*&c.*)

(§ 70.)

For an elegit against an heir and tertenants, vide post, p. 367.

(§ 71.)

Inquisition on
elegit.

— to wit. An inquisition indented, taken at — in the county of —, the — day of — in the — year of the reign of our sovereign lord
George

George the Third, by the grace of God of the united kingdom of Great-Britain and Ireland king, defender of the faith, and in the year of our Lord 18—, before me — sheriff of the county aforesaid, by virtue of his majesty's writ to me directed, and to this inquisition annexed, by the oath of *E. F.* (&c.) twelve honest and lawful men of the county aforesaid, who being sworn and charged, say upon their oath, that *C. D.* named in the said writ to this inquisition annexed, on the day of taking this inquisition, was possessed of the goods and chattels following, to wit, — of the price of —, &c. (here set out the goods, and the price or value of them,) as of his own proper goods and chattels; which said goods and chattels, I the said sheriff have caused to be delivered to the said *A. B.* to hold to him the said goods and chattels, as his own proper goods and chattels, in part satisfaction of his damages (or debt and damages) in the said writ mentioned: And the jurors aforesaid upon their oath further say, that the said *C. D.* on the — day of — in the — year of his said majesty's reign, being the day on which the judgment in the said writ specified was given, was seised in his demesne as of fee of and in one messuage, and one close of pasture thereto adjoining, with the appurtenances, containing by estimation — acres more or less, situate lying and being in the parish of — in the county aforesaid, and now or late in the tenure or occupation of —, and being of the clear yearly value of — *l.* in all issues, beyond reprises; and also of and in one other close, (&c.) and (if the premises are in mortgage, say) which said premises are subject to a mortgage made thereof

e lands and te-
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)
ertenants, vide
ented, taken at
— day of —
r sovereign lord
George

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thereof by the said *C. D.* to one *E. F.* of —, by indenture bearing date, (&c.) for the term of — years, at the yearly rent of one pepper-corn, subject to redemption, on payment of — *l.* and interest at *5l. per cent. per annum*, at a day since past: And the jurors aforesaid upon their oath aforesaid further say, that the said message, &c. (describing a moiety of the premises,) subject as aforesaid, are a true and equal moiety of all and singular the lands and tenements of the said *C. D.* in the said writ named, or any person or persons in trust for him, in my county; which said moiety I the said sheriff, on the aforesaid day of taking this inquisition, have caused to be delivered to the said *A. B.* in the said writ named, subject as aforesaid, by a reasonable price and extent; to hold to him and his assigns, as his free tenement, according to the form of the statute in such case made and provided, until he shall have thereof fully levied the said damages (or debt and damages) in the said writ specified, as by the said writ it is commanded: And lastly, the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* in the said writ named, on the aforesaid day of taking this inquisition, had not any other or more goods or chattels in my bailiwick; nor had he, or any person or persons in trust for him, on the day the judgment aforesaid was given, or at any time afterwards, any other or more lands or tenements in the county aforesaid, to the knowledge of the said jurors: In witness whereof, as well I the said sheriff, as the jurors aforesaid, have set our seals to this inquisition, on the day and year, and at the place aforesaid.

After-

Afterwards, that is to say, on — next after — then next following, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and according to the form of the statute in such case made and provided, chooses to be delivered to him all the goods and chattels of the said *C. D.* except the oxen and beasts of his plough, and also a moiety of all the lands and tenements of the said *C. D.* to hold to him the goods and chattels aforesaid, as his proper goods and chattels, and to hold a moiety of the lands and tenements aforesaid, to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the damages (or debt and damages) aforesaid shall be thereof fully levied; and he prays the writ of the said lord the king thereupon, to be directed to the sheriff of —, and it is granted to him, &c. returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* there, &c. At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — esquire, sheriff of the county aforesaid, now here returns the writ aforesaid to him in form aforesaid directed, in all things served and executed, together with a certain inquisition to the said writ annexed, taken before the said sheriff in the premises, by virtue of the said writ; which said inquisition follows in these words, that is to say: — to wit. An inquisition, &c. (here copy the inquisition.)

To —
George the Third, (&c.) To the sheriff of — (§ 75.)
 greeting: Whereas *A. B.* lately in our court be- *Re-elegit.*
 fore

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 XLI.

(§ 72.)

Award of *elegit*
 on the roll.

After-

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XLI.

fore us at *Westminster*, &c. (reciting the first writ.) And you on that day returned to us at *Westminster*; a certain inquisition indented, taken before you at —, on the — day of — last past, by the oath, (&c.) whereby it is found, &c. (reciting the return :) And because we are now given to understand in our said court before us, that the said *C. D.* at the time of giving the judgment aforesaid and afterwards had, and still hath divers other lands and tenements in your county, besides those which are mentioned in the return above set forth, one moiety of which said other lands and tenements the said *A. B.* ought also to have in execution, for the more speedy recovery of his damages (or debt and damages) aforesaid; wherefore the said *A. B.* hath humbly besought us, that he may so have them, according to due course of law: Therefore we command you, that you cause to be delivered to the said *A. B.* in the presence of the said *C. D.* to be warned on that occasion if he will attend, a moiety of all the other lands and tenements of the said *C. D.* in your bailiwick, as well as of those whereof a moiety is before extended in execution, for the payment of the damages (or debt and damages) aforesaid; to hold to the said *A. B.* and his assigns, as his freehold, according to the form of the statute aforesaid, until the damages (or debt and damages) aforesaid shall be thereof fully levied: And in what manner you shall have executed this our writ, &c. (as before, p. 362.)

(§ 74.)
Elegit for the
residue, after a
feri facias.

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before
us at *Westminster*, by bill without our writ, (or by
original,

original, by our writ,) and by the judgment of the same court, recovered, &c. (as in a common *elegit*, to the words, "as appears to us of record,") and whereupon by our writ we lately commanded you, that of the goods and chattels, &c. (reciting the *feri facias* :) And you at that day returned, &c. (reciting the return :) And afterwards the said *A. B.* came into our court before us, and chose to be delivered to him all the goods and chattels of the said *C. D.* in your bailiwick, except the oxen and beasts of his plough, and also a moiety of all the lands and tenements of the said *C. D.* in your bailiwick, by a reasonable price and extent; to hold to him and his assigns, according to the form of the statute in such case made and provided, until — *l.* residue of the damages (or debt and damages) aforesaid, should be thereof fully levied: Therefore we command you, &c. (as in a common *elegit*, to the words "according to the form of the statute aforesaid,") until the said — *l.* residue of the damages (or debt and damages) aforesaid, shall be thereof fully levied; and in what manner you shall have executed this our writ, &c. (as before, p. 362.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* gentleman deceased lately in our court before us at *Westminster*, by bill without our writ, and by the consideration and judgment of the same court, recovered against *C. D.* and *E. F.* as well a certain debt of — *l.* as also — *s.* which in our same court were adjudged to the said *A. B.* for his damages which he had sustained, as well by reason of the detention of that debt, as for his costs and charges by him about his

The like, for an administrator *cum testamento annexo*, against an heir and tenants, on a judgment in debt against several defendants, revived by *scire facias*.

suit.

CHAP.
XLI:

suit in that behalf expended; whereof the said *C. D.* and *E. F.* were convicted, as appears to us of record: And whereas for the levying of the debt and damages aforesaid, we lately commanded our late sheriff of —, that he should not omit by reason of any liberty in his county, but enter the same, and of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he should cause to be levied the debt and damages aforesaid; and that he should have the said monies before us at *Westminster*, on — next after —, to render to the said *A. B.* for his debt and damages aforesaid: And our said late sheriff at that day returned to us at *Westminster* aforesaid, that of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he had caused to be levied the sum of —*l.* parcel of the debt and damages aforesaid; and that they had no other goods and chattels in his bailiwick, whereof he could cause to be made the residue of the debt and damages aforesaid, or any part thereof: And although judgment be thereupon given, yet execution for —*l.* being the residue of the debt and damages aforesaid, still remains to be made; and as well the said *A. B.* as the said *C. D.* and *E. F.* after the rendering of the judgment aforesaid, respectively died, as by the information of *G. II.* gentleman, administrator of all and singular the goods, chattels and credits which were of the said *A. B.* at the time of his death, with the will of the said *A. B.* annexed, we were given to understand; wherefore the said *G. II.* administrator as aforesaid, humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, by our writ lately com-

commanded our late sheriff of —, that by honest and lawful men of his bailiwick, he should make known to the heir and tenants of all and singular the lands and tenements in his bailiwick, whereof the said *C. D.* on the — day of — in the — year of our reign, on which day the aforesaid judgment was given, or ever afterwards, was seised in fee-simple, that they should be before us at *Westminster*, on — next after —, to shew if they had or could say any thing for themselves, why the said — *l. residue, &c.* ought not to be made of those lands and tenements, and rendered to the said *G. H.* as administrator as aforesaid, for the residue of the debt and damages aforesaid, according to the form and effect of the said recovery, if it should seem expedient for him so to do; and also that by honest and lawful men of his bailiwick, in like manner he should make known to the heir and tenants of all and singular the lands and tenements in his bailiwick, whereof the said *E. F.* on the said — day of — in the — year aforesaid, on which day the aforesaid judgment was given, or ever afterwards, was seised in fee-simple, that they should be before us at *Westminster*, on the said — next after —, to shew if they had or could say any thing for themselves, why the said — *l. residue, &c.* ought not to be made of those last-mentioned lands and tenements, and rendered to the said *G. H.* as administrator as aforesaid, for the residue of the debt and damages aforesaid, according to the form and effect of the said recovery, if it should seem expedient for him so to do; and further to do and receive what our said court before us should then and there consider of the said several and respective heirs and

CHAP.
XLI.

tenants in this behalf; and that the said late sheriff should have then there the names of those by whom he should so make it known to us, and that writ: And our said late sheriff at that day certified and returned to us at *Westminster* aforesaid, that by virtue of the said writ to him directed, he had by — and — good and lawful men of his bailiwick, given notice to *J. K.* son and heir of the said *C. D.* in the said writ named, and tenant of the several messuages, cottages, lands and tenements herein after particularly mentioned, to wit, two messuages, (&c.) with the appurtenances, in the parish of — in his bailiwick, in the possession and occupation of —, which were the messuages, cottages, lands and tenements of the said *C. D.* in his life-time, on the day of giving the judgment in the said writ mentioned, of which the said *C. D.* then and afterwards was seized in fee-simple, to be and appear before us at *Westminster*, at the day and place in the said writ specified, to shew in manner therein also mentioned: And our said late sheriff further certified, that there were no other tenants, nor was there any other tenant, of any other lands or tenements in his said bailiwick, whereof the said *C. D.* on the day of giving the said judgment, or ever afterwards, was seized in fee-simple, to whom he could make known, as by the said writ he was commanded: And our said late sheriff further certified, that there was no heir, nor were there any tenants, nor was there any tenant, of any lands or tenements in his said bailiwick, whereof the said *E. F.* in the said writ named, on the day of giving the said judgment, or ever afterwards, was seized in fee-simple, to whom he could make known, as

by

by the said writ he was also commanded: And such proceedings were thereupon had, in our said court before us at *Westminster*, that it was afterwards considered in our same court, that the said *G. H.* should have his execution against the said *J. K.* of the said — *l.* residue of the debt and damages aforesaid, to be levied of the lands and tenements, whereof the said *C. D.* was returned tenant as aforesaid, according to the force form and effect of the said recovery, by the default of the said *J. K.* &c. And afterwards the said *G. H.* came into our said court before us at *Westminster* aforesaid, and according to the form of the statute in such case made and provided, chose to be delivered to him, one moiety of the lands and tenements last aforesaid; to hold to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the said — *l.* residue of the debt and damages aforesaid should be thereof fully levied: Therefore we command you, that without delay you cause to be delivered to the said *G. H.* by a reasonable price and extent, one moiety of the lands and tenements aforesaid, with the appurtenances; to hold to him and his assigns, as his freehold, according to the form of the statute aforesaid, until the said — *l.* residue of the debt and damages aforesaid shall be thereof fully levied: And in what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after — under your seal, and the seals of those by whose oath you shall make the said extent and appraisement; and have there then this writ. Witness, (*Sc.*)

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XLI.

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XLI.

(§ 75.)

Immediate extent, for the king's debt, on a judgment of the Exchequer.

George the Third, (&c.) To the sheriff of — greeting: Whereas by judgment of the barons of our Exchequer at *Westminster*, given on — we have lately recovered against *C. D.* the sum of — *l.* of lawful money of *Great Britain*, as by the records of our Exchequer appears: Now we being willing to be satisfied the said — *l.* so due to us, with all the speed we can, as is just, do command you, that you omit not by reason of any liberty, but enter the same, and take the said *C. D.* by his body, wherever he shall be found in your bailiwick, and keep him safely and securely in prison, till we shall be fully satisfied the said debt; and that as well on the oath of honest and lawful men of your bailiwick, and by the testimony on oath of any other honest and lawful men, by whom the truth may be the better known, as by all other lawful means, you diligently inquire what lands and tenements, and of what yearly values, the said *C. D.* had in your bailiwick, on the — day of — in the — year of our reign, when the said *C. D.* first became indebted to us in the said money, or at any time after, until now; and what goods and chattels, and of what sorts and prices, and what debts, credits, specialties and sums of money, the said *C. D.* or any person or persons to his use, or in trust for him, now hath in your said bailiwick: And that by the oath of the aforesaid honest and lawful men, you cause all and singular the said goods and chattels, lands and tenements, debts, credits, specialties and sums of money, in whose hands soever they now are, to be carefully appraised and extended, and to be taken and seized into our hands, that we may retain them, until we shall be fully satisfied our
said

said debt, according to the form of the statute made and provided for the recovery of such our said debts: And we further command you, and give and grant you power by these presents, to summon before you whomsoever it may be proper to examine in the premises, and to examine them carefully touching the same, that this our present command may not remain to be further executed: And in what manner you shall have executed this our command, you make distinctly and plainly appear to the barons of our Exchequer at *Westminster*, on the — day of — next; and that you have there then this writ: Provided that you do not sell or cause to be sold those goods and chattels, which you shall seise into our hands by virtue hereof, until you shall have another command from us. Witness Sir *Archibald Macdonald* knight, the — day of — in the — year of our reign. By the remembrance-rolls; and by the said statute; and by the barons.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* of — and *E. F.* of — by their writing obligatory, sealed with their seals, bearing date, (&c.) are jointly and severally bound to us, in the sum of — *l.* of good and lawful money of *Great Britain*, payable at a certain day now past, and which sum they have not, nor hath either of them, as yet paid or caused to be paid to us, as it is said: And we being desirous to be satisfied the said sum of — *l.* now due to us, with all the speed we can, as is just, command you, that you omit not entering by any liberty, and as well by the oath of honest and lawful men of your bailiwick, and

(§ 76.)
The like, for a
bond-debt.

CHAP.
XII.

by the testimony on oath of any other honest and lawful men of your said bailiwick, by whom the truth of the matter may be the better known, as by all other ways, means and methods, by which you can or may the better be informed or enabled, you diligently inquire what debts, credits, specialties and sums of money the said *C. D.* now hath in your said bailiwick; and that by the oath of the aforesaid honest and lawful men, you cause all and singular the aforesaid debts, credits, specialties and sums of money, in whose hands soever they now are, to be carefully appraised and extended, &c. (as in the last, to the words "have there then this writ"). Witness Sir *Archibald Macdonald*, (&c.) By the writing obligatory aforesaid; by the aforesaid act of parliament, made in the 33d year of the reign of the late king *Henry* the Eighth; by warrant; and by the barons,

(§ 77.)
Return there-
to.

The execution of this writ appears in the inquisition hereunto annexed.

The answer of — sheriff.

(§ 78.)
Inquisition.

— to wit. An inquisition indented, taken at —, the — day of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God, of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, before me — sheriff of the county aforesaid, by virtue of the king's writ to me directed, which is hereunto annexed, on the oath of *G. H.* (&c.) honest and lawful men of my bailiwick,
who

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XLI.

who being sworn and charged, on their oath say that *J. K.* of — made a note in writing, bearing date, (&c.) with his own proper hand thereunto subscribed, and thereby — after date of the said note, promised to pay *L. M.* or his order, the sum of — *l.* value received; which said note was indorsed by the said *L. M.* to *C. D.* in the writ hereunto annexed named; whereby, and by force of the statute in such case made and provided, they became severally liable to pay to the said *C. D.* the said sum of money in the said note mentioned, according to the tenor and effect of the said note, and of the said indorsement so made thereon as aforesaid; which said debt of — *l.* so due as aforesaid, I the said sheriff, on the day of taking this inquisition, have seised and taken into his majesty's hands, according to the command of the said writ: And the jurors aforesaid on their said oath further say, that the said *C. D.* on the day of taking this inquisition, hath not any other or more debts, credits, specialties or sums of money, in my said bailiwick, to the knowledge of the said jurors, which can be seised or taken into his said majesty's hands, by virtue of the said writ. In witness whereof, as well I the said sheriff, as the jurors aforesaid, to this inquisition have set our seals, the day year and place first above-mentioned.

George the Third, (&c.) To the sheriff of — (*§ 79.*)
greeting: Whereas *C. D.* of — and *E. F.* of — Extent in aid,
by their writing obligatory, sealed with their seals,
bearing date, (&c.) are jointly and severally bound
to us, in the sum of — *l.* of good and lawful mo-
ney of *Great Britain*, payable at a certain day now
past,

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past, and which sum they have not nor hath either of them as yet paid or caused to be paid to us, as it is said: And whereas by an inquisition indented, taken at —, the — day of — in the — year of our reign, before — sheriff of our said county of — by virtue of our writ of extent under the seal of our Exchequer at *Westminster*, against the said *C. D.* to the said sheriff of — directed, it is found on the oath of *G. H.* and others, good and lawful men of the said sheriff's bailiwick, that *J. K.* of — made a note in writing bearing date, (*Sc.*) with his own proper hand thereunto subscribed, and thereby — after date of the said note, promised to pay *L. M.* or his order, the sum of — *l.* value received; which said note was indorsed by the said *L. M.* to the said *C. D.* in the said writ named; whereby, and by force of the statute in such case made and provided, they became severally liable to pay to the said *C. D.* the said sum of money in the said note mentioned, according to the tenor and effect of the said note, and of the said indorsement so made thereon as aforesaid; which said debt of — *l.* so due as aforesaid, the said sheriff, on the day of taking the said inquisition, hath seised and taken into his majesty's hands, according to the command of the said writ; as by the said writ and return thereof, and the said inquisition thereto annexed, certified into our said Exchequer, and there remaining in custody of our remembrancer, may more fully appear: And we being desirous to be satisfied the said sum of — *l.* now due to us, with all the speed we can, as is just, command you that you omit not entering any liberty, but that you take the bodies of the said *J. K.* and *L. M.* and keep them

them safely in our prison, until they have fully satisfied us the said debt; and that as well by the oath of good and lawful men of your bailiwick, and by the testimony on oath of any other honest and lawful men of your said bailiwick, by whom the truth may be the better known, as by all other ways means and methods by which you can or may be the better informed and enabled, you diligently inquire what lands and tenements, and of what yearly values, the said *J. K.* and *L. M.* had in your bailiwick, and also what goods and chattels, and of what sorts and prices, and what debts, credits, specialties and sums of money the said *J. K.* and *L. M.* now have, or any other person or persons in trust for them or either of them hath or have in your bailiwick; and that by the oath of the aforesaid honest and lawful men, you cause all and singular the said goods and chattels, lands and tenements, debts, credits, specialties and sums of money, in whose hands soever they now are, to be carefully appraised and extended, &c. (as before, p. 372, 3. to the *teste*, and conclude as follows:) By the writ and inquisition aforesaid; by warrant of the lord chief-baron; by the aforesaid act of parliament, &c. and by the barons.

George the Third, (&c.) To the sheriff of ———
greeting: Whereas by an inquisition taken before you, the ——— day of ——— last, by virtue of our writ of extent, issued out of and under the seal of our Exchequer, against *C. D.* to you directed, it was found that *J. K.* of ——— made a note in writing, bearing date; &c. (as in the inquisition;) which said debt

(§ 80.)
Supersedes
thereon.

debt
them

CHAP.
XLI.

debt of — *l.* so due as aforesaid, you have seised and taken into our hands, according to the command of the said writ; as by the said writ of extent and inquisition thereon taken, returned and filed in our said Exchequer, and there remaining in the custody of our remembrancer, more fully and at large appears: And whereas by our writ of extent, tested the — day of — last, issued out of and under the seal of our Exchequer, to you directed, against the said *J. K.* we have, amongst other things, commanded you, that you should not omit by reason of any liberty, but that you should enter the same, and take the body of the said *J. K.* and him safely and securely keep in our prison, until he should fully satisfy us the said debt of — *l.* and that you should likewise extend take and seise into our hands, all the lands, tenements, goods and chattels, debts, credits, specialties, sum and sums of money of him the said *J. K.* which you should find in your bailiwick, there to remain, until we should be fully satisfied our said debt: Nevertheless, for certain reasons the barons of our said Exchequer thereunto especially moving, we command you, that if the said *J. K.* now remains in your custody on that and no other account, that you do forthwith release him, and let him go at large; and if you have by virtue of the said writ, taken and seized into our hands any goods or chattels, lands or tenements, debts, credits, specialties, sum or sums of money whatsoever, of him the said *J. K.* you do forthwith re-deliver or cause the same to be re-delivered to the said *J. K.* or his assigns, by virtue of these presents; any thing in the said former writ to the contrary

trary notwithstanding. Witness Sir *Archibald Mac-*
donald knight, the — day of — in the —
 year of our reign. By the barons.

CHAP.
 XLI.

George the Third, (&c.) To the sheriff of —
 greeting: We command you, that you take the
 body of *C. D.* of — if he be a layman, and shall
 be found in your bailiwick, and him safely keep in
 our prison, until he shall fully satisfy *A. B.* of —*l.*
 which the said *C. D.* on the — day of — in the
 — year of our reign, before — esquire, then
 mayor of the city of —, and — gentleman
 town-clerk of the same city, then being the clerk
 deputed and assigned to take recognizances of debts
 in the city aforesaid, according to the form of the
 statute-merchant, acknowledged himself to owe to
 the said *A. B.* and which he ought to have paid to
 him on the feast of — then next following, but
 which he hath not yet paid to him, as it is said;
 and in what manner you shall have executed this our
 writ, make known to us at *Westminster*, on —
 next after —; and have there then this writ.
 Witness, (&c.)

(§ 81.)

Copias si laicus,
 on a statute-
 merchant.

George the Third, (&c.) To the sheriff of —
 greeting: Whereas by our writ we commanded
 you, that you should take the body of *C. D.* of —
 if he was a layman, and should be found in your
 bailiwick, and him safely keep in our prison, until
 he should fully satisfy *A. B.* of —*l.* which the
 said *C. D.* on the — day of — in the —
 year of our reign, before — esquire, then mayor
 of

(§ 82.)

Extent there-
 on.

CHAP.
XLI.

of the city of —, and — gentleman town-clerk of the same city, then being the clerk deputed and assigned to take recognizances of debts in the city aforesaid, according to the form of the statute-merchant, acknowledged himself to owe to the said *A. B.* and which he ought to have paid to him on the feast of — then next following, but which he had not then paid to him, as it was said; and in what manner you should have executed that our writ, you should make known to us at *Westminster*, on — next after —: And you at that day returned to us at *Westminster*, that the said *C. D.* is a layman, and not found in your bailiwick: Therefore we command you, that without delay you cause to be delivered to the said *A. B.* by a reasonable price and extent, all the goods and chattels of the said *C. D.* and all the lands and tenements in your bailiwick, of which the said *C. D.* on the aforesaid day of acknowledging the debt aforesaid, or ever afterwards, was seised, to whose hands soever they have come, unless they have descended to any one, being within age, by hereditary descent; to hold the goods and chattels aforesaid to the said *A. B.* as his proper goods and chattels, and the lands and tenements aforesaid, as his freehold, to him and his assigns, according to the form of the statute in such case made and provided, until he shall have levied thereof the debt aforesaid, together with his damages, and all necessary and reasonable costs in labours, suits, delays and expences; and nevertheless, that you take the body of the said *C. D.* if he shall be found in your bailiwick, and him safely keep in our prison; until he shall fully satisfy the said *A. B.* of the debt aforesaid;

gentleman town-
 being the clerk deputed
 izances of debts in the
 the form of the statute-
 himself to owe to the said
 to have paid to him
 next following, but
 to him, as it was said;
 ld have executed that
 own to us at *Westmin-*
 And you at that day
 that the said *C. D.* is
 ur bailiwick: There-
 without delay you
 d *A. B.* by a reason-
 goods and chattels of
 ds and tenements in
 said *C. D.* on the
 the debt aforesaid,
 d, to whose hands
 they have descended
 hereditary descent;
 foresaid to the said
 chattels; and the
 s his freehold, to
 o the form of the
 provided, until he
 debt aforesaid, to-
 necessary and rea-
 delays and ex-
 u take the body of
 nd in your baili-
 our prison, until
 . *B.* of the debt
 aforesaid;

aforesaid; and in what manner, &c. (as before,
 p. 379.)

CHAP. XLI.

George the Third, (&c.) To the sheriff of —
 greeting: We command you, that of the moveable
 goods and chattels of *C. D.* parson of the church of
 — in your bailiwick, without delay you cause to
 be levied — *l.* which the said *C. D.* on — be-
 fore, (&c.) acknowledged, &c. (as in the *capius si*
laicus, to the words "as it is said"); and that you
 cause the said *A. B.* to have the same; and in what
 manner, &c. (as before, p. 379.)

(§ 83.)

Levari, against a clerk.

George the Third, (&c.) To the sheriff of —
 greeting: Because *C. D.* of — on the — day of
 — in the — year of our reign, before —
 of — mayor of our staple of —, deputed to
 take recognizances of debt in the same staple, ac-
 knowledged himself to owe to *A. B.* of — — *l.*
 (&c.) which he ought to have paid to him on the
 feast of — then next following, but which he
 hath not yet paid to him, as it is said: We com-
 mand you, that you take the body of the said *C. D.*
 if he be a layman, and shall be found in your baili-
 wick, and safely keep him in our prison, until he
 shall fully satisfy the said *A. B.* of the debt afore-
 said; and that by the oath of honest and lawful men
 of your bailiwick, by whom the truth of the matter
 may be the better known, you diligently cause to
 be extended and appraised, and to be taken into
 our hands, all the lands and tenements and chattels
 of the said *C. D.* in your bailiwick, according to
 the true value of the same; and cause them to be
 delivered to the said *A. B.* until he shall be fully
 satisfied

(§ 84.)

Extent, on a statute-staple.

CHAP.
XLI.

satisfied of the debt aforesaid, according to the form of the ordinance thereof made; and in what manner you shall have executed this our command, make known to us in our Chancery, on — next coming, wheresoever, &c. by your letters sealed; and have there this writ. Witness, (&c.)

(§ 85.)
Liberate there-
on;

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* of — on, &c. (reciting the last writ, to the words “by your letters sealed,” and then as follows:) And you have returned to us, that the said *C. D.* was not found in your bailiwick, after our writ was delivered to you, but that you have taken into our hands all the lands and tenements and chattels of the said *C. D.* in your said bailiwick, and caused them to be extended and appraised, according to the tenor of our writ aforesaid, to wit, — messuages, which are appraised at — *l.* (&c.): Therefore we command you, that you deliver to the said *A. B.* all the lands and tenements and chattels aforesaid, by you so taken into our hands, if he will have them, by the extent and appraisement aforesaid; to hold according to the form of the ordinance aforesaid, until he shall be satisfied of his debt aforesaid; and in what manner, &c. (as in the last writ).

(§ 86.)
Extent against
an heir, upon a
special judg-
ment.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ (or by original, by our writ,) and by the judgment of the same court, recovered against *C. D.* son and heir of *E. F.* deceased, a certain debt of — *l.* and also — *l.* which in our said court before us were adjudged

judged to the said *A. B.* for his damages, (&c.) to be levied of the lands and tenements which were of the said *E. F.* in fee-simple at the time of his death, in the hands of the said *C. D.* whereof the said *C. D.* is convicted, as appears to us of record: Therefore we command you, that by the oath of honest and lawful men of your bailiwick, you diligently inquire of what lands and tenements the said *E. F.* was seised in fee-simple at the time of his death, and which descended to the said *C. D.* as son and heir of the said *E. F.* by hereditary right, after the death of the said *E. F.* and of which the said *C. D.* on the — day of — in the — year of our reign, on which day the said *A. B.* exhibited his bill (or sued out his original writ) for the debt aforesaid, against the said *C. D.* was seised in his demesne as of fee, and how much those lands and tenements with the appurtenances are worth by the year, in all issues beyond reprises, according to the true value of the same; and when the said inquisition shall have been by you so made, that without delay you deliver the said lands and tenements with the appurtenances to the said *A. B.* to hold to him and his assigns, as his freehold, until the damages (or debt and damages) aforesaid shall be thereof fully levied; and in what manner you shall have executed this our writ, make appear to us at *Westminster*, on — next after — under your seal, and the seals of them by whose oath you shall make the said extent and appraisement; and have there then the names of them by whose oath you shall make the said extent and appraisement, and this writ. Witness, (&c.)

George

ding to the form
in what manner
command, make
— next coming,
sealed; and have

the sheriff of —
— on, &c. (re-
s “ by your let-
) And you have
was not found in
delivered to you,
mands all the lands
said *C. D.* in your
to be extended and
of our writ afore-
which are appraised
command you, that
the lands and te-
y you so taken into
by the extent and
according to the
, until he shall be
d in what manner,

the sheriff of —
in our court before
at our writ (or by
e judgment of the
D. son and heir of
f — *l.* and also
before us were ad-
judged

CHAP.

XLI.

(§ 87.)

The like, on a
general judg-
ment.

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before
us at *Westminster*, by bill without our writ (or by
original, by our writ), and by the judgment of the
same court, recovered against *C. D.* son and heir of
E. F. deceased, a certain debt of — *l.* and also
— *l.* which in our said court before us were ad-
judged to the said *A. B.* for his damages, (&c.)
whereof the said *C. D.* is convicted, as appears to
us of record: And afterwards, the said *A. B.* came
into our said court before us, and prayed to be de-
livered to him all the lands and tenements of the said
C. D. in your county, which descended to the said
C. D. from the said *E. F.* his father in fee-simple,
whereof the said *C. D.* on the — day of — in
the — year of our reign, on which day the said
A. B. exhibited his bill (or sued out his original
writ) for the debt aforesaid against him, was seised:
But because it is unknown, what lands and tenements
the said *C. D.* on the aforesaid day of exhibiting
the bill (or suing out the original writ) aforesaid,
had by hereditary descent from the said *E. F.* his
father; we command you, that by the oath of ho-
nest and lawful men of your bailiwick, you dili-
gently inquire what lands and tenements the said
C. D. on the same day of exhibiting the bill (or
suing out the original writ) aforesaid, had by he-
reditary descent from the said *E. F.* his father, and
how much those lands and tenements are worth by
the year, according to the true value of the same,
in all issues beyond reprises; and when the said
inquisition shall have been by you diligently made,
that without delay you deliver to the said *A. B.* the
said lands and tenements with the appurtenances,
according

according to the true value of the same; to hold to the said *A. B.* and his assigns, as his freehold, until the damages (or debt and damages) aforesaid shall be thereof fully levied; and in what manner you shall have executed this our writ, make appear, &c. (as before, p. 393.)

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XLI.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after — to satisfy *A. B.* of — *l.* which the said *A. B.* lately in our court before us at *Westminster*, recovered against him, for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record; and have there then this writ. Witness, (&c.)

(§ 89.)

Capias ad satisfaciendum, in assumptis.

Waj.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after — to satisfy *A. B.* of a certain debt of — *l.* which the said *A. B.* lately in our court before us at *Westminster*, recovered against him, and also — *l.* which in our said court before us, were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of that debt, as for his

(§ 89.)

The like, in debt.

Cc

costs

CHAP.
XLI.

costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record; and have there then this writ. Witness, (&c.)

In *assumpsit* or debt by or against surviving partners, or by or against executors or administrators, and in covenant, case, and trespass, the form of the writ varies, in like manner as the *feri facias*; for which *vide ante*, p. 320, &c.

(§ 90.)
The like, to a
county-palatine.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: We command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, you command the said sheriff, that he take *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us at *Westminster*, on — next after — to satisfy *A. B.* of — *l.* (or of a certain debt of — *l.*) &c. (as in a common *capias ad satisfaciendum*, to the end).

(§ 91.)
Entry and
award of *capias*
ad satisfaciendum,
and *testatum*.

Afterwards, to wit, on the — day of — in this same term, the said *A. B.* comes here into court by his attorney aforesaid, and prays the writ of the lord the king of *capias ad satisfaciendum*, to be directed to the sheriff of — commanding him, that he take the said *C. D.* if he be found in his bailiwick, and him safely keep, so that he may have his body before the said lord the king at *Westminster*, on — next after — to satisfy the said *A. B.* his damages (or debt and damages) aforesaid; and

it is granted to him, &c.; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the county aforesaid, now here returns to the said lord the king at *Westminster* aforesaid, that the said *C. D.* is not found in his bailiwick: Whereupon the said *A. B.* prays another writ of the said lord the king of *capias ad satisfaciendum*, to be directed to the said sheriff of — commanding him in form aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the sheriff hath not sent the said last-mentioned writ, nor hath he done any thing thereupon; whereupon on behalf of the said *A. B.* it is sufficiently testified in the said court of the said lord the king before the king himself, that the said *C. D.* runs up and down and secretes himself in the county of —; and thereupon the said *A. B.* prays the writ of the said lord the king of *testatum capias ad satisfaciendum* against the said *C. D.* to be directed to the sheriff of the said county of — commanding him in form aforesaid; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place.

CHAP.

XLI.

(§ 92.)

Return of cepi corpus.

I have taken the within-named *C. D.* whose body I have ready, at the day and place within contained, as within I am commanded.

The answer of ——— sheriff.

(§ 93.)

Non est inventus.

The within-named *C. D.* is not found in my bailiwick.

The answer, (&c.)

(§ 94.)

Mandavi ballivo.

By virtue of this writ to me directed, I made my mandate to the bailiff of *E. F.* esquire, of his liberty of ——— who hath the execution and return of all writs and process within the said liberty, and without whom no execution of this writ could be made by me within the same; which said bailiff hath not given me any answer thereto. (Or, hath answered me thus: I have taken the within-named *C. D.* whose body I have ready, &c.)

The answer, (&c.)

(§ 95.)

Alius or pluries capias ad satisfaciendum.

George the Third, (&c.) To the sheriff of ——— greeting: We command you, as before (or as oftentimes before) we have commanded you, that you take, &c. (as in the former *capias ad satisfaciendum*, altering the return).

(§ 96.)

Non omittis capias ad satisfaciendum.

George the Third, (&c.) To the sheriff of ——— greeting: We command you, that you omit not by reason of any liberty in your bailiwick, but that you enter the same, and take, &c. (as in the former *capias ad satisfaciendum*, altering the return).

George

D. whose body
within contained,
of — sheriff.

ound in my baili.

The answer, (&c.)

ected, I made my
aire, of his liberty
and return of all
liberty, and with-
rit could be made
(said bailiff hath
Or, hath answered
thin-named *C. D.*

The answer, (&c.)

the sheriff of —
before (or as often
led you, that you
s *ad satisfaciendum*,

the sheriff of —
at you omit not by
iwick, but that you
as in the former ca-
the return).

George

George the Third, (&c.) To the sheriff of —
greeting: Whereas we lately commanded our sheriff
of — that he should take *C. D.* if he should be
found in his bailiwick, and him safely keep, so that
he might have his body before us at *Westminster*, on
a certain day now past, to satisfy *A. B.* of — *l.* (or
of a certain debt of — *l.*) which the said *A. B.*
lately in our court before us at *Westminster*, had re-
covered against him, &c. (reciting the former writ,
to the words, “whereof the said *C. D.* was con-
victed, as appeared to us of record”): And our said
sheriff of — at that day returned to us, that the
said *C. D.* was not found in his bailiwick; whereupon
on behalf of the said *A. B.* it is sufficiently testi-
fied in our said court before us, that the said *C. D.*
runs up and down and seeretes himself in your
county: Therefore we command you, that you
take the said *C. D.* if he shall be found in your baili-
wick, and him safely keep, so that you may have
his body before us at *Westminster*, on — next
after — to satisfy the said *A. B.* of his damages
(or debt and damages) aforesaid; and have there
then this writ. Witness, (&c.)

George the Third, (&c.) To the chancellor of our
county-palatine of *Lancaster*, or to his deputy there,
greeting: Whereas we lately commanded our sheriff
of — that he should take, &c. (reciting the former
writ, to the words, “whereof the said *C. D.* was
convicted, as appeared to us of record”): And our
said sheriff of — at that day returned to us, that
the said *C. D.* was not found in his bailiwick;
whereupon on behalf of the said *A. B.* it is sufficiently
testified in our said court before us, that the said
C. D.

CHAP.
XLI.

(§ 97.)

*Testatum capias
ad satisfacien-
dum.*

(§ 98.)

The like, to a
county-pala-
tine.

CHAP.
XLI.

C. D. runs up and down and secretes himself in our said county-palatine: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the said county-palatine, you command the said sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us at *Westminster*, on — next after — to satisfy the said *A. B.* of his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 99.)
The like, from
a county-pa-
latine.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded our chancellor of our county-palatine of *Lancaster*, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, he should command the said sheriff, that he should take, &c. (reciting the former writ, to the words, “whereas the said *C. D.* was convicted, as appeared to us of record”): And our said chancellor of our said county-palatine at that day returned to us, that by virtue of the said writ to him directed, he had, by another writ under the seal of our said county-palatine duly made, and directed to the sheriff of the same county, commanded the said sheriff, as by the said first-mentioned writ he was commanded; which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* was not found in his bailiwick; whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* runs up and down and secretes himself in your county: Therefore

Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after — to satisfy the said *A. B.* of his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

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XLI.

George the third, (&c.) To our chamberlain of our county-palatine of *Chester*, or to his deputy there, greeting: Whereas by our writ we lately commanded our chancellor of our county-palatine of *Lancaster*, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county-palatine, he should command the said sheriff, that he should take, &c. (reciting the former writ, to the words "whereof the said *C. D.* was convicted, as appeared to us of record"): And our said chancellor of our said county-palatine of *Lancaster* at that day returned to us, that by virtue of our said writ to him directed, he had by another writ, &c. (as in the last); which said sheriff, in answer to the said writ to him directed, had returned to our said chancellor, that the said *C. D.* was not found in his bailiwick; whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* runs up and down and secretes himself in our said county-palatine of *Chester*: Therefore we command you, that by our writ under the seal of our said county-palatine of *Chester* to be duly made, and directed to the sheriff of the same county-palatine, you command the said last-mentioned sheriff, that he take the said *C. D.* if he shall be found

(§ 100.)

The like, from
one county-
palatine to
another.

Therefore

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found in his bailiwick, and him safely keep, so that he may have his body before us at *Westminster*, on — next after —, to satisfy the said *A. B.* of his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

The like, to a county-palatine, after a removal from the great-sessions by *certiorari*, under the stat. 19 Geo. III. c. 70. § 4.

George the Third, (&c.) To the chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: Whereas we lately commanded our sheriff of — that he should take *C. D.* late of — if he should be found in his bailiwick, and him safely keep, so that he might have his body before our justices of the great-sessions, holden at — in and for the county of — on a certain day now past, to satisfy *A. B.* of — *l.* (or of a certain debt of — *l.*) which the said *A. B.* lately in our court of great-sessions, holden at — aforesaid in and for the said county of —, before — our chief-justice of — aforesaid, and — our other justice of the said county, had recovered against him the said *C. D.* (&c.) whereof the said *C. D.* was convicted, as appeared to us of record: And our said sheriff of — at that day returned to our said justices, at the great-sessions aforesaid, that the said *C. D.* was not found in his bailiwick: And afterwards, for certain reasons, we caused the record of the said recovery to be duly certified and removed from and out of our said court of the great-sessions aforesaid, into our court before us at *Westminster*, according to the form of the statute in such case made and provided: And now, on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* runs up and down and secretes himself in our said county-palatine:

tine: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff: the said county-palatine, you command the said sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and him safely keep, so that he may have his body before us, on — wheresoever we shall then be in *England*, to satisfy the said *A. B.* of his damages (or debt and damages) aforesaid; and have there this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — (§ 101.)
greeting: Whereas by our writ we lately com-
manded you, that of the goods and chattels, &c.
(reciting the *feri facias*): And you at that day re-
turned to us at *Westminster*, that by virtue of the
said writ to you directed, you had caused to be
made of the goods and chattels of the said *C. D.*
— *l.* parcel of the damages (or debt and damages)
aforesaid; which money you had ready at the day
and place in the said writ contained, to render to
the said *A. B.* for so much of his damages (or debt
and damages) aforesaid, as by the said writ you
were commanded; and that the said *C. D.* had not
any other or more goods and chattels in your baili-
wick, whereof you could cause to be made the
residue of the damages (or debt and damages) afore-
said, or any part thereof: Therefore we command
you, that you take the said *C. D.* if he shall be
found in your bailiwick, and him safely keep, so
that you may have his body before us at *Westmin-*
ster, on — next after — to satisfy the said
A. B. of — *l.* residue of his damages (or debt and
damages)

Capias ad satis-
faciendum for
the residue.

CHAP.
XLI.

damages) aforesaid; and have there then this writ.
Witness, (&c.)

(§ 102.)
The like, to a
county-pal-
atine.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: Whereas by our writ we lately commanded you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, you should command the said sheriff, that of the goods and chattels, &c. (reciting the *feri facias*): And you at that day returned to us, that by virtue of the said writ to you directed, you had by another writ under the seal of our said county-palatine duly made, and directed to the sheriff of our said county-palatine, commanded the said sheriff, as by our said first-mentioned writ you were commanded; which said sheriff, in answer to the said writ to him directed, had returned to you, that by virtue of the said last-mentioned writ, he had caused to be made of the goods and chattels of the said *C. D.* — *l.* part of the damages (or debt and damages) aforesaid; which money he had ready before us, at the day and place in the said last-mentioned writ contained, to render to the said *A. B.* as by that writ he was commanded; and that the said *C. D.* had not any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (or debt and damages) aforesaid, or any part thereof: Therefore we command you, that by our writ under the seal of our said county-palatine to be duly made, and directed to the sheriff of our said county-palatine, you command the said sheriff, that he take the said *C. D.* if he shall be found in his bailiwick, and

here then this writ.

our chancellor of
 or to his deputy
 our writ we lately
 rit under the seal of
 duly made, and di-
 county-palatine, you
 that of the goods
feri facias): And you
 by virtue of the said
 another writ under
 fine duly made, and
 said county-palatine,
 by our said first-
 manded; which said
 rit to him directed,
 rtue of the said last-
 to be made of the
C. D. — *l.* part of
 es) aforesaid, which
 at the day and place
 ontained, to render
 he was commanded;
 any other or more
 k, whereof he could
 the damages (or debt
 art thereof: There-
 our writ under the
 to be duly made,
 r said county-pala-
 heriff, that he take
 nd in his bailiwick,
 and

and him safely keep, so that he may have his body before us at *Westminster*, on — next after — to satisfy the said *A. B.* of — *l.* residue of his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

CHAP. XLI.

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded you, that of the goods and chattels, &c. (reciting the *feri facias de bonis testatoris*, &c.): And you at that day returned to us, that, &c. (reciting the return of *nulla bona testatoris nec propria*, and *devastavit*, for which *vide ante*, p. 334.) Whereupon we lately commanded you, that of the proper goods and chattels, &c. (reciting the *feri facias de bonis propriis*): And you at that day returned to us, that the said *C. D.* had not any of his own proper goods or chattels in your bailiwick, whereof you could cause to be made the damages (or debt and damages) aforesaid: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after — to satisfy the said *A. B.* of his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 103.)
Capias ad satisfaciendam a-
gainst an execu-
tor or admini-
strator, after
a devastavit, and
return of nulla
bona to a fieri
facias de bonis
propriis.

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately commanded our sheriff of — that of the goods and chattels, &c. (reciting the *feri facias de bonis testatoris*, &c.): And our said sheriff of — at that day returned to us, that, &c. (reciting

(§ 104.)
Testatur capias
ad satisfaciend-
um, in a simi-
lar case.

CHAP.
XLI.

(reciting the return of *nulla bona testatoris nec propria*, and *devastavit*, for which *vide ante*, p. 334.) Whereupon we lately commanded our said sheriff of — that of the proper goods and chattels, &c. (reciting the *feri facias de bonis propriis*): And our said sheriff of — at that day returned to us, that, &c. (reciting the return of *nulla bona propria*): Whereupon we commanded our said sheriff of — that he should take, &c. (reciting the *capias ad satisfaciendum*): And our said sheriff of — at that day returned to us, that the said *C. D.* was not found in his bailiwick; whereupon on behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *C. D.* runs up and down and secretes himself in your county: Therefore we command you, that you take the said *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at *Westminster*, on — next after — to satisfy the said *A. B.* of his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 105.)
Entry of return of *devastavit*, upon a *feri facias de bonis testatoris*, &c. to the county-palatine of *Durham*, and award of *feri facias de bonis propriis*; and upon the return of part levied, award of *capias ad satisfaciendum* and *testatum* for the residue.

At which day, before the lord the king at *Westminster*, comes the said *A. B.* in his proper person; and — chancellor of our bishoprick of *Durham* aforesaid returns, that by virtue of the said writ to him thereupon directed, he hath commanded the sheriff of the county of *Durham* aforesaid, that the said sheriff should in all things fully execute the said writ of the said lord the king; which said sheriff answered him, that before the coming of the said writ of the said lord the king to him directed, divers goods and chattels, which were of the said *E. F.* deceased at the time of his death, came to
the

the hands and possession of the said *C. D.* to be administered, which said goods and chattels the said *C. D.* afterwards, and before the coming of the said writ to him, had eloigned, wasted and converted to his own use; wherefore the said sheriff could not cause the said — *l.* for the damages aforesaid, or any part thereof, to be made of the goods and chattels, which were of the said *E. F.* deceased, as by the said writ he was commanded; and the said sheriff further answered the said chancellor, that of the proper goods and chattels of the within-named *C. D.* he had caused to be made the said — *l.* for the costs and charges aforesaid, as he was commanded: Which said — *l.* by the said sheriff brought here into court, by the same court here are delivered to the said *A. B.* in part of the damages aforesaid; therefore let the said sheriff be acquitted of the said — *l.* &c. And as to — *l.* residue of the damages aforesaid, it is considered that the said *A. B.* have execution against the said *C. D.* of the said — *l.* residue of the damages aforesaid, of the proper goods and chattels of the said *C. D.* Therefore it is commanded to the said chancellor of the bishoprick aforesaid, that by the writ of the said lord the king to be duly made, and directed to the sheriff of the said county of *Durham*, he cause it to be commanded to the sheriff of that county, that of the proper goods and chattels of the said *C. D.* in his bailiwick, he cause to be made the said — *l.* residue of the damages aforesaid; and that he have that money before the said lord the king at *Westminster*, on — next after — to render to the said *A. B.* in form aforesaid; the same day is given to the said *A. B.* there, &c. At which day, before the

said

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said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said — chancellor of the bishoprick aforesaid returns, that by virtue of the said writ to him thereupon directed, he hath commanded the sheriff of the said county of *Durham*, that the said sheriff should in all things fully execute that writ; which said sheriff answered him, that the said *C. D.* had no goods or chattels in his bailiwick, whereof he could cause to be made the said — *l.* or any part thereof: Therefore it is commanded to the chancellor of the bishoprick aforesaid, that by the writ, &c. he cause to be commanded, &c. that the said sheriff should take the said *C. D.* if, &c. and him safely keep, so that he might have his body before the said lord the king at *Westminster*, on — next after — to satisfy the said *A. B.* of the said — *l.* residue of the damages aforesaid; the same day is given to the said *A. B.* there, &c. At which day, before the said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said chancellor of the bishoprick aforesaid returns, that by virtue, &c. he commanded the sheriff, &c. which said sheriff answered him, that the said *C. D.* is not found in his bailiwick; whereupon on behalf of the said *A. B.* it is testified in our said court here, that the said *C. D.* runs up and down and secretes himself in the county of —: Therefore it is commanded to the sheriff of — that he take the said *C. D.* if, &c. and him safely keep, &c. so that he have, &c. on — next after — to satisfy the said *A. B.* of the said — *l.* residue of the damages aforesaid: At which day, before the said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and

and the sheriff of — aforesaid returns, that the said *C. D.* is not found in his bailiwick; whereupon on behalf of the said *A. B.* it is sufficiently testified in the said court of the said lord the king before the king himself, that the said *C. D.* runs up and down and secretes himself in the county of —: Therefore it is commanded to the sheriff of — that he take the said *C. D.* if, &c. and him safely keep, so that he have, &c. on — next after — to satisfy the said *A. B.* of the residue of the damages aforesaid, in form aforesaid; the same day is given to the said *A. B.* there, &c.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you cause *C. D.* late of — to be demanded from county-court to county-court (or if in *London*, from husting to husting), until, according to the law and custom of *England*, he be outlawed, if he doth not appear; and if he doth appear, then that you take him, and cause him to be safely kept; so that you may have his body before us, on — wheresoever we shall then be in *England*, to satisfy *A. B.* of — *l.* (or of a certain debt of — *l.*) which the said *A. B.* lately in our court before us at *Westminster*, recovered against him, &c. (as in a common *capias ad satisfaciendum*, to the words “whereof the said *C. D.* is convicted, as appears to us of record”): And whereupon you returned to us, on, &c. (the return-day of the *capias ad satisfaciendum*,) last past, that the said *C. D.* was not found in your bailiwick; and have there

(§ 106.)

Etigi facias,
after a *capias*
ad satisfaciendum.

CHAP.
III.

there this writ. Witness *Edward Lord Ellenborough*, (&c.)

In the King's Bench.

A. B. plaintiff,
and
Between
C. D. defendant.

To Mr. *A. B.*

(§ 107.)
Notice by insolvent, of his intention to petition on the lords'-act.

Take notice, that I intend, at the expiration of fourteen days from the delivery hereof, or so soon after as I can be heard, to petition his majesty's court of King's Bench at *Westminster*, for such relief and benefit as I am entitled to, by virtue of an act of parliament made and passed in the thirty-second year of the reign of his late majesty king *George* the Second, intituled, "An act for the relief of debtors, with respect to the imprisonment of their persons," (&c.) and also of an act made and passed in the thirty-third year of the reign of his present majesty, intituled, "An act for the further relief of debtors," (&c.) and also of an act made and passed in the thirty-seventh year of the reign of his present majesty, intituled, "An act to amend so much of the first-mentioned act, as relates to the weekly sums thereby directed to be paid to prisoners in execution for debt, in the cases therein mentioned;" and that I have no debts, estates or effects whatsoever, nor had I at the time of my first imprisonment in this action, or at any time since, either in possession, reversion, remainder or expectancy, other than and except what are mentioned and contained in the schedule or inventory here-under written,

ten, (if there be one,) and the necessary wearing apparel and bedding for myself and family, and the tools or instruments of my trade or calling, not exceeding the sum of ten pounds in value in the whole. As witness my hand, this — day of — 18—.

C. D.

Witness E. F.

A schedule or inventory of all the estate and effects, which I C. D. a prisoner in execution, in the custody of the marshal of the marshalsea, (or of G. H. esquire, sheriff of the county of —) at the suit of A. B. or any person or persons in trust for me, was or were possessed of or entitled unto, at the time of my first imprisonment, at the suit of the said A. B. or at any time since, either in possession, reversion, remainder or expectancy, other than and except the necessary wearing apparel and bedding of or for me and my family, and the tools or instruments of my trade or calling, not exceeding ten pounds in value in the whole. As witness my hand, this — day of — 18—.

(§ 108.)
Schedule.

Real estate: (describing it, if any, according to the mode pointed out by the statute; or if there be none, say, "I have none, either in possession, reversion, remainder or expectancy.")

Goods: (setting them forth.)

Debts: (naming the persons from whom they are due, and stating the amount of them; and if arising on notes or bills, their dates, &c.)

C. D.

Witness E. F.

D d

In

rd Lord Ellenbo-

A. B. plaintiff,
and
C. D. defendant.

t the expiration of
hereof, or so soon
petition his majesty's
minster, for such relief
y virtue of an act of
n the thirty-second
esty king George the
the relief of debtors,
ment of their per-
ct made and passed
e reign of his present
or the further relief of
act made and passed
the reign of his pre-
ct to amend so much
relates to the weekly
id to prisoners in exe-
therein mentioned;
tates or effects what-
of my first imprison-
time since, either in
inder or expectancy,
e mentioned and con-
tory here-under writ-
ten,

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XLI.

(§ 109.)

Affidavit to be
annexed to no-
tice and sche-
dule.

In the King's Bench.

A. B. plaintiff,
and
C. D. defendant.

E. F. of — maketh oath and saith, that he was present and did see the above-named *C. D.* sign his name (or mark) to the notice and schedule hereunto annexed, on the day of the date thereof, and also to a copy of the same; and that the name *E. F.* subscribed as a witness thereto, is of the proper handwriting of this deponent.

E. F.

Sworn, (&c.)

(§ 110.)
Affidavit of
service of no-
tice and sche-
dule.

E. F. of — maketh oath and saith, that he this deponent did, on — the — day of — instant (or last), serve the above-named *A. B.* with a true copy of the notice and schedule hereunto annexed, by delivering the same to — at his dwelling-house or place of abode, situate at — in the county of —.

Sworn, (&c.)

E. F.

(§ 111.)
Petition.

To the right honorable *Edward* Lord *Ellenborough*, lord chief-justice of his majesty's court of King's Bench at *Westminster*, and the rest of the judges of the same court.

The humble petition of *C. D.*

Sheweth,

That your petitioner is a prisoner in the custody of the marshal of the marshalsea (or in his majesty's gaol in and for the county of —), charged in execution at the suit of *A. B.* for the sum of — *l.* damages

mages and costs, (or —l. debt and —l. damages,) as by the certificate annexed more fully appears.

That your petitioner humbly apprehends he is entitled to the benefit of an act of parliament made and passed in the 32d year of the reign of his late majesty king *George* the Second, intituled, "An act for the relief of debtors, with respect to the imprisonment of their persons, (&c.)" and also of an act made and passed in the 33d year of the reign of his present majesty, intituled, "An act for the further relief of debtors, (&c.)" and also of an act made and passed in the 37th year of the reign of his present majesty, intituled, "An act to amend so much of the first-mentioned act, as relates to the weekly sums thereby directed to be paid to prisoners in execution for debt, in cases therein mentioned."

That your petitioner hath not at the time of exhibiting this his petition, nor had he at the time of his first imprisonment in this action, or at any time since, any debts, estate or effects whatsoever, either in possession, reversion, remainder or expectancy, other than and except what are mentioned and contained in the schedule or inventory hereunto annexed, (if there be one,) and the necessary wearing apparel and bedding for himself and family, and the tools or complements of his trade and calling; not exceeding the sum of ten pounds in value in the whole.

Your petitioner being willing and desirous to conform himself to the directions of the said several acts, most humbly prays your lordships to grant

D d 2

A. B. plaintiff,
and
C. D. defendant.

saith, that he was named *C. D.* sign his schedule hereunto thereof, and also to the name *E. F.* sub- of the proper hand.

E. F.

saith, that he this day of — instant and *A. B.* with a true hereunto annexed, by his dwelling-house or in the county of —.

E. F.

and Lord *Ellenborough*,
his majesty's court of King's
the rest of the judges

prisoner in the custody
of a (or in his majesty's
—), charged in exe-
cution of the sum of —l. da-
mages

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XLI.

grant a rule or order of this honorable court, for the plaintiff to shew cause why he should not be discharged pursuant to the said acts.

And your petitioner, as in duty bound, will ever pray, &c.

C. D.

Schedule (if any) as before, p. 401.

(§ 112.)
Affidavit of
gaoler's signa-
ture of certifi-
cate.

E. F. of ——— maketh oath and saith, that he this deponent did see *G. H.* the keeper of his majesty's gaol or prison of, (&c.) sign the certificate hereto annexed; and that the name *G. H.* set and subscribed at the foot of the said certificate, is of the proper hand-writing of the said *G. H.*

E. F.

Sworn, (&c.)

(§ 113.)
Affidavit of
service of rule.

E. F. of ——— maketh oath and saith, that he this deponent did on the ——— day of ——— instant, personally serve the above-named *A. B.* with a true copy of the rule hereto annexed. (Or if the service was on his wife or servant, say, "serve the above-named *A. B.* with a true copy, (&c.) by delivering the same to the wife, or servant, of the said *A. B.* at his dwelling-house or place of abode, situate at ——— in the county of ———.")

E. F.

Sworn, (&c.)

(§ 114.)
Note for pay-
ment of allow-
ance.

A. B. } I hereby promise to pay and allow to *C. D.*
v. } three shillings and sixpence *per week*
C. D. } weekly, on *Monday* in every week; for so long

long time as he shall continue in prison in execution
 at my suit. As witness my hand, this — day of
 — 18—.

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 XLI.

Witness *E. F.*

A. B.

In the King's Bench.

Between

A. B. plaintiff,

(§ 115.)

and

C. D. defendant.

Notice on com-
 pulsive clause,
 to prisoner.

Sir,

Take notice, that I intend on the first day of next
 — term, or as soon after as I can be heard, to
 petition his majesty's court of King's Bench at *West-*
minster, for a rule or order of the said court, direct-
 ing you to be brought up into this honorable court,
 in order that you may be compelled to discover and
 deliver into the said court upon oath, a true ac-
 count in writing, signed by you, of all your real and
 personal estate, and of all incumbrances affecting
 the same, according to the best of your knowledge
 and belief, in order that your estate and effects may
 be divested out of you, and may by the judges of
 the said court be ordered to be assigned and con-
 veyed, in manner and for the purposes declared in
 and by a certain act of parliament, made and passed
 in the 32d year of the reign of his late majesty king
George the Second, intituled, "An act for the relief
 of debtors, with respect to the imprisonment of their
 persons, and to oblige debtors who shall continue in
 execution in prison beyond a certain time, and for
 sums not exceeding what are mentioned in the act,
 to make discovery of and deliver upon oath, their
 estates for their creditors' benefit;" and also in and
 by a certain act of parliament, made and passed in

CHAP.
XLI.

the 33d year of the reign of his present majesty, intitled, "An act for the further relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of and deliver upon oath, their estates for their creditors' benefit." Dated the — day of — 18—.

A. B.

the above-named plaintiff.

To Mr. *C. D.*

the above-named defendant.

Witness *E. F.*

(§ 116.)

The like, to
other credi-
tors.

In the King's Bench,

A. B. plaintiff,

Between and

C. D. defendant,

Sir,

Take notice, that I intend on the first day of next — term, or as soon after as I can be heard, to petition his majesty's court of King's Bench at *Westminster*, for a rule or order of the said court, directing the above-named defendant *C. D.* to be brought up into this honorable court, in order that he may be compelled to discover and deliver into the said court upon oath, a true account in writing, signed by him, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief, in order that his estate and effects may be divested out of him, and may by the judges of the said court be ordered to be assigned and conveyed, in manner and for the purposes declared in and by a certain act of parliament,

ment, made and passed in the 32d year of the reign of his late majesty king *George the Second*, intituled, "An act for the relief of debtors," &c. (as in the last).

A. B.

the above-named plaintiff.

To *G. H.* (&c.) creditors of the above-named defendant.

Witness *J. K.*

In the King's Bench.

Between *A. B.* plaintiff, and *C. D.* defendant. (§ 117.)
Petition.

To the right honorable *Edward Lord Ellenborough*, lord chief-justice of his majesty's court of King's Bench at *Westminster*, and the rest of the judges of the same court.

The humble petition of *A. B.* of — the above-named plaintiff;

Sheweth,

That *C. D.* the above-named defendant is a prisoner in the custody of — charged in execution at the suit of your petitioner, for the sum of — l. as appears by the annexed certificate.

That your petitioner apprehends he is authorized and empowered, by virtue of the compulsive clause in an act of parliament, made and passed in the 32d year of the reign of his late majesty king *George the Second*, intituled, "An act for the relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make

D d †

discovery

&c.

his present majesty, in-
ther relief of debtors,
ment of their persons,
hall continue in execu-
ain time, and for sums
entioned in the act, to
iver upon oath, their
enefit." Dated the —

A. B.

above-named plaintiff.

A. B. plaintiff,
and

C. D. defendant,

on the first day of next
as I can be heard, to
King's Bench at *West-*
the said court, direct-
nt *C. D.* to be brought
, in order that he may
deliver into the said
unt in writing, signed
ersonal estate, and of
e same, according to
l belief, in order that
divested out of him,
said court be ordered
in manner and for the
certain act of parlia-
ment,

CHAP.
XLI.

discovery of and deliver upon oath, their estates for their creditors' benefit;" and also of an act of parliament, made and passed in the 33d year of the reign of his present majesty, intituled, "An act for the further relief of debtors, with respect to the imprisonment of their persons, and to oblige debtors who shall continue in execution in prison beyond a certain time, and for sums not exceeding what are mentioned in the act, to make discovery of and deliver upon oath, their estates for their creditors' benefit;" to compel the above-named defendant *C. D.* to deliver into this honorable court upon oath, a true account in writing, signed by the said defendant, of all his real and personal estate, and of all incumbrances affecting the same, according to the best of his knowledge and belief, in order that his estate and effects may be divested out of him, and assigned and conveyed in manner and for the purposes declared in the said several acts.

Your petitioner therefore humbly prays a rule or order of this honorable court, for the above-named defendant *C. D.* to shew cause, why he should not conform himself to the directions of the said acts.

And your petitioner shall ever pray, &c.

A. B.

the above-named plaintiff.

(§ 118.)

Warrant of attorney, to acknowledge satisfaction.

To *E. F. G. H.* and *J. K.* attorneys of the court of King's Bench at *Westminster*, jointly and severally, or to any other attorney of the same court.

Whereas I *A. B.* of — heretofore, to wit, in or about the term of — last past, obtained final judgment

CHAP.
XLI,

Judgment in his majesty's court of King's Bench at Westminster, against C. D. of — for — l. debt and — l. costs, (or for — l. damages and costs,) as by the record thereof may appear: And whereas I the said A. B. have received satisfaction for the same: These are therefore to desire and authorize you, the attornies above-named, or any one of you, or any other attorney of the same court, to acknowledge and enter satisfaction upon the record of the same judgment; and for your so doing, this shall be your sufficient warrant and discharge in that behalf. In witness whereof, I have hereunto set my hand and seal, the — day of — in the — year of the reign of our sovereign lord George the Third, by the grace of God of the united kingdom of Great Britain and Ireland king, defender of the faith, and in the year of our Lord 18 —,

Scaled and delivered, being }
first duly stamped, in the } A. B.
presence of —,

— term, in the — year of the reign
of King George the Third.

Way.

— (to wit). Satisfaction is acknowledged
between A. B. plaintiff and C. D. defendant,
of a plea of trespass on the case, for — l.
damages and costs, (or, of a plea of debt for
— l. debt, and — l. damages, &c.)

Judgment entered of —

E. F. attorney. term — Geo. III.

Roll —.

(§ 119.)
Satisfaction-
piece.

Afterwards, to wit, on — next after — (or (§ 120.)
by original, on — in the — year of the reign of our
Entry of satisfaction.

ath, their estates for
also of an act of par-
the 33d year of the
titled, "An act for
th respect to the im-
nd to oblige debtors
in prison beyond a
exceeding what are
ke discovery of and
s for their creditors'
ve-named defendant
able court upon oath,
ned by the said de-
rsonal estate, and of
same, according to
belief, in order that
divested out of him,
manner and for the
several acts.
umbly prays a rule or
for the above-named
e, why he should not
ons of the said acts.
er pray, &c.
A. B.
bove-named plaintiff.

K. attornies of the
Westminster, jointly
y other attorney of
etofore, to wit, in or
past, obtained final
judgment

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XLI.

our sovereign lord *George* the Third, now king of the united kingdom of *Great Britain* and *Ireland*, &c. before the said lord the king at *Westminster*, cometh the aforesaid *A. B.* by his attorney aforesaid, (or, by *E. F.* his attorney in this behalf,) and acknowledgeth himself to be satisfied by the said *C. D.* of the damages costs and charges aforesaid, (or in debt, of the debt and damages aforesaid): Therefore let the said *C. D.* be thereof acquitted, &c.

The like, after an entry of a *feri facias* and return, on the statute 8 & 9 *W. III. c. 11.* §. 8.

Afterwards, to wit, on — next after —, in — term, in the — year aforesaid, the said *A. B.* comes here into court, by his attorney aforesaid, and prays the writ of the lord the king of *feri facias*, to be directed to the sheriff of —, for levying the said sum of — *l.* being the damages aforesaid, in form aforesaid assessed; and it is granted to him, returnable before the said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place: At which day, before the said lord the king at *Westminster* aforesaid, comes the said *A. B.* by his said attorney; and the sheriff, to wit, — sheriff of the said county of — now here returns, that he has caused to be levied of the goods and chattels of the said *C. D.* the said sum of — *l.* as by the said writ he was commanded. And hereupon the said *A. B.* freely here in court acknowledgeth, that he is fully paid and satisfied all such damages so assessed as aforesaid, together with his costs of suit, and all reasonable charges for executing the said execution: Therefore let the lands and goods of the said *C. D.* be forthwith discharged of the said execution, according to the form of the statute in such case made and provided.

CHAP. XLII.

Of SCIRE FACIAS.

Middlesex. **SCIRE** *facias* for *A. B.* against *E. F.* (§ 1.)
 and *G. H.* bail of *C. D.* for — *l.* damages (or *Præcipe for*
 — *l.* debt, and — *l.* damages), returnable on, *scire facias*
 against bail.
 (&c.)

J. K. attorney.

George the Third, (&c.) To the sheriff of *Mid-* (§ 2.)
dlesex, greeting: Whereas *E. F.* of — and *G. H.* *Scire facias*
 of — heretofore, to wit, in — term, in the — against bail, on
 year of our reign, came into our court before us at a recognizance
Westminster; in their proper persons, and became by bill.
 pledges and bail, and each of them became pledge
 and bail, for *C. D.* that if the said *C. D.* should hap-
 pen to be convicted, at the suit of *A. B.* in a certain
 plea of trespass on the case upon promises, to the
 damage of the said *A. B.* of — *l.* (or in *debt*, in a
 certain plea of *debt* for — *l.*) then lately com-
 menced and depending in the same court, by and
 at the suit of the said *A. B.* against the said *C. D.*
 then the said *E. F.* and *G. H.* consented, and each
 of them consented, that all such damages (or in *debt*,
 that as well the said debt, as all such damages) as
 should be adjudged to the said *A. B.* in that behalf,
 should be made of their and each of their lands and
 chattels, and levied to the use of the said *A. B.* if it
 should happen that the said *C. D.* should not pay
 and

CHAP.
XLII.

and satisfy the said damages (or in *debt*, the said debt and damages), or render himself to the prison of the marshal of our marshalsea before us, on that occasion; as by the record of the said recognizance, still remaining in our said court before us at *Westminster* aforesaid, more fully appears: And although the said *A. B.* afterwards, to wit, in — term, in the — year of our reign, in our said court before us at *Westminster* aforesaid, by bill without our writ, and by the judgment of the same court, recovered in the said plea, against the said *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* (or if in *debt*, the said debt, and also — *l.* for his damages which he had sustained, as well by means of the detaining of the said debt) as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as by the record and proceedings thereof, still remaining in our said court before us at *Westminster* aforesaid, more fully appears: yet the said *C. D.* hath not paid or satisfied the said damages (or debt and damages), or any part thereof, to the said *A. B.* or rendered himself to the prison of the marshal of our marshalsea before us, on that occasion, according to the form and effect of the said recognizance; and as well the said recognizance, as the said judgment, still remain in full force and effect, in no wise set aside, reversed, paid off or satisfied; as we have received information from the said *A. B.* in our said court before us: Wherefore the said *A. B.* hath humbly besought us to provide

provide him a proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before us at *Westminster*, on — next after — to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said *A. B.* ought not to have execution against the said *E. F.* and *G. H.* for the damages (or debt and damages) aforesaid, according to the force, form and effect of the said recognizance, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall then and there consider of them in this behalf; and have there then the names of those by whom you shall so make known to them, and this writ. Witness *Edward Lord Ellenborough* at *Westminster*, the — day of — in the — year of our reign.

George the Third, (Sc.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of — and *G. H.* of — heretofore, to wit, in — term, in the — year of our reign, came into our court before us at *Westminster*, in their proper persons, and became pledges and manucaptors, and each of them by himself became pledge and manucaptor, for *C. D.* late of — and then and there acknowledged themselves to owe, and each of them did acknowledge himself to owe to *A. B.* the sum of — *l.* and did submit and grant for themselves and their heirs, and each of them did submit and grant for himself and his heirs, that the said sum of — *l.* should and might be made of their and each of their lands and chat-

tels,

CHAP.
XLII.

(§ 3.)
The like on a
recognizance
by original.

CHAP.
XLII.

tels, and levied to and for the use of the said *A. B.* in case the said *C. D.* should happen to be convicted, in a certain plea of trespass on the case upon promises, to the damage of the said *A. B.* of — *l.* (or in *debt*, in a certain plea of debt for — *l.*) then lately commenced and depending in the same court, by and at the suit of the said *A. B.* against the said *C. D.* and if the said *C. D.* should not pay and satisfy unto the said *A. B.* all such damages (or if in *debt*, as well the said debt or sum of — *l.* as all such damages) as should be adjudged to the said *A. B.* in the plea aforesaid, or render himself to the prison of the marshal of our marshalsea before us on that occasion; as by the record of the said recognizance, still remaining in our said court before us at *Westminster* aforesaid, fully appears: And although the said *A. B.* afterwards, to wit, in — term, in the — year of our reign, in our said court before us at *Westminster* aforesaid, by our writ, and by the consideration and judgment of the same court, recovered, &c. (as in the last, to the mandatory part of the writ, which is as follows): that by honest and lawful men of your bailiwick, you make known to the said *E. F.* and *G. H.* that they be before us, on — wheresoever we shall then be in *England*, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, that is to say, the said *E. F.* why the said sum of — *l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and the said *G. H.* why the said sum of — *l.* by him in form aforesaid acknowledged, should not be made of his lands and chattels, and levied to and for the use of the said *A. B.* according

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to the force, form and effect of the said recognizance, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall consider of them in this behalf; and have there the names of those by whom you shall so make known to them, and this writ. Witness *Edward Lord Ellenborough*, (&c.)

George the Third, (&c.) To the sheriff of *Mid-dlesex*, greeting: Whereas *E. F.* of — and *G. H.* of — heretofore, to wit, on the — day of — in — term, in the — year of our reign, came in their proper persons, before — a commissioner duly empowered to take and receive all and every such recognizance or recognizances of bail or bails, as any person or persons shall be willing or desirous to acknowledge, or make before him, in any action or suit depending in our court before us, according to the form of the statute in such case made and provided; and then and there, before the said — so being such commissioner as aforesaid, became pledges, &c. (stating the recognizance, as in the former writs); which said recognizance afterwards, to wit, on the — day of — in the — year of our reign, was duly transmitted by the said — so being such commissioner as aforesaid, to the honorable — then and still being one of the justices of our said court before us, at his chambers in *Serjeants'-Inn, Chancery-Lane, London*, and by him the said justice was afterwards, to wit, in — term, in the — year of our reign, produced in our said court before us at *Westminster* aforesaid, and then and there recorded in the same court; as by the record thereof, still remaining in our said court before

(§ 4.)
The like, on a
recognizance
taken before a
commissioner
in the country.

CHAP. before us at *Westminster* aforesaid, more fully ap-
XLII. pears: And although, &c. (as in the former writs).

(§ 5.) *George* the Third, (&c.) To the sheriff of *Mid-*
dlesex, greeting: Whereas *E. F.* of — and *G. H.*
 of — on — the — day of — in the year
 of our Lord 18— came before the honorable —
 one of our justices of the bench, at his chambers in
Serjeants'-Inn, Chancery-Lane, London, and ac-
 knowledged, and each of them separately did ac-
 knowledge himself to owe to *A. B.* the sum of — *l.*
 to be levied of their lands and chattels, and of the
 lands and chattels of each of them; which said re-
 cognizance, in form aforesaid taken, our said justice
 afterwards, to wit, on — the — day of — in
 — term, in the — year of our reign, delivered
 with his own proper hands into our said court of the
 bench, to wit, at *Westminster* in the county of *Mid-*
dlesex, to be enrolled, and the same was then and there,
 before the honorable Sir *James Mansfield* knight,
 and his brethren, then our justices of the said bench,
 enrolled of record in the same court; as by the record
 thereof, remaining in our said court, it manifestly
 appears: which said — *l.* the said *E. F.* and *G. H.*
 have not, nor hath either of them, paid to the said *A. B.*
 as we are informed by the said *A. B.* And because
 we are willing that those things which in our said
 court are rightly done and acknowledged, should be
 duly carried into execution; we command you, that
 by honest and lawful men of your bailiwick, you
 make known to the said *E. F.* and *G. H.* that they
 be before our justices at *Westminster*, on — to
 shew if they have or know, or if either of them
 hath or knoweth, of any thing to say for themselves

The like, on a
 recognizance
 taken before a
 judge, on error
 from the Com-
 mon Pleas to
 the King's
 Bench.

aid, more fully ap-
n the former writs).

o the sheriff of *Mid-*
F. of — and *G. H.*
of — in the year
the honorable —
h, at his chambers in
e; London, and ac-
m separately did ac-
B. the sum of — *l.*
d chattels, and of the
nem; which said re-
taken, our said justice
e — day of — in
our reign, delivered
o our said court of the
in the county of *Mid-*
me was then and there,
nes Mansfield knight,
ces of the said bench,
ourt; as by the record
ourt, it manifestly
e said *E. F.* and *G. H.*
n, paid to the said *A. B.*
A. B. And because
gs which in our said
nowledged, should be
ve command you, that
your bailiwick, you
and *G. H.* that they
minster, on — to
or if either of them
to say for themselves

et

of himself, that is to say, the said *E. F.* why the
said — *l.* by him in form aforesaid acknowledged,
should not be levied of his lands and chattels, and
the said *G. H.* why the said — *l.* by him in form
aforesaid acknowledged, should not be levied of his
lands and chattels, and rendered to the said *A. B.*
according to the form of the said recognizance, if it
shall seem expedient for him so to do; and have
there the names of those by whom you shall so make
known to them, and this writ. Witness Sir *James*
Mansfield knight, at *Westminster*, the — day of
— in the — year of our reign.

George the Third, (*Sc.*) To the sheriff of *Mid-*
deon, greeting: Whereas *E. F.* of — and *G. H.*
of — on the — day of — in the — year
of our reign, came in their proper persons, before
the honorable — one of our justices assigned to
hold pleas in our court before us, at his chambers
in *Serjeants-Inn, Chancery Lane, London*, and ac-
cording to the form of the statute in such case made
and provided, acknowledged themselves, and each
of them separately did acknowledge himself, to owe
to *A. B.* the sum of — *l.* of lawful money of
Great Britain, to be paid to the said *A. B.* his exe-
cutors or assigns; and unless they should so do, the
said *E. F.* and *G. H.* did grant and agree, and
each of them for himself did grant and agree, that
the said sum of — *l.* should be made of their and
each of their lands and chattels, and levied to the
use of the said *A. B.* upon condition nevertheless,
reciting that the said *A. B.* lately in our court be-
fore us at *Westminster*, by bill without our writ,
and by the judgment of the same court, had reco-

E e

vered

CHAP.
XLII.

(§ 6.)

The like, on
error from the
King's Bench
to the Exche-
quer-chamber.

CHAP.
XLII.

vered against *C. D.* — *l.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended, whereof the said *C. D.* had been convicted, as appeared of record in our said court before us at *Westminster*; and also reciting that the said *C. D.* had brought a writ of error upon the judgment aforesaid, returnable before our justices of the Common Bench, and barons of our exchequer of the degree of the coif, in our Exchequer chamber at *Westminster*, on — the — day of — in the — year aforesaid; if therefore the said *C. D.* should prosecute the said writ of error with effect, and should also pay and satisfy to the said *A. B.* if the said judgment should be affirmed, or the said writ of error be discontinued in his default, or he should be nonsuit therein, as well the damages costs and charges aforesaid, adjudged upon the said judgment, as also all such costs charges and damages, as should be awarded to the said *A. B.* for the delay of execution of the judgment aforesaid, by pretext of prosecuting the said writ of error, then that recognizance was to be void, or else to be and remain in full force and virtue. Which said recognizance the said justice afterwards, to wit, on the — day of — in the — year aforesaid, brought into our said court before us to be enrolled; and the same was then and there enrolled in our said court before us, as of — term in the — year aforesaid; as by the record thereof, now remaining in our said court before us at *Westminster* aforesaid, manifestly appears: And such proceed-

his damages which
 occasion of the not
 undertakings then
 o the said *A. B.* as
 n about his suit in
 the said *C. D.* had
 record in our said
 ; and also reciting
 a writ of error upon
 able before our jus-
 ed barons of our ex-
 coif, in our Exche-
 on — the —
 foresaid; if therefore
 ce the said writ of er-
 so pay and satisfy to
 dgment should be af-
 or be discontinued in
 nsuit therein, as well
 s aforesaid, adjudged
 also all such costs
 uld be awarded to the
 xecution of the judg-
 prosecuting the said
 izance was to be void,
 ll force and virtue.
 aid justice afterwards,
 — in the — year
 aid court before us to
 as then and there en-
 re us, as of — term
 by the record thereof,
 urt before us at *West-*
 appears: And such
 proceed.

proceedings were had on the said writ of error in
 our court of Exchequer-chamber aforesaid, before
 our justices of the Common Bench and barons of our
 Exchequer aforesaid, that afterwards, to wit, on —
 the — day of — in — term, in the — year
 of our reign, the said writ of error was duly non-
 pressed (or, the judgment aforesaid was in all things
 affirmed); and — were then and there, in and
 by the said court of Exchequer-chamber, adjudged
 to the said *A. B.* according to the form of the statute
 in such case made and provided, for his damages
 costs and charges, which he had sustained and ex-
 tended, by reason of the delay of the execution of
 the judgment aforesaid, on pretence of prosecuting
 the said writ of error; as by the record and proceed-
 ings thereof, remitted by our said justices and ba-
 rons from the said court of Exchequer-chamber, into
 our said court before us at *Westminster* aforesaid,
 according to the form of the statute in such case
 made and provided, and now remaining in our said
 court before us at *Westminster* aforesaid, likewise
 appears to us of record: Nevertheless the said *C. D.*
 hath not yet paid to the said *A. B.* the said damages
 costs and charges, so as aforesaid adjudged upon
 the said first-mentioned judgment, or the damages
 costs and charges aforesaid, so awarded as aforesaid,
 any part thereof; as on the information of the
 said *A. B.* in our said court before us, we have been
 en to understand: Wherefore the said *A. B.* hath
 bly besought us to provide him a proper remedy
 in his behalf; and we being willing, that what is
 in this behalf should be done, do command you,
 by good and lawful men of your bailiwick, you
 be known to the said *E. F.* and *G. H.* that they

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XLII.

be before us at *Westminster*, on — next after — to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said *A. B.* ought not to have his execution against them, and each of them, of the said sum of — *l.* by them jointly and severally acknowledged in form aforesaid, according to the force and effect of the said recognizance, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall then and there consider of them in this behalf; and have there then the names of those by whom ye shall so make known to them, and this writ. Witness *Edward Lord Ellenborough*, (&c.)

(§ 7.)

The like, where the recognizance was taken in court.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: Whereas *E. F.* of — and *G. H.* of — on the — day of — in — term, in the — year of our reign, came into our court before us at *Westminster*, in their proper persons, and according to the form of the statute in such case made and provided, acknowledged, &c. (as in the last, omitting the enrolment of the recognizance).

(§ 8.)

Alias scire facias against bail.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: Whereas, &c. (as in the first writ inserting these words, after the command to the sheriff, "as before we have commanded you," and altering the *teste* and return).

(§ 9.)

Entry of proceedings, and judgment by default in *scire facias* against bail, upon the return of *scire feci*.

As yet of — term, in the — year of the reign of king *George the Third*. Witness *Edward Lord Ellenborough*.

Middlesex, to wit. Our lord the king sent to

— next after —
 or if either of them
 to say for themselves
 ought not to have his
 ch of them, of the said
 and severally acknow-
 cording to the force
 ognizance, if it shau
 do; and further to do
 rt before us shall then
 this behalf; and have
 by whom yc a shall so
 is writ. Witness Ed.

To the sheriff of *Middlesex*,
E. F. of — and *G. H.*
 — in — term, in
 came into our court be
 eir proper persons, and
 he statute in such case
 vledged, &c. (as in the
 of the recognizance).

To the sheriff of *Middlesex*
 &c. (as in the first writ
 the command to the sheriff
 commanded you," and

in the — year of the
 ge the Third. Witness
 nborough.

lord the king sent to the
 sheriff

sheriff of *Middlesex*, his writ close in these words,
 that is to say: *George* the third, &c. (copy the *scire*
facias to the end, and then proceed as follows): At
 which day, before our said lord the king at *West-*
minster, comes the said *A. B.* in his proper person;
 and the sheriff, to wit, — sheriff of *Middlesex*
 aforesaid, now here returns, that by — and —
 honest and lawful men of his bailiwick, he has given
 notice to the said *E. F.* and *G. H.* severally to ap-
 pear before our said lord the king, at the day and
 place in the said writ mentioned, to shew cause as
 by the said writ they are required, and as the said
 sheriff is therein commanded; and the said *E. F.*
 and *G. H.* although on that day solemnly demanded,
 come not, nor doth either of th m come, but make
 default: Therefore it is considered, that the said
A. B. have his execution against the said *E. F.* and
G. H. of the damages (or debt and damages) afore-
 said, according to the force, form and effect of the
 said recognizance, by the default of them the said
E. F. and *G. H.* &c.

CHAP.
 XLII.

Judgment
 signed, (&c).

Middlesex, to wit. Our lord the king sent to his
 sheriff of *Middlesex*, his writ close in these words,
 that is to say: *George* the Third, &c. (copy the first
scire facias to the end, and proceed as follows): At
 which day, before our said lord the king at *West-*
minster, came the said *A. B.* in his proper person;
 and the sheriff, to wit, — sheriff of *Middlesex*
 aforesaid, thereupon returned to our said lord the
 king, that the said *E. F.* and *G. H.* had not, nor
 did either of them any thing in the bailiwick of the
 said sheriff, where or by which he could give them
 either of them notice, as by the said writ he was

(§ 10.)

The like, upon
 two *nihilis* re-
 turned.

CHAP.
XLII.

commanded, nor were they the said *E. F.* and *G. H.* nor was either of them, found in the same; and the said *E. F.* and *G. H.* came not, nor did either of them come: Therefore, as before, it was commanded to the sheriff, that by honest and lawful men of his bailiwick, he should make known to the said *E. F.* and *G. H.* that they should be before our said lord the king at *Westminster*, on — next after — (the return of the *alias*) to shew in form aforesaid, if, &c. and further, &c. the same day was given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said sheriff of *Middlesex*, as before, returns that the said *E. F.* and *G. H.* have not, nor hath either of them, any thing in the bailiwick of the said sheriff, where or by which he can give them or either of them notice, as by the said last-mentioned writ he is commanded, nor are they the said *E. F.* and *G. H.* nor is either of them, found in the same; and the said *E. F.* and *G. H.* although on that day solemnly demanded, come not, nor doth either of them come, but make default: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* of the damages (or debt and damages) aforesaid, according to the force, form and effect of the said recognizance, by the default of them the said *E. F.* and *G. H.* &c.

Judgment
signed, (&c.)

(§ 11.)
The like, by
original.

Therefore it is considered, that the said *A. B.* have execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of — *l.* by him

the said *E. F.* and found in the same; came not, nor did re, as before, it was by honest and lawful make known to the should be before our er, on — next after to shew in form afore- the same day was &c. At which day, be t *Westminster*, comes person; and the said e, returns that the said or hath either of them, the said sheriff, where or either of them no- tioned writ he is com- d *E. F.* and *G. H.* nor he same; and the said that day solemnly de- either of them come, e it is considered, that ution against the said ages (or debt and da- to the force, form and ce, by the default of *I. &c.*

, that the said *A. B.* d *E. F.* and *G. H.* that *F.* of the said sum of id acknowledged, and said sum of — *l.* by his

him in form aforesaid acknowledged, according to the force, form and effect of the said recognizance, by the default of the said *E. F.* and *G. H.* &c.

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And the said *E. F.* and *G. H.* say that they cannot deny the action of the said *A. B.* nor but that execution ought to be adjudged to him, against them the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of — *l.* by him in form aforesaid acknowledged, according to the force form and effect of the said recognizance, together with his costs and charges by him about his suit in this behalf laid out; and hereupon the said *A. B.* prays judgment, and that execution may be adjudged to him, in form aforesaid: Therefore it is considered, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* that is to say, against the said *E. F.* of the said sum of — *l.* by him in form aforesaid acknowledged, and against the said *G. H.* of the said sum of — *l.* by him in form aforesaid acknowledged, according to the force, form and effect of the said recognizance: It is also considered by his majesty's court here, that the said *A. B.* do recover against the said *E. F.* and *G. H.* — *l.* for his costs and charges by him laid out about his suit in this behalf, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent: And the said *E. F.* and *G. H.* in mercy, &c.

(§ 12.)

The like, upon a cognovit by the bail.

Judgment signed, (&c.)

Mercy.

A. B.

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(§ 13.)
Note of ap-
pearance.

A. B. against *E. F.* and another, bail of *C. D.*
I appear for the bail, upon the writ of *scire facias*
issued in this cause.

Your's, &c.

L. M. attorney.

To Mr. *J. K.*

(§ 14.)
Declaration in
scire facias a-
gainst bail, up-
on the return
of *scire feci.*

— term, in the — year of the reign of
king *George* the Third.

Middlesex, to wit. Our lord the king sent to his
sheriff of *Middlesex*, his writ close in these words, that
is to say: *George* the Third, &c. (copy the *scire*
facias, and proceed as before, p. 421. to the end of
the sheriff's return, and conclude as follows): And
the said *E. F.* and *G. H.* being solemnly called,
come by — their attorney; and hereupon the said
A. B. prays that execution may be adjudged to him
against the said *E. F.* and *G. H.* of the damages (or
debt and damages) aforesaid, according to the force,
form and effect of the said recognizance, &c.

(§ 15.)
The like, upon
two *nihil* re-
turned.

Middlesex, to wit. Our lord the king sent to his
sheriff of *Middlesex*, his writ close in these words, that
is to say: *George* the Third, &c. (copy the first *scire*
facias to the end, and proceed as follows): At which
day, before our said lord the king at *Westminster*,
came the said *A. B.* in his proper person; and the
sheriff, to wit, — sheriff of *Middlesex* aforesaid,
thereupon returned to our said lord the king, that
the said *E. F.* and *G. H.* had not, nor had either of
them any thing in his bailiwick, where or by which
he could give them or either of them notice, as by
the said writ he was commanded, nor were they the
said *E. F.* and *G. H.* nor was either of them found
in

other, bail of *C. D.*,
writ of *scire facias*
r's, &c.
L. M. attorney.

year of the reign of
d.

the king sent to his
in these words, that
&c. (copy the *scire*
421. to the end of
ude as follows): And
ing solemnly called,
and hereupon the said
y be adjudged to him
of the damages (or
according to the force,
ognizance, &c.

the king sent to his
in these words, that
&c. (copy the first *scire*
as follows): At which
king at *Westminster*,
oper person; and the
Middlesex aforesaid,
id lord the king, that
not, nor had either of
&c, where or by which
of them notice, as by
d, nor were they the
either of them found
in

in the same; and the said *E. F.* and *G. H.* came not,
nor did either of them come: Therefore, as before,
it was commanded to the sheriff, that by honest and
lawful men of his bailiwick, he should make known
to the said *E. F.* and *G. H.* that they should be be-
fore our said lord the king at *Westminster*, on —
next after — to shew in form aforesaid, if, &c. and
further, &c. the same day was given to the said *A. B.*
there, &c. At which day, before our said lord the
king at *Westminster*, comes the said *A. B.* in his
proper person; and the said sheriff of *Middlesex*,
as before, returns that the said *E. F.* and *G. H.*
have not, nor has either of them, any thing in his
bailiwick, whereby he can give them or either of
them notice, as by the said last-mentioned writ he
is commanded, nor are they the said *E. F.* and *G. H.*
nor is either of them, found in the same; and the
said *E. F.* and *G. H.* being solemnly demanded,
come by — their attorney; and hereupon the said
A. B. prays that execution may be adjudged to him
against the said *E. F.* and *G. H.* of the damages (or
debt and damages) aforesaid, according to the force,
form and effect of the said recognizance, &c.

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— term, in the — year of the reign of
king *George* the Third.

(§ 16.)

Issue in *scire fa-*
ciis against bail.

Middlesex, to wit. Our lord the king sent to his
sheriff of *Middlesex*, his writ close in these words,
that is to say: *George* the Third, &c. (here copy the
writ and declaration in *scire facias*).

And the said *E. F.* and *G. H.* by — their at-
torney, come and say that the said *A. B.* ought not
to have execution, &c. (here copy the pleadings, be-
ginning each with a new line, and conclude with
the award of the *venire facias*, in the common form.)

As

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XLII.

(§ 17.)

Entry of issue,
and award of
execution, &c.
after verdict.

As yet of — term, in the — year of the
reign of king *George the Third*. Witness
Edward Lord Ellenborough.

Middlesex, to wit. *A. B.* puts in his place —
his attorney, against *E. F.* and *G. H.* bail of *C. D.*
in a plea of debt on *scire facias*.

Middlesex, to wit. The said *E. F.* and *G. H.*
put in their place — their attorney, at the suit of
the said *A. B.* in the plea aforesaid.

Judgment
signed, (&c.)

Middlesex, to wit. Our lord the king sent to his
sheriff of *Middlesex*, his writ close in these words,
to wit: *George the Third*, &c. (here copy the issue,
to the end of the award of the *venire facias*,
and proceed as follows): Afterwards the process
thereof is continued, &c. (as before, p. 295, &c.,
concluding as follows): Therefore it is considered
that the said *A. B.* have his execution against the
said *E. F.* and *G. H.* of the damages (or debt and
damages) aforesaid, according to the force, form
and effect of the said recognizance, &c.: It is also
considered by his majesty's court here, that the
said *A. B.* do recover against the said *E. F.* and
G. H. — *l.* for his costs and charges by him laid
out about his suit in this behalf, on occasion of the
said *E. F.* and *G. H.* having pleaded to the said *scire*
facias, by the court of our said lord the king now
here adjudged to the said *A. B.* and with his assent.
And the said *E. F.* and *G. H.* in mercy, &c.

Mercy.

(§ 18.)

Fieri facias
against bail to
the action, in
the King's
Bench by bill,
after default on
scire facias.

George the Third, (&c.) To the sheriff of *Middle*
sex, greeting: We command you, that of the goods
and chattels of *E. F.* and *G. H.* the bail of *C. D.*

the — year of the
 ne Third. Witness
 ough.
 ts in his place —
 G. H. bail of C. D.
 id E. F. and G. H.
 orney, at the suit of
 esaid.
 d the king sent to his
 close in these words.
 (here copy the issue,
 of the *venire facias*,
 afterwards the process
 (as before, p. 295,
 before it is considered,
 s execution against the
 damages (or debt and
 ng to the force, form
 izance, &c.: It is also
 court here, that the
 st the said E. F. and
 nd charges by him laid
 alf, on occasion of the
 oleaded to the said scire
 said lord the king now
 B. and with his assent
 Y. in mercy, &c.

To the sheriff of Middle
 l you, that of the good
 G. H. the bail of C. D.

in your bailiwick, you cause to be made —*l.*
 which *A. B.* lately in our court before us at *West-*
minster, recovered against the said *C. D.* for his da-
 mages which he had sustained, as well on occasion
 of the not performing certain promises and under-
 takings then lately made by the said *C. D.* to the
 said *A. B.* (or if in debt, “ a certain debt of —*l.*
 which *A. B.* lately in our court before us at *West-*
minster, recovered against the said *C. D.* and also
 —*l.* which in our same court before us were ad-
 judged to the said *A. B.* for his damages which he
 had sustained, as well on occasion of the detaining
 the said debt”), as for his costs and charges by him
 about his suit in that behalf expended; whereof the
 said *C. D.* is convicted, as appears to us of record:
 And whereupon it is considered in our same court
 before us, that the said *A. B.* have his execution
 against the said *E. F.* and *G. H.* of the damages
 (or debt and damages) aforesaid, according to the
 force, form and effect of a certain recognizance by
 them the said *E. F.* and *G. H.* acknowledged in our
 said court before us, for the said *C. D.* at the suit of
 the said *A. B.* in the plea aforesaid, by the default of
 the said *E. F.* and *G. H.* as likewise appears to us
 of record; and have that money before us at *West-*
minster, on — next after — to render to the
 said *A. B.* for his damages (or debt and damages)
 aforesaid; and have there then this writ. Witness,
 (*&c.*)

(As before, to the end of the award of execution,
 without stating it to be by default, and then as fol-
 lows:) and also —*l.* which in our same court
 before us, were adjudged to the said *A. B.* for his
 damages

(§ 19.)
 The like, after
 plea to a scire
facias.

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damages costs and charges which he hath been put unto, on occasion of the said *E. F.* and *G. H.* having pleaded to our writ of *scire facias*, sued out against them, at the suit of the said *A. B.* in that behalf; whereof the said *E. F.* and *G. H.* are convicted, as also appears to us of record; and have the said monies before us at *Westminster*, on — next after — to render to the said *A. B.* for his damages (or debt and damages) costs and charges aforesaid; and have there then this writ. Witness, (*&c.*)

(§ 20.)
Testatum fieri facias against bail to the action, in the King's Bench by bill.

George the Third, (*&c.*) To the sheriff of — greeting: Whereas we lately commanded our sheriff of *Middlesex*, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in his bailiwick, he should cause to be made — *l.* (or a certain debt of — *l.*) *&c.* (reciting the *feri facias*, to the end): And our said sheriff of *Middlesex*, at that day returned to us, that the said *E. F.* and *G. H.* had not, nor had either of them, any goods or chattels in his bailiwick, whereof he could cause to be made the damages (or debt and damages) aforesaid, or any part thereof; whereupon on the behalf of the said *A. B.* it is sufficiently testified in our said court before us, that the said *E. F.* and *G. H.* have sufficient goods and chattels in your bailiwick, whereof you may cause to be made the damages (or debt and damages) aforesaid, and every part thereof: Therefore we command you, that of the goods and chattels of the said *E. F.* and *G. H.* in your bailiwick, you cause to be made the said — *l.* (or the said debt of — *l.* and the said — *l.*) the damages aforesaid; and that you have that money before us at

he hath been put
F. and *G. H.* hav-
e facias, sued out
 id *A. B.* in that be-
 id *G. H.* are con-
 cord; and have the
ster, on — next
 id *A. B.* for his da-
 costs and charges
 his writ. Witness,

the sheriff of —
 mmanded our sher-
 ff and chattels of *E. F.*
 in his bailiwick, he
l. (or a certain debt
i facias, to the end):
sex, at that day re-
F. and *G. H.* had
 ny goods or chattels
 uld cause to be made
 mages) aforesaid, or
 on the behalf of the
 fied in our said court
 and *G. H.* have suf-
 ar bailiwick, whereof
 damages (or debt and
 part thereof: There-
 the goods and chat-
I. in your bailiwick,
 d — *l.* (or the said
 — *l.*) the damages
 hat money before us
 at

at *Westminster*, on — next after — to tender
 to the said *A. B.* for his damages (or debt and da-
 mages) aforesaid; and have there then this writ.
 Witness, (&c.)

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George the Third, (&c.) To our chamberlain of
 our county-palatine of *Chester*, or his deputy, greet-
 ing: Whereas by our writ we lately commanded our
 chancellor of our county-palatine of *Lancaster*, that
 by our writ under the seal of our said county-pala-
 tine to be duly made, and directed to the sheriff of
 the same county, he should command the said sher-
 riff, that of the goods and chattels of *E. F.* and *G. H.*
 the bail of *C. D.* in his bailiwick, he should cause
 to be made — *l.* (or a certain debt of — *l.*) &c.
 (reciting the former *testatum fieri facias*, to the end):
 And our said chancellor of our said county-palatine
 of *Lancaster*, at that day returned to us, that by
 another writ, under the seal of our same county-pa-
 latine duly made, and directed to the sheriff of the
 same county, he had commanded the said sheriff, as
 in the said first-mentioned writ he was commanded;
 which said sheriff had thereupon returned, that the
 said *E. F.* and *G. H.* had not, nor had either of
 them, any goods or chattels in his bailiwick, whereof
 he could cause to be made the damages (or debt and
 damages) aforesaid, or any part thereof; whereupon
 on the behalf of the said *A. B.* it is sufficiently tes-
 tified in our said court before us, that the said *E. F.*
 and *G. H.* have sufficient goods and chattels in our
 said county-palatine of *Chester*, whereof the da-
 mages (or debt and damages) aforesaid, and every
 part thereof, may be fully made: Therefore we
 command you, that by our writ, under the seal of

(§ 21.)

The like, from
 one county-
 palatine to an-
 other, after a
 former testa-
 tum.

our

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our said county-palatine of *Chester* to be duly made, and directed to the sheriff of the same county-palatine, you command the said sheriff, that of the goods and chattels of the said *E. F.* and *G. H.* in his bailiwick, he cause to be made the damages (or debt and damages) aforesaid, so that you may have that money before us at *Westminster*, on — next after — to render to the said *A. B.* for his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 22.)

Fieri facias against bail to the action in the Common Pleas, upon an award of execution, removed into the King's Bench by writ of error.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* late of — one of the bail of *C. D.* in your bailiwick, you cause to be made — *l.* and of the goods and chattels of *G. H.* late of — another of the bail of the said *C. D.* in your bailiwick, you cause to be made — *l.* and have the said monies before us, on — wheresoever, (&c.) to render to *A. B.* according to the form and effect of the adjudication of execution upon a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged to the said *A. B.* for the said *C. D.* in our court before the honorable Sir *James Mansfield* knight, and his companions, our justices of the Bench at *Westminster*; as by the record and proceedings of the adjudication of execution thereupon, which by virtue of our writ for correcting error we lately caused to be brought into our court before us, appears to us of record: And whereupon, in our said court before us at *Westminster*, it is considered that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* of the said several sums of — *l.* and — *l.* by them in form aforesaid

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respectively acknowledged, to be levied of their respective lands and chattels, by the default of them the said *E. F.* and *G. H.* as also appears to us of record; and have there this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* of — and *G. H.* of — the bail of *C. D.* in your bailiwick, you cause to be made — *l.* and have that money before us on — wheresoever we shall then be: in *England*, to render to *A. B.* according to the form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged to the said *A. B.* for the said *C. D.* upon our certain writ of error, in our court before the honorable Sir *James Mansfield* knight, our chief-justice of the Bench, at his chambers situate in *Serjeants'-Inn, Chancery-Lane, London*; as by the record thereof, which we lately for certain reasons caused to be brought into our court before us at *Westminster*, appears to us of record: And whereupon it is considered in our same court before us at *Westminster* aforesaid, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* for the said — *l.* by the default of them the said *E. F.* and *G. H.* as also appears to us of record; and have there this writ. Witness, (&c.)

(§ 23.)
The like, against bail in error, on a recognizance taken in the Common Pleas.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: We command you, that of the goods and chattels of *E. F.* and *G. H.* the bail of *C. D.* in your bailiwick, you cause to be made — *l.* and have that money before us at *Westminster*,

(§ 24.)
The like, on a recognizance taken in the King's Bench.

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ster, on — next after — to render to *A. B.* according to the form and effect of a certain recognizance, by them the said *E. F.* and *G. H.* acknowledged to the said *A. B.* for the said *C. D.* upon our certain writ of error, in our said court before us at *Westminster* aforesaid: And whereupon it is considered in our said court before us, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.* by the default of them the said *E. F.* and *G. H.* as appears to us of record; and have there this writ. Witness; (&c.)

(§ 25.)

Copias ad satisfaciendum against bail to the action, in the King's Bench by bill, after default on scire facias.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: We command you, that you take *E. F.* and *G. H.* the bail of *C. D.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after — to satisfy *A. B.* — *l.* which the said *A. B.* lately in our court before us, recovered against the said *C. D.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings then lately made by the said *C. D.* to the said *A. B.* (or if in debt, "a certain debt of — *l.* which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* and also — *l.* which in our same court before us were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detaining of the said debt"), as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And whereupon it is considered in our same court before us, that the said *A. B.* have his execution against the said *E. F.* and *G. H.* for

render to *A. B.*: ac-
 f a certain recogni-
 and *G. H.* acknow-
 said *C. D.* upon our
 court before us at
 ereupon it is consi-
 e us, that the said
 upon against the said
 llt of them the said
 us of record; and
 ; (&c.)

to the sheriff of *Mid-*
 d you, that you take
D.: if they be found in
 ly keep, so that you
 us at *Westminster*, on
 y *A. B.* — *l.*: which
 rt before us, recovered
 damages which he had
 of the not performing
 kings then lately made
A. B. (or if in debt, "
A. B. lately in our court
 overed against the said
 n our same court before
A. B. for his damages
 well on occasion of the
 as for his costs and
 uit in that behalf ex-
D. is convicted, as ap-
 whereupon it is consi-
 e us, that the said
 the said *E. F.* and *G. H.*
 for

for the damages (or debt and damages) aforesaid, according to the force, form and effect of a certain recognizance by them the said *E. F.* and *G. H.* acknowledged in our said court before us, for the said *C. D.* at the suit of the said *A. B.* in the plea aforesaid, by the default of the said *E. F.* and *G. H.* as also appears to us of record; and have there then this writ. Witness, (&c.)

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(As in the last, to the end of the award of execution, without stating it to be by default, and then as follows:) and also to satisfy the said *A. B.* — *l.* for his damages costs and charges which he hath been put unto, on occasion of the said *E. F.* and *G. H.* having pleaded to our writ of *scire facias*, sued out against them, at the suit of the said *A. B.* in that behalf; whereof the said *E. F.* and *G. H.* are convicted, as also appears to us of record; and have there then this writ. Witness, (&c.)

(§ 26.)
 The like, after
 plea to a *scire*
facias.

George the Third, (&c.) To the sheriff of —
 greeting: Whereas we lately commanded our she-
 riff of *Middlesex*, that he should take *E. F.* and *G.*
H. the bail of *C. D.* if they should be found in his
 bailiwick, and them safely keep, so that he might
 have their bodies before us at *Westminster*, on —
 next after —, to satisfy *A. B.* — *l.* (or a certain
 debt of — *l.*) &c. (reciting the *capias ad satisfaci-*
dum, to the end): And our said sheriff of *Middle-*
 sex at that day returned to us, that the said *E. F.*
 and *G. H.* were not, nor was either of them, found
 in his bailiwick; whereupon on the behalf of the
 said *A. B.* it is sufficiently testified in our same
 court before us, that the said *E. F.* and *G. H.* lurk

(§ 27.)
Testatum capias
ad satisfaci-
dum against
 bail to the ac-
 tion, in the
 King's Bench.

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and secrete themselves in your county: Therefore we command you, that you take the said *E. F.* and *G. H.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after —, to satisfy the said *A. B.* his damages (or debt and damages) aforesaid; and have there then this writ. Witness, (&c.)

(§ 28.)

Capias ad satisfaciendum against bail in error, on a recognizance taken in the Common Pleas.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: We command you, that you take *E. F.* and *G. H.* the bail of *C. D.* if they be found in your bailiwick, and them safely keep; so that you may have their bodies before us, on — wheresoever we shall then be in *England*, to satisfy *A. B.* — *l.* according to the force, form and effect of a certain recognizance, &c. (as before, p. 431.); and have there this writ. Witness, (&c.)

(§ 29.)

The like, on a recognizance taken in the King's Bench.

George the Third, (&c.) To the sheriff of *Middlesex*, greeting: We command you, that you take *E. F.* and *G. H.* the bail of *C. D.* if they be found in your bailiwick, and them safely keep, so that you may have their bodies before us at *Westminster*, on — next after — to satisfy *A. B.* — *l.* which the said *E. F.* and *G. H.* in our court before us, according to the form of the statute made for avoiding unnecessary delays of execution, acknowledged themselves to owe to the said *A. B.* to be paid to the said *A. B.* his executors or assigns; whereof the said *E. F.* and *G. H.* are convicted, as appears to be of record: And whereupon it is considered in our same court before us, that the said *A. B.* have his execution thereupon against the said *E. F.* and *G. H.*

county: Therefore
e the said *E. F.* and
bailiwick, and them
ave their bodies be-
next after —, to
ges (or debt and
there then this writ.

o the sheriff of *M.*
ed you, that you take
D. if they be found in
ly keep; so that you
us, on — wheresoe-
land, to satisfy *A. B.*
, form and effect of a
before, p. 431.); and
s, (&c.)

To the sheriff of *M.*
and you, that you take
C. D. if they be found
n safely keep, so that
efore us at *Westminster*
sify *A. B.* — *l.* which
our court before us, ac-
statute made for avoid-
ecution, acknowledge
A. B. to be paid to the
or assigns; whereof the
victed, as appears to
it is considered in our
the said *A. B.* have his
the said *E. F.* and *G. H.*

for the said — *l.*; and have there then this writ.
Witness, (&c.)

CHAP.
XLII.

— to wit: *Scire facias* to revive, for *A. B.* (§ 30.)
against *C. D.* for — *l.* damages (or — *l.* debt, and *Præcipe* for
— *l.* damages), returnable on —. *scire facias.*

E. F. attorney.

George the Third, (&c.) To the sheriff of — (§ 31.)
greeting: Whereas *A. B.* lately in our court before *Scire facias, or*
us at *Westminster*, by bill without our writ*, and a judgment in
by the judgment of the same court, recovered against *assumpsit.*
C. D. — *l.* for his damages which he had sustain-
ed, as well on occasion of the not performing cer-
tain promises and undertakings then lately made by
the said *C. D.* to the said *A. B.* as for his costs and
charges by him about his suit in that behalf expend-
ed; whereof the said *C. D.* is convicted, as appears to
us of record: And now on the behalf of the said *A.*
B. in our said court before us, we have been inform-
ed, that although judgment be thereupon given,
yet execution of the damages aforesaid still remains
to be made to him; wherefore the said *A. B.* hath
humbly besought us to provide him a proper remedy
in this behalf: And we being willing that what is
just in this behalf should be done, command you,
that by honest and lawful men of your bailiwick, you
make known to the said *C. D.* that he be before us
at

* This and the following writs are mostly drawn as if the former
proceedings were by *bill*; if they were by *original*, say, "by our
bill, and by the judgment of the same court," &c. making the
writ returnable on a *general* return-day, wheresoever, &c. and
instead of concluding with the words "have there then the
names," &c. say, "have there the names," &c.

CHAP. XLII.

at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages aforesaid, according to the force form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall then and there consider of him in this behalf; and have there then the names of those by whom you shall so make known to him, and this writ. Witness *Edward* Lord *Ellenborough* at *Westminster*, the — day of — in the — year of our reign.

Way.

(§ 32.)
The like, in
debt.

George the Third, (*Sc.*) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* a certain debt of — *l.* and also — *l.* which in the same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detention of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is convicted, as appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the debt and damages aforesaid still remains to be made to him wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf. And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*

fter —, to shew if
 say for himself, why
 his execution against
 d, according to the
 d recovery, if it shall
 do; and further to do
 t before us shall then
 this behalf; and have
 by whom you shall so
 writ. Witness Edward
 nster, the — day of
 eign.
 Way.

To the sheriff of —
 tely in our court before
 thout our writ, and by
 ourt, recovered against
 . and also —l. which
 gged to the said A. B. for
 stained, as well on oc-
 the said debt, as for his
 bout his suit in that be-
 said C. D. is convicted,
 And now on the behal
 id court before us, we
 although judgment be
 ation of the debt and
 ins to be made to him
 hath humbly besoug
 remedy in this behal
 what is just in this beha
 you, that by honest an
 k, you make known t
 efore us at Westminster

on — next after —, to shew if he has or knows
 of any thing to say for himself, why the said A. B.
 ought not to have his execution against him, of the
 debt and damages aforesaid, according to the force
 form and effect of the said recovery, if it shall seem
 expedient for him so to do; and further to do and
 receive, &c. (as in the last.)

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George the Third, (&c.) To the sheriff of —
 greeting: Whereas A. B. lately in our court before
 us at Westminster, by bill without our writ, and by
 the judgment of the same court, recovered against
 C. D. —l. for his damages which he had sustained,
 as well on occasion of the breach of a certain cove-
 nant, made between the said A. B. and the said C. D.
 as for his costs and charges by him about his suit in
 that behalf expended; whereof the said C. D. is con-
 victed, &c. (as before, p. 435, 6.)

(§ 33.)
The like, in
covenant.

For his damages which he had sustained, as well
 on occasion of a certain grievance, then lately com-
 mitted by the said C. D. as for his costs, (&c.)

(§ 34.)
In case.

For this section, vide post, Chap. XLIV.

(§ 35.)

For his damages which he had sustained, as well
 on occasion of certain trespasses, then lately com-
 mitted by the said C. D. as for his costs, (&c.)

(§ 36.)
In trespass.

For this section, vide post, Chap. XLV.

(§ 37.)

George the Third, (&c.) To the sheriff of —
 greeting: Whereas C. D. lately in our court before
 us at Westminster, by the judgment of the same
 court, recovered against A. B. —l. which in the
 same court were adjudged to the said C. D. according
 to the form of the statute in such case made and pro-
 vided,

(§ 38.)
Scire facias for
the defendant,
for costs.

CHAP.
XLII.

vided, for his costs and charges by him laid out, in and about his defence of and in a certain plea of trespass on the case, &c. (or as the plea was,) before then commenced and depending in our same court, by and at the suit of the said *A. B.* against the said *C. D.* whereof the said *A. B.* is convicted, (&c.) And now on the behalf of the said *C. D.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the costs and charges aforesaid still remains to be made to him; wherefore the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing, (&c.) command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *C. D.* ought not to have his execution against him, of the costs and charges aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

(§ 39.)

Scire facias, to a county-palatine.

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (as before, p. 435. to the mandatory part of the writ, which is as follows) — command you, that by our writ under the seal of our said county-palatine to be duly made and directed to the sheriff of the said county-palatine, you command the said sheriff, that by good and lawful men of his bailiwick, he make known

es by him laid out, in
 in a certain plea of
 as the plea was,) be-
 pending in our same
 the said *A. B.* against
 said *A. B.* is convicted,
 lf of the said *C. D.* in
 e have been informed,
 thereupon given, yet
 arges aforesaid still re-
 herefore the said *C. D.*
 provide him a proper
 we being willing, (Sc.)
 nest and lawful men of
 known to the said *A. B.*
Westminster, on — next
 ath or knoweth of any
 y the said *C. D.* ought
 against him, of the costs
 according to the force
 recovery, if it shall seem
 ; and further to do and
 35, 6.)

To our chancellor of
 aster, or to his deputy
A. B. lately in our court
 bill without our writ, and
 court, recovered, Sc. (the
 y part of the writ, which
 ou, that by our writ under
 alatine to be duly made
 of the said county-pale
 d sheriff, that by good
 iwick, he make known

Sc. (as before); and have you there then the names
 of those by whom the said sheriff shall so make
 known to him, and this writ. Witness, (Sc.)

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George the Third, (Sc.) To the sheriff of —
 greeting: Whereas *A. B.* lately in our court before
 us at *Westminster*, by bill without our writ, and by
 the judgment of the same court, recovered, Sc.
 (stating the judgment); whereof the said *C. D.* is
 convicted, as appears to us of record; and where-
 upon it was afterwards considered in our said court
 before us, that the said *A. B.* should have his exe-
 cution against the said *C. D.* of the damages (or
 debt and damages) aforesaid, according to the force
 form and effect of the said recovery, as also appears
 to us of record: And now on the behalf of the said
A. B. in our said court before us, we have been in-
 formed, that although judgment be thereupon giv-
 en, and execution awarded in form aforesaid, yet
 execution of the damages (or debt and damages)
 aforesaid still remains to be made to him; where-
 fore the said *A. B.* hath humbly besought us to pro-
 vide him a proper remedy in this behalf: And we
 being willing that what is just in this behalf should
 be done, command you, that by honest and lawful
 men of your bailiwick, you make known to the said
C. D. that he be before us at *Westminster*, on —
 next after —, to shew if he has or knows of any
 thing to say for himself, why the said *A. B.* ought
 not to have his execution against him, of the da-
 mages (or debt and damages) aforesaid, according
 to the force form and effect of the said recovery
 and award of execution, if it shall seem expedient

(§ 40.)
Scirefacias, af-
 ter a former
 revival.

CHAP. XLII. for him so to do; and further to do and receive, &c. (as before, p. 435,6.)

(§ 41.)
Scire facias
 pending error,
 on a judgment
 of the Common
 Pleas.

George the Third, (&c.) To the sheriff of —
 greeting: Whereas *A. B.* lately in our court before
 the right honorable Sir *James Mansfield* knight,
 and his companions, then our justices of the Bench
 at *Westminster*, by our writ, and by the judgment
 of the same court, recovered, &c. (stating the
 judgment); whereof the said *A. B.* is convicted,
 as by the inspection of the record and proceedings
 thereof, which for certain causes of error, we lately
 caused to be brought into our said court before us,
 appears to us of record: And now on the behalf of
 the said *A. B.* in our said court before us, we have
 been informed, &c. (as before, p. 435,6. making the
 writ returnable on a general return-day, whereso-
 ever, &c.)

(§ 42.)
 The like, on
 error from an
 inferior court.

George the Third, (&c.) To the sheriff of —
 greeting: Whereas *A. B.* lately in our court of
 — before the judges of the same court, without
 our writ, and by the judgment of the same court,
 recovered against *C. D.* — *l.* for his damages which
 he had sustained, as well on occasion of the not per-
 forming certain promises and undertakings there
 lately made by the said *C. D.* to the said *A. B.* at
 — in your county, and within the jurisdiction of
 the same court, as for his costs, (&c.) whereof the
 said *C. D.* is convicted, as by the inspection of the
 record and proceedings thereof, which for certain
 causes of error, we lately caused to be brought into
 our

to do and receive,

To the sheriff of —
 y in our court before
 es Mansfield knight,
 justices of the Bench
 and by the judgment
 ed, &c. (stating the
 A. B. is convicted,
 cord and proceedings
 ses of error, we lately
 said court before us,
 now on the behalf of
 rt before us, we have
 p. 425,6. making the
 return-day, whereso-

To the sheriff of —
 tely in our court of
 e same court, withou
 ent of the same court,
 for his damages which
 occasion of the not per
 nd undertakings thea
 D. to the said A. B. at
 thin the jurisdiction of
 sts, (&c.) whereof the
 y the inspection of the
 reof, which for certain
 used to be brought into
 out

our said court before us, manifestly appears: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, &c. (as in the last).

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George the Third, (Sc.) To the sheriff of —
 greeting: Whereas *A. B.* lately in our court before the right honorable Sir *James Mansfield* knight, and his companions, then our justices of the Bench at *Westminster*, by our writ, and by the judgment of the same court, recovered, &c. (stating the original judgment); whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us, by virtue of our certain writ of error prosecuted by the said *C. D.* of and upon the premises, and which now remains in our said court before us, in all things affirmed, appears to us of record; and also — *l.* which in our said court before us were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our said writ of error, by the said *C. D.* so as aforesaid prosecuted of and upon the premises; whereof the said *C. D.* is also convicted, as appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given and affirmed in form aforesaid, yet execution of that judgment still remains to be made

(§ 43.)
Scire facias, after a judgment of the Common Pleas, affirmed in the King's Bench.

to

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XLII.

to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us on — wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages costs and charges aforesaid, according to the force form and effect of the recovery and adjudication aforesaid, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

(§ 44.)

The like, after a judgment of the King's Bench, affirmed in the Exchequer-chamber.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, &c. (stating the original judgment); whereof the said *C. D.* is convicted, as appears to us of record; and also — *l.* adjudged to the said *A. B.* in our Exchequer-Chamber, according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our certain writ of error, prosecuted by the said *C. D.* against the said *A. B.* in our Exchequer-Chamber aforesaid, before our justices of the Bench, and the barons of our Exchequer of the degree of the coif, according to the form of the statute in such case made and provided: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that

that although judgment be thereupon given and affirmed in form aforesaid, yet execution of that judgment still remains to be made to him; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the damages costs and charges aforesaid, according to the force form and effect of the recovery and adjudication aforesaid, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

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George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately, to wit, at the county-court of — esquire, sheriff of your county, held at — in and for the said county, and within the jurisdiction of the same court, on — the — day of — in the year of our Lord 18—, before *E. F. G. H. J. K.* and *L. M.* gentlemen, freeholders of the said county, and suitors of the same court, by the consideration and judgment of the same court, recovered, &c. (stating the judgment in the county-court); whereof the said *C. D.* is convicted, as by the record of the plaint between the said *A. B.* and *C. D.* in that behalf, which we lately caused to be recorded in the full county aforesaid, and the record thereof had in our court before us at *Westminster*, on — last past,

(§ 45.)

The like, after
non-pros on a
writ of false-
judgment.

that

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XLII.

past, under the seal of the said — sheriff of the said county, and the seals of four lawful knights of the same county, of such as were present at the said recording, by virtue of our writ, at the instance of the said *C. D.* who complained that false judgment had been given against him in the said county, and which said writ the said *C. D.* did not further prosecute in the same court, manifestly appears; nevertheless execution of the said judgment still remains to be made, as on the information of the said *A. B.* in our said court before us, we have been given to understand: And because we are willing that those things which in our said court, and in the county-court aforesaid, are rightly done and transacted, should be duly carried into execution; therefore we command you, that by honest and lawful men of your bailiwick, you make known, &c. (as before, p. 435, 6.)

Assignment of further breach, after judgment in debt on an annuity-bond, to found a *scire facias* for subsequent arrears, on the stat. 8 & 9 H. III. c. 11. § 8.

Afterwards, to wit, on — next after — in — term, in the — year of the reign of our said lord the king, before our said lord the king at *Westminster*, comes the said *A. B.* by — his attorney; and according to the form of the statute in such case made and provided, gives the same court here to understand and be informed, that the said judgment was so recovered against the said *C. D.* as aforesaid, upon and by virtue of a certain bond or writing obligatory, in the penal sum of — *l.* bearing date the — day of — in the year of our Lord 18 — sealed with the seal of the said *C. D.* under and subject to a certain condition there

— sheriff of the
our lawful knights of
were present at the
writ, at the instance
ned that false judg-
m in the said county,
C. D. did not further
manifestly appears;
said judgment still re-
formation of the said
ore us, we have been
because we are willing
said court, and in the
ightly done and trans-
ried into execution;
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k, you make known,

— next after — in
of the reign of our said
said lord the king at
A. B. by — his at-
ne form of the statute
rovided, gives the same
be informed, that the
ered against the said
d by virtue of a certain
, in the penal sum of
— day of — in the
d with the seal of the
t to a certain condition
there

thereunto subscribed, whereby after reciting that the said *A. B.* had contracted and agreed with the said *C. D.* for the absolute purchase of one annuity or yearly sum of — *l.* of lawful money of *Great Britain*, free and clear of and from all taxes outgoings and deductions whatsoever, payable and to be paid quarterly, for and during the term of the natural life of him the said *A. B.* then of the age of — years or thereabouts, at and for the price or sum of — *l.* which said sum of — *l.* the said *A. B.* had, at or before the time of the sealing and delivery of the said writing obligatory, in hand well and truly paid to the said *C. D.* the receipt and payment whereof he the said *C. D.* did by the said writing obligatory admit and acknowledge; it was declared by the said condition, that if the said *C. D.* his heirs executors or administrators, did and should well and truly pay or cause to be paid unto the said *A. B.* or his assigns, during the life of him the said *A. B.* one annuity or yearly sum of — *l.* of lawful money of *Great Britain*, at — in the said county of — by four even and equal quarterly payments, on the several and respective days and times in the said writing obligatory mentioned, (that is to say) on the — day of — (Sc.) from thenceforth in each and every year, and also a proportionable part or share of the last quarterly payment of the said annuity or yearly sum of — *l.* up to the day of the decease of the said *A. B.* without making any deduction defalcation or abatement whatsoever thereout, or out of any part thereof, or taxes, or on any account whatsoever the first payment of which said annuity or yearly sum of — *l.* was to be made on the — day of — then

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next ensuing the day of the date thereof, then the said obligation was to be void, otherwise to be and remain in full force and virtue: And the said *A. B.* also gives his said majesty's court here to understand and be informed, that the bill of him the said *A. B.* in the said action, in which he so obtained such judgment as aforesaid, was exhibited upon the — day of — in — term, in the — year of the reign of our said lord the king; and that the said action was brought and commenced upon and for certain breaches of the condition of the aforesaid writing obligatory by the said *C. D.* before the exhibiting of the bill aforesaid: But the said *A. B.* for a further and other breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided, gives his said majesty's court here to understand and be informed, that after the making of the said writing obligatory, and during the term of his natural life, to wit, on the — day of — in the year of our Lord 18—, at — aforesaid, a large sum of money, to wit, the sum of — *l.* for — of the said annuity or yearly sum of — *l.* then elapsed, became and was due and owing from the said *C. D.* to the said *A. B.* and still is in arrears and unpaid to him the said *A. B.*: contrary to the form and effect of the said condition of the said writing obligatory; which said last-mentioned breach of the said condition so assigned, the said *A. B.* doth aver and give his said majesty's court here to understand and be informed, is a further and other breach of the said condition, than the said breaches for and by reason of which he obtained the said judgment, so by him recovered aforesaid.

aforsaid: And hereupon the said *A. B.* according to the form of the statute in such case made and provided, prays the writ of our said lord the king of *scire facias*, upon the said judgment so obtained as aforesaid, against the said *C. D.* to be directed to the sheriff of —, suggesting the said further and other breach of the said condition of the said writing obligatory herein before assigned, and commanding the said sheriff to summon the said *C. D.* to shew cause, why execution should not be had and awarded upon the said judgment, for the damages which the said *A. B.* hath sustained, by reason of the said further and other breach of the said condition of the said writing obligatory; and it is granted to him, &c. returnable before our said lord the king at *Westminster*, on — next after —; the same day is given to the said *A. B.* at the same place.

George the Third, (Sc.) To the sheriff of — greeting: Whereas *A. B.* heretofore, to wit, in — term in the — year of our reign, in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* a certain debt of — *l.* and also — *s.* for his damages which he had sustained, as well on occasion of the detaining of the said debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* was convicted, as by the record and proceedings hereof, remaining in our said court before us at *Westminster* aforesaid, manifestly appears: And now here comes the said *A. B.* by — his attorney; and according to the form of the statute in such case made and provided suggests, and gives the

Scire facias, in a similar case.

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XLII.

the court here to understand and be informed, that the said judgment so recovered against the said *C. D.* as aforesaid, was had and obtained upon and by virtue of a certain writing obligatory, bearing date the — day of — in the year of our Lord 18— whereby the said *C. D.* became held and firmly bound to the said *A. B.* in the penal sum of —*l.* of good and lawful money of *Great Britain*, to be paid to the said *A. B.* when he the said *C. D.* should be thereto afterwards requested; with and under a certain condition to the said writing obligatory subscribed, whereby after reciting, (*&c.*) it was declared, that if the said *C. D.* *&c.* (to the end of the condition): And the said *A. B.* for another and further breach of the said condition of the said writing obligatory, than that whereon the said judgment was so recovered as aforesaid, according to the form of the statute in such case made and provided, further suggests, and gives the court here to understand and be informed, that after the recovery of the said judgment, and in the life-time of the said *C. D.* to wit, on the — day of — in the year of our Lord 18—, at — in your county, a large sum of money, to wit, the sum of —*l.* of lawful money of *Great Britain*, of the said annuity or yearly sum of —*l.* in the said condition mentioned, for — then elapsed, became and was due and payable from the said *C. D.* to the said *A. B.* and which said sum of —*l.* is still due, in arrear and unpaid from the said *C. D.* to the said *A. B.* contrary to the form and effect of the said condition of the said writing obligatory; for which said further and other breach of the aforesaid condition of the said writing obligatory, the said *A. B.* hath humbly

be.

besought us to provide him a proper remedy: And we being willing that what is just in this behalf should be done, do, according to the form of the statute in such case made and provided, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after — to shew cause, why execution should not be had and awarded against him, upon the said judgment so obtained as aforesaid, for the damages which the said *A. B.* hath sustained, by reason of the said further and other breach of the said condition of the said writing obligatory, if it shall seem expedient for the said *A. B.* so to do; and further to do and receive what our said court before us shall then and there consider of him in this behalf: And have there then the names of those by whom you shall so make known to him, and this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* heretofore, to wit, in — term, in the — year of our reign, in our court before us at *Westminster*; by bill without our writ, and by the judgment of the same court, recovered against *C. D.* a certain debt of — *l.* and also — *l.* which in the same court were adjudged to the said *A. B.* for his damages which he had sustained, as well on occasion of the detaining of that debt, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in our said court before us at *Westminster* aforesaid, manifestly appears: And afterwards at this day, to wit, on — the — day of — in

G g

the

(§ 46.)
The like, in
debt on arti-
cles of agree-
ment.

CHAP.
XLII.

the — year of our reign, the said *A. B.* by *E. F.* his attorney, comes into our said court before us at *Westminster* aforesaid, and according to the form of the statute in such case made and provided, gives the same court here to understand and be informed, that the said debt so by him recovered as aforesaid, was and is a certain penal sum of — *l.* mentioned in certain articles of agreement, made the — day of — in the year of our Lord 18—, to wit, at — between the said *A. B.* (by the name and addition of —) of the one part, and the said *C. D.* (by the name and addition of —) of the other part, (one part of which said articles of agreement, sealed with the seal of the said *C. D.* and bearing date the day and year last aforesaid, the said *A. B.* now brings here into court,) by which said articles of agreement, reciting, (&c.) it is witnessed, &c. (setting forth so much of the articles, as is necessary for assigning the further breaches): And the said *A. B.* also gives our said court here to understand and be informed, that the bill of him the said *A. B.* in the said action, in which he so obtained such judgment as aforesaid, was exhibited upon the — day of — in the year of our Lord 18—, and that the said action was brought and commenced upon and for a certain breach of the aforesaid articles of agreement by the said *C. D.* before the exhibiting of the bill aforesaid: But the said *A. B.* for further and other breaches of the said articles of agreement according to the form of the statute in such case made and provided, gives our said court here to understand and be informed, &c. (assigning the further breaches): which said several breaches of the said articles of agreement so assigned, the said *A. B.*

doth aver and give our said court here to understand and be informed, are further and other breaches than the breaches for and by reason of which he obtained the said judgment so by him recovered as aforesaid; and for which said further and other breaches, he hath humbly besought us to provide him a proper remedy: And we being willing, &c. (as in the last, *mutatis mutandis*.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* our debtor heretofore, to wit, in — term, in the — year of our reign, in our court before the barons of our exchequer at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* a certain debt of — *l.* and his damages by him sustained on occasion of the detention thereof; whereof the said *C. D.* was convicted, as by the record and proceedings thereof, remaining in our said court before the barons of our said exchequer at *Westminster* aforesaid, manifestly appears: And afterwards at this day, to wit, on — the — day of — in the — year of our reign, the said *A. B.* by — his attorney, comes into our said court before the barons of our said exchequer at *Westminster* aforesaid, and according to the form of the statute in such case made and provided, desires the same court here to understand and be informed, that the said judgment was so recovered against the said *C. D.* as aforesaid, upon and by virtue of a certain writing obligatory, in the penal sum of — *l.* bearing date, (&c.) and sealed with the seal of the said *C. D.* under and subject to a certain condition thereto subscribed, whereby af-

The like, in the exchequer, in debt on an annuity-bond, after a former *scire facias*.

CHAP.
XLII.

ter reciting, (&c.) it was declared that if, (&c.) And the said *A. B.* also gives our said court here to understand and be informed, that the bill of him the said *A. B.* in the said action, in which he so obtained such judgment as aforesaid, was exhibited upon the — day of — in — term, in the — year of our reign; and that the said action was brought and commenced upon and for a certain breach of the said condition of the said writing obligatory by the said *C. D.* before the exhibiting of the bill aforesaid; and that after the recovery of the said judgment, to wit, in — term, in the — year of our reign, there issued out of our said court here, our certain writ of *scire facias* upon the said judgment, against the said *C. D.* according to the form of the statute in such case made and provided, suggesting another breach of the said condition of the said writing obligatory, in the non-payment of the sum of — *l.* for — of the said annuity or yearly sum of — *l.* which became due and owing from the said *C. D.* to the said *A. B.* on the — day of — in the year of our Lord 18— and which said sum of — *l.* hath been since satisfied: But the said *A. B.* for a further and other breach of the said condition of the said writing obligatory, according to the form of the statute in such case made and provided, gives our said court here to understand and be informed, that, &c. (assigning the last breach, and proceeding as follows:) which said last-mentioned breach of the said condition so assigned, the said *A. B.* doth aver and give our said court here to understand and be informed, is a further and other breach of the said condition, than the several breaches for and

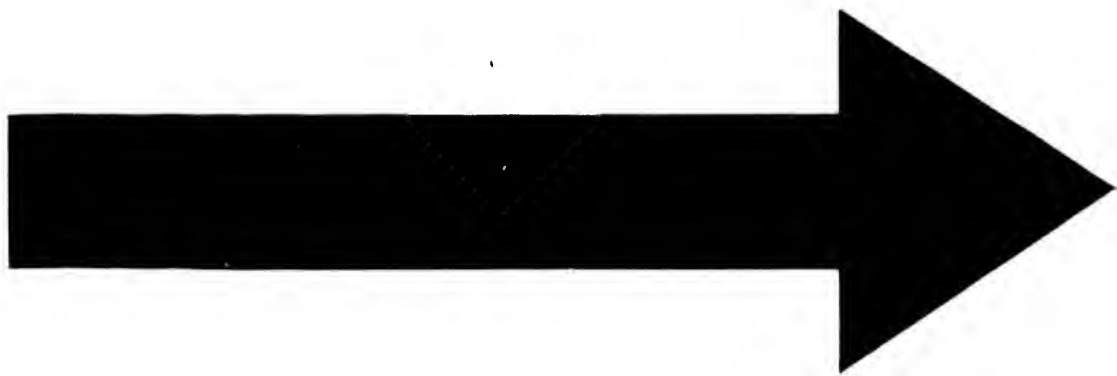
reason of which he obtained the said judgment, and issued the said writ of *scire facias*, as aforesaid; and for which said further and other breach, he hath humbly besought us to provide him a proper remedy: And we being willing, &c. (as before, *mutatis mutandis*.)

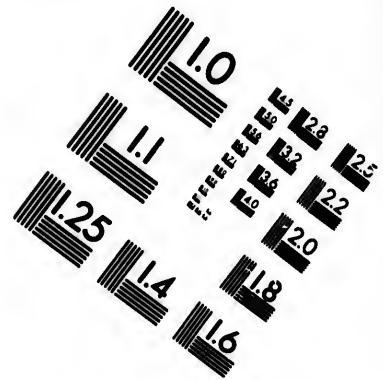
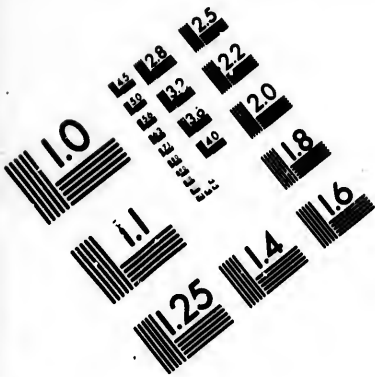
CHAP.
XLII.

George the Third, (&c.) To _____
greeting: Whereas by our writ we _____ mand-
ed you, that of the goods and chattels in your baili-
wick; which were of *E. F.* deceased at the time of his
death, in the hands and possession of *C. D.* executor
of the last will and testament of the said *E. F.* (or
administrator of all and singular the goods chattels
and credits, which were of the said *E. F.* at the
time of his death, who died intestate, as it is said,)
to be administered, you should cause to be made a
certain debt of _____ *l.* which *A. B.* lately in our
court before us at *Westminster*, recovered, &c. (as in
the writ of *fieri facias*,) whereof the said *C. D.* was
convicted, as appeared to us of record, if the said
C. D. had so much thereof in his hands to be ad-
ministered, and if he had not so much thereof in
his hands to be administered, then that you should
cause the damages aforesaid to be made of the
proper goods and chattels of the said *C. D.* and that
you should have that money before us at *Westmin-*
ster, on a certain day now past, to render to the
said *A. B.* for his debt and damages aforesaid:
and you at that day returned to us, that the said
C. D. had no goods or chattels in your baili-
wick; which were of the said *E. F.* at the time
of his death, in the hands of the said *C. D.* to
be administered, whereof you could cause to be

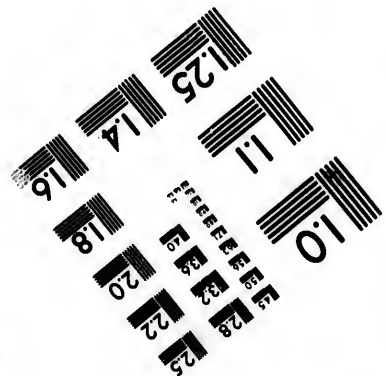
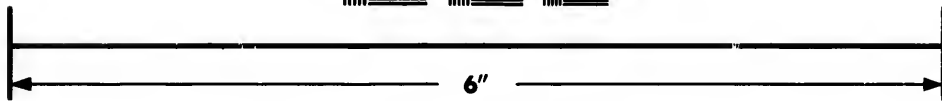
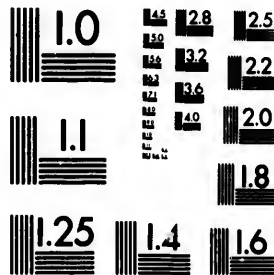
(§ 47.)

Scire fieri
inquiry.





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24 172

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made the debt and damages aforesaid, or any part thereof; and that the said *C. D.* had not any of his own proper goods or chattels in your bailiwick, whereof you could cause to be made the damages aforesaid, or any part thereof: And because the return aforesaid, by you made in our said court before us, seems to be in delay of execution of the debt and damages aforesaid; and because on the behalf of the said *A. B.* in our said court before us, it is sufficiently testified, that divers goods and chattels which were of the said *E. F.* at the time of his death, to the value of the debt and damages aforesaid, after the death of the said *E. F.* came to the hands and possession of the said *C. D.* to be administered, and that the said *C. D.* hath sold and wasted those goods and chattels, and converted and disposed of the money arising therefrom to his own use; and that the said *C. D.* hath eligned the residue of the goods and chattels, which were of the said *E. F.* at the time of his death, to places to the said *A. B.* unknown, and hath converted and disposed of the said last-mentioned goods and chattels to his own use, with intent that execution thereof should not as yet be made: And because we are unwilling that those things which in our said court before us are rightly done or adjudged, should be rendered ineffectual by fraud or subtilty; therefore we command you, that of the goods and chattels in your bailiwick, which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, you cause to be made the debt and damages aforesaid, if they can be levied thereof; and have the money thereof levied before us at *Westminster*, on — next after —, to render to the

said *A. B.* for his debt and damages aforesaid; and if they cannot be thereof levied, then if it shall appear to you, by the inquisition upon oath of honest and lawful men of your bailiwick in this behalf to be taken, or in any other manner by which you may the better know, that the said *C. D.* hath sold, eloigned, wasted, or converted or disposed of to his own use the goods or chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, to the value of the debt and damages aforesaid, or any part thereof, that then by honest and lawful men of your bailiwick, you make known to the said *C. D.* that he be before us at *Westminster*, on — next after — to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of the debt and damages aforesaid, to be levied of the proper goods and chattels of the said *C. D.* if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* executor of the last will and testament of *E. F.* deceased, (or “administrator of all and singular the goods chattels and credits, which were of the said *E. F.* deceased at the time of his death, who died intestate”) — *l.* for his damages, &c. (or, a certain debt of — *l.*) to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which should thereafter come to the hands of the said *C. D.* executor (or administrator) as

(§ 48.)
Scire facias
against an executor or administrator, on a judgment of assizes *quando acciderint.*

CHAP.
XLII.

aforesaid to be administered; whereof the said *C. D.* was convicted, as appears to us of record: And although judgment be thereupon given, yet execution of the damages (or debt) aforesaid, still remains to be made to him; and after the judgment aforesaid, in form aforesaid given, divers goods and chattels which were of the said *E. F.* at the time of his death, to the value of the damages (or debt) aforesaid and more, came to and are now in the hands and possession of the said *C. D.* executor (or administrator) as aforesaid to be administered, whereof he may satisfy the said *A. B.* for the damages (or debt) aforesaid, as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* executor (or administrator) as aforesaid, that he be before v. *Westminster*, or — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have execution against him for the damages (or debt) aforesaid, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, and which so as aforesaid came to and are now in the hands of the said *C. D.* executor (or administrator) as aforesaid to be administered, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

(§ 49.)
Scire facias
against the fu-

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before

ACIAS
 hereof the said *C. D.*
 of record: And al-
 given, yet execution
 said, still remains to
 judgment aforesaid,
 goods and chattels
 the time of his death,
 (or debt) aforesaid and
 in the hands and pos-
 sessor (or administrator)
 thereof he may sa-
 vages (or debt) afore-
 the said *A. B.* in our
 been given to under-
B. hath humbly be-
 proper remedy in this
 ng that what is just in
 command you, that by
 or bailiwick, you make
 tutor (or administrator)
 e v. *Westminster*, on
 y if hath or knoweth
 lf, why the said *A. B.*
 against him for the da-
 to be levied of the good
 he said *E. F.* at the time
 s aforesaid came to an
 said *C. D.* executor (or
 to be administered, if
 m so to do; and further
 before, p. 435, 6.)

To the sheriff of —
 ately in our court before

as at *Westminster*, by bill without our writ, and by
 the judgment of the same court, recovered, &c. (as
 in a common *scire facias*, to the words "as appears
 to us of record"): And whereas also we have been
 informed, that after the 24th day of *June* in the
 year of our Lord 1732, and before the issuing of
 the second commission of bankrupt against the said
C. D. hereinafter mentioned, to wit, on — at
 — the said *C. D.* became a bankrupt, within the
 true intent and meaning of the several statutes made
 and now in force concerning bankrupts, or some
 or one of them; and that thereupon afterwards, to
 wit, on — at — aforesaid, a commission of
 bankrupt, under the great seal of *Great Britain*,
 was duly awarded and issued against the said *C. D.*
 as by the said commission appears; and that the
 said *C. D.* afterwards, to wit, on — at — afore-
 said, was under and by virtue of such commission,
 duly found to have become a bankrupt, before the
 date and issuing forth of the said commission, and
 was thereupon then and there declared and adjudged
 bankrupt accordingly; and that the said *C. D.*
 afterwards, to wit, on — at — aforesaid, did
 in due manner obtain his certificate under the said
 commission of bankrupt, so awarded and issued
 against the said *C. D.* as aforesaid; and that the
 said *C. D.* was thereupon afterwards, to wit, on —
 at — aforesaid, discharged in
 that behalf, by virtue of a certain act of parlia-
 ment made and passed in the fifth year of the reign
 of his late majesty king *George* the Second, intituled
 "An act to prevent the committing of frauds by
 bankrupts;" and that the said *C. D.* after such dis-
 charge, to wit, on — did again become bank-
 rupt,

CHAP.
 XLII.

ture effects of
 a bankrupt,
 whose estate
 did not pay
 fifteen shillings
 in the pound,
 under a se-
 cond commis-
 sion.

CHAP.
XII.

rupt, within the true intent and meaning of the several statutes made and now in force concerning bankrupts, or some or one of them; and that thereupon afterwards, to wit, on — at — aforesaid, another commission of bankrupt, under the great seal of *Great Britain*, was duly awarded and issued against the said *C. D.* as by the said last-mentioned commission appears; and that the said *C. D.* afterwards, to wit, on — at — aforesaid, was under and by virtue of such last-mentioned commission, duly found to have become a bankrupt, before the date and issuing forth of the said last-mentioned commission, and was thereupon then and there declared and adjudged to be a bankrupt accordingly: And whereas we have been further informed, that the debt for which the judgment aforesaid was given, became and was due and owing from the said *C. D.* to the said *A. B.* after the said *C. D.* was discharged as hereinbefore-mentioned, and before the said *C. D.* became bankrupt as last above-mentioned; and that the said *C. D.* after the said judgment was given in form aforesaid, to wit, on — at — was charged in execution upon the said judgment for the debt and damages aforesaid, and was detained in prison on that occasion, until the time of his discharge as hereinafter-mentioned; and that the said *C. D.* after the said judgment was given in form aforesaid, and after the said *C. D.* was so charged in execution as aforesaid, to wit, on — at — aforesaid, duly obtained his certificate under the said last-mentioned commission of bankruptcy, so awarded and issued against the said *C. D.* as aforesaid, and was thereupon afterwards, to wit, on — discharged out of custody on such execution, by virtue of the

said

said act of parliament made and passed in the fifth year of the reign of his said late majesty king *George* the second, intituled "An act to prevent the committing of frauds by bankrupts;" and the estate of the said *C. D.* hath not at any time hitherto produced clear, after all charges, sufficient to pay every creditor under the said last-mentioned commission, so awarded and issued against the said *C. D.* as aforesaid, fifteen shillings in the pound for their respective debts: And whereas also we have further been informed, that the said *C. D.* is possessed of divers goods and chattels in your bailiwick, as of his own proper goods and chattels, which have become the goods and chattels of the said *C. D.* since the time of his obtaining his certificate under the said last-mentioned commission of bankrupt, so awarded and issued against the said *C. D.* as aforesaid, whereby the said *A. B.* may be satisfied his debt and damages aforesaid; and the said *A. B.* hath obtained no execution for the said debt or damages, except as aforesaid; whereupon the said *A. B.* hath besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by good and lawful men of your bailiwick, you cause to be made known to the said *C. D.* that he be before us at *Westminster*, on — next after — to shew if he has or knows of any thing to say for himself, why the said *A. B.* ought not to have his execution against the goods and chattels which have become the goods and chattels of the said *C. D.* since the time of his obtaining his certificate under the said last-mentioned commission of bankrupt, so awarded and issued against him as aforesaid, and also against the estate and other

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XLII.

other effects of the said *C. D.* (the tools of trade, the necessary household goods and furniture, and necessary wearing apparel of the said *C. D.* and his wife and children, only excepted,) for the debt and damages aforesaid, according to the force form and effect of the said recovery, and of the statute in such case made and provided, if it shall be expedient for him so to do: and further to do and receive, &c. (as before, p. 435, 6.)

(§ 50.)

Scire facias by
baron and
feme, on a
judgment re-
covered by the
feme: dem sola.

George the Third, (*Sc.*) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered, (*Sc.*) whereof the said *C. D.* is convicted, as appears to us of record; and afterwards, to wit, on — at — the said *A. B.* intermarried with and took to husband *E. F.* as by the information of the said *E. F.* and *A.* his wife, in our said court before us, we have been given to understand: And now on the behalf of the said *E. F.* and *A.* his wife, we have been informed, that although judgment be thereupon given, yet execution of the damages (or debt and damages) aforesaid still remains to be made to them; wherefore the said *E. F.* and *A.* his wife have humbly besought us to provide them a proper remedy in this behalf: And we being willing, &c. (as in a common *scire facias*, to the end.)

(§ 51.)

The like, a-
gainst baron
and feme, up-
on a judgment
recovered a-
gainst the
feme: dem sola.

George the Third, (*Sc.*) To the sheriff of —
greeting? Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against

C. D.

tools of trade, the
furniture, and ne-
said *C. D.* and his
(,) for the debt and
the force form and
of the statute in such
all be expedient for
and receive, &c. (as

to the sheriff of —
in our court before
out our writ, and by
art, recovered, (&c.)
acted, as appears to us
wit, on — at —
h and took to husband
of the said *E. F.* and
t before us; we have
nd now on the behalf
wife, we have been in-
ment be thereupon
damages (or debt and
s to be made to them;
A. his wife have hum-
them a proper remedy
willing, &c. (as in a
d.)

To the sheriff of —
ly in our court before
out our writ, and by
art, recovered against
C. D.

C. D. (&c.) whereof the said *C. D.* is convicted, as
appears to us of record; and afterwards, the said
C. D. intermarried with and took to husband *E. F.*
And now on the behalf of the said *A. B.* in our said
court before us, we have been informed, that al-
though judgment be thereupon given, yet execution
of the damages (or debt and damages) aforesaid
still remains to be made to him; wherefore the said
A. B. hath humbly besought us, &c. (as before, p.
435, 6.)

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XLII.

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before
us at *Westminster*, by bill without our writ, and by
the judgment of the same court, recovered, &c.
(stating the judgment); whereof the said *C. D.* is
convicted, as appears to us of record; and after-
wards, the said *A. B.* became bankrupt, within the
true intent and meaning of the several statutes made
and then in force concerning bankrupts, or some or
one of them; whereupon a certain commission of
bankrupt, under the great seal of the united king-
dom of *Great Britain* and *Ireland*, was duly awarded
and issued against the said *A. B.*; and *E. F.* was
duly chosen assignee of the estate and effects of the
said *A. B.* under the said commission: And now on
the behalf of the said *E. F.* assignee as aforesaid, in
our said court before us, we have been informed,
that although judgment be thereupon given, &c. (as
before, p. 435, 6.)

(§ 52.)

The like, by
the assignees
of a bankrupt,
on a judgment
recovered be-
fore the bank-
ruptcy.

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court be-
fore us at *Westminster*, to wit, in — term last
past,

(§ 53.)

Scire facias by
or against an
executor or

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XLII.

administrator
on the statute
8 & 9 W. III.
c. 11. § 6.
where one of
the parties dies
after interlo-
cutory judg-
ment, and be-
fore the issu-
ing of a writ
of inquiry.

past, (or, in the — year of our reign,) by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us, of a plea of trespass on the case, &c. (or as the plea is,) declaring in the same plea against him, for that whereas, &c. (here recite the declaration,) to the damage of the said *A. B.* of — *l.* as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term (or, in — term) last past, (or, in the — year aforesaid,) it was considered by our said court before us, that the said *A. B.* ought to recover his damages on occasion of the premises; and afterwards, and before the issuing of a writ of inquiry for assessing the said damages, the said *A. B.* (or *C. D.*) died, having first duly made and published his last will and testament in writing, and thereby constituted and appointed *E. F.* (or *G. H.*) executor thereof; after whose death the said *E. F.* (or *G. H.*) duly proved the said last will and testament of the said *A. B.* (or *C. D.*) and took upon himself the burthen of the execution thereof, (or if the plaintiff or defendant died intestate, say, “ the said *A. B.* (or *C. D.*) died intestate, and administration of all and singular the goods chattels and credits which were of the said *A. B.* (or *C. D.*) at the time of his death, by *John* by divine providence, archbishop of *Canterbury*, primate of all *England* and metropolitan, in due form of law was granted to *E. F.* (or *G. H.*) to wit, at — in your county;”) as by the information of the said *E. F.* executor (or administrator) as aforesaid, (or, of the said *A. B.*) in our said court before us, we have been given to understand; where-

wherefore the said *E. F.* executor (or administrator) as aforesaid, (or, the said *A. B.*) hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* (or, to the said *G. H.* executor, or administrator, as aforesaid), that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing to say for himself, why the damages in the said action should not be assessed and recovered by the said *E. F.* executor (or administrator) as aforesaid, (or by the said *A. B.*) according to the form of the statute in such case made and provided, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

George the Third, (&c.) To the sheriff of — (§ 53.)
greeting: Whereas *A. B.* lately in our court before us at *Westminster*, to wit, in — term last past, (or, in the — year of our reign,) by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us, of a plea of trespass on the case, &c. (or as the plea is), declaring in the same plea against him, for that whereas, &c. (here recite the declaration), to the damage of the said *A. B.* of — l. as he said, and wherefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term (or, in — term) last past, (or, in the — year aforesaid,) it was considered by our said court before us, that the said *A. B.* ought to recover his damages on occasion of the

(§ 53.)
The like, where the death happens after the issuing, and before the execution of the inquiry.

our reign,) by bill
D. being in the
marshalsea before us,
&c. (or as the
plea against him,
the declaration,)
of — l. as he
his suit, &c. And
on had in our said
aforesaid, that af-
— term (or, in —
year aforesaid,) it
urt before us, that
er his damages on
afterwards, and be-
iry for assessing the
or *C. D.*) died, hav-
ed his last will and
eby constituted and
xecutor thereof; af-
F. (or *G. H.*) duly
estament of the said
h himself the burthen
f the plaintiff or de-
the said *A. B.* (or
administration of all and
d credits which were
the time of his death,
archbishop of *Can-*
nd and metropolitan,
l to *E. F.* (or *G. H.*)
y;”) as by the infor-
tor (or administrator)
B.) in our said court
given to understand;
where-

CHAP.
XLII:

the premises: But, because it was unknown to our said court before us, what damages the said *A. B.* had sustained, on occasion of the premises aforesaid; therefore we commanded you, that by the oath of twelve honest and lawful men of your bailiwick, you should diligently inquire what damages the said *A. B.* had sustained, as well on occasion of the premises aforesaid, as for his costs and charges by him about his suit in that behalf expended; and that the inquisition which you should thereupon take, you should send to us at *Westminster*, on — next after — last past, under your seal, and the seals of those by whose oath you should take that inquisition, together with our writ to you thereupon directed; the same day was given to the said *A. B.* at the same place; as by the record and proceedings thereof, remaining in our said court before us at *Westminster* aforesaid, more fully and at large appears: And the said *A. B.* (or *C. D.*) after interlocutory judgment had been given in form aforesaid, and before any assessment of damages had been made on our said writ of inquiry by us to you sent as aforesaid, for the purpose aforesaid, died, having first duly made and published his last will and testament, &c. (or, died intestate, &c. as in the before precedent): Wherefore the said *E. F.* executor (or administrator) as aforesaid (or, the said *A. B.*) has humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you that by honest and lawful men of your bailiwick you make known to the said *C. D.* (or, to the said *G. H.* executor, or administrator, as aforesaid) that he be before us at *Westminster*, on — next after —, to shew if he has or knows of any thing

to say for himself, why the damages in the said action should not be assessed, and recovered by the said *E. F.* executor (or administrator) as aforesaid, (or, by the said *A. B.*) according to the form of the statute in such case made and provided, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

CHAP.
XLII:

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before us at *Westminster*, to wit, in — term last past, (or, in the — year of our reign,) by bill without our writ, impleaded *C. D.* being in the custody of the marshal of our marshalsea before us, of a plea of trespass on the case, &c. (or, as the plea is), declaring in the same plea against him, for that whereas, &c. (here recite the declaration), to the damage of the said *A. B.* of — l. as he said, and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that afterwards, to wit, in that same — term (or, in — term) last past, (or, in the — year aforesaid,) it was considered by our said court before us, that the said *A. B.* ought to recover his damages on occasion of the premises: But because it was unknown, &c. (as in the last precedent, to the words “more fully and more largely appears”): And afterwards, a certain inquisition was taken before you, by the oath of twelve honest and lawful men of your bailiwick, whereby it was found that the said *A. B.* had sustained damages, on occasion of the premises, to — l. besides costs and charges by him about his suit in that behalf expended, and for those costs and charges to

(§ 55.)

The like, where the death happens after the execution, and before the return of the inquiry.

H h

— l.

CHAP.
XLII.

—*l.* And although the said damages have been assessed in form aforesaid, yet final judgment for those damages still remains to be given; and the said *A. B.* (or *C. D.*) after interlocutory judgment had been given, and the said damages assessed in form aforesaid, and before the return of our said writ of inquiry by us to you sent as aforesaid, for the purpose aforesaid, (or, if the death happened after the return of the writ of inquiry, “before final judgment obtained in the said action,”) died, having first duly made and published his last will and testament, &c. (or, died intestate, &c. as in the last precedent but one); wherefore the said *E. F.* executor (or administrator) as aforesaid (or the said *A. B.*) hath humbly besought us to provide him a proper remedy in this behalf. And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick you make known to the said *C. D.* (or to the said *G. H.* executor, or administrator, as aforesaid,) that he be before us at Westminster, on — next after —, to shew if he or knows of any thing to say for himself, why the damages aforesaid, in form aforesaid assessed, should not be adjudged to and recovered by the said *E. F.* executor (or administrator) as aforesaid, (or, the said *A. B.*) according to the form of the statute in such case made and provided; if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* and *C. D.* lately in our
court before us at *Westminster*, by bill without our
writ, and by the judgment of the same court, reco-
vered against *E. F.* (&c.) whereof the said *E. F.*
is convicted, as appears to us of record; and after-
wards, to wit, on — at — in your county, the
said *C. D.* died, and the said *A. B.* then and there
survived him; as by the information of the said
A. B. in our said court before us, we have been
given to understand: And now on the behalf of the
said *A. B.* in our said court before us, we have been
informed, that although judgment be thereupon
given, &c. (as before, p. 435, 6.)

CHAP.
XLII.

(§ 56.)

Scire facias for
a surviving
plaintiff.

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before
us at *Westminster*, by bill without our writ, and by
the judgment of the same court, recovered against
C. D. and *E. F.* (&c.) whereof the said *C. D.* and
E. F. are convicted, as appears to us of record;
and afterwards the said *E. F.* died, to wit, at —
in your county, and the said *C. D.* there survived
him; as by the information of the said *A. B.* in our
said court before us, we have been given to under-
stand: And now on the behalf of the said *A. B.* in
our said court before us, we have been informed,
that although judgment be thereupon given, &c. (as
before, p. 435, 6.)

(§ 57.)

The like, a-
gainst a sur-
viving defen-
dant.

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately in our court before
us at *Westminster*, by bill without our writ, and by
the judgment of the same court, recovered, (&c.)
whereof the said *C. D.* is convicted, as appears to

(§ 58.)

The like, for
an executor.

CHAP.
XLII.

us of record; and afterwards, to wit, on — at — the said *A. B.* died, having first duly made and published his last will and testament in writing, and thereby constituted and appointed *E. F.* executor thereof; after whose death, the said *E. F.* duly proved the said last will and testament of the said *A. B.* and took upon himself the burthen of the execution thereof; as by the information of the said *E. F.* in our said court before us, we have been given to understand: And now on the behalf of the said *E. F.* executor as aforesaid, in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (or debt and damages) aforesaid still remains to be made to him; wherefore the said *E. F.* executor as aforesaid, hath humbly besought us to provide him a proper remedy in this behalf: And we being willing, &c. (as before, p. 435, 6.)

(§ 59.)
The like, against an executor.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and against the judgment of the same court, recovered, (&c.) whereof the said *C. D.* is convicted, as appears of record; and afterwards the said *C. D.* died, (&c.) &c. (as in the last, to the words “execution thereof”); as by the information of the said *A. B.* in our said court before us, we have been given to understand: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (or debt and damages) aforesaid still remains to be made to him; wherefore, (&c.) And we being willing, (&c.) command you, that you cause honest and lawful men of your bailiwick, you

ds, to wit, on — at
 ing first duly made and
 testament in writing,
 appointed *E. F.* execu-
 th, the said *E. F.* duly
 and testament of the said
 himself the burthen of the
 e information of the said
 before us, we have been
 now on the behalf of the
 resaid, in our said court
 informed, that although
 ven, yet execution of the
 damages) aforesaid still re-
 wherefore the said *E. F.*
 ch humbly besought us
 edy in this behalf: And
 fore, p. 435, 6.)

) To the sheriff of —
 lately in our court before
 l without our writ, and
 e court, recovered, (S
 is convicted, as appear
 wards the said *C. D.* di
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 ation of the said *A. B.*
 we have been given to
 e behalf of the said *A. B.*
 we have been informed,
 hereupon given, yet exe
 debt and damages) afores
 e to him; wherefore, (S
 &c.) command you, that
 of your bailiwick, you

ON DEATH AFTER FINAL JUDGMENT.

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known to the said *E. F.* executor as aforesaid, that
 he be before us at *Westminster*, on — next after
 — to shew if he hath or knoweth of any thing
 to say for himself, why the said *A. B.* ought not to
 have his execution against him, of the damages (or
 debt and damages) aforesaid, to be levied of the
 goods and chattels which were of the said *C. D.* at
 the time of his death, in the hands of the said *E. F.*
 to be administered, according to the force form
 and effect of the said recovery, if it shall seem ex-
 pedient for him so to do; and further to do and
 receive, &c. (as before, p. 435, 6.)

George the Third, (&c.) To the sheriff of —
 greeting: Whereas *A. B.* lately in our court before
 us at *Westminster*, by bill without our writ, and by
 the judgment of the same court, recovered against
C. D. (&c.) whereof the said *C. D.* is convicted, as
 appears to us of record; and afterwards, to wit, on
 — at — the said *A. B.* died intestate; after
 whose death administration of all and singular the
 goods chattels and credits which were of the said
A. B. at the time of his death, in due form of law
 was granted to *E. F.* as by the information of the
 said *E. F.* in our said court before us, we have been
 given to understand: And now on the behalf of the
 said *E. F.* in our said court before us, we have been
 informed, that although judgment be thereupon
 given, yet execution of the damages (or debt and
 damages) aforesaid still remains to be made to him;
 wherefore the said *E. F.* administrator as aforesaid,
 humbly besought us to provide him a proper
 edy in this behalf: And we being willing, &c.
 before, p. 435, 6.)

CHAP.
XLII.

(§ 60.)

The like, for
an administra-
tor.

CHAP.
XLII.

(§ 61.)

The like, a-
gainst an ad-
ministrator.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* (&c.) whereof the said *C. D.* is convicted, as appears to us of record: And now on the behalf of the said *A. B.* in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of the damages (or debt and damages) aforesaid still remains to be made to him; and the said *C. D.* is since dead intestate, and administration, &c. (as in the last, to the words “ was granted to *E. F.*”) as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore, (&c.): And we being willing (&c.) command you, that by honest and lawful means of your bailiwick, you make known to the said *E. F.* administrator as aforesaid, that he be before us at *Westminster*, on — next after —, to shew if he hath or knoweth of any thing to say for himself why the said *A. B.* ought not to have his execution against him, of the damages (or debt and damages) aforesaid, to be levied of the goods and chattels which were of the said *C. D.* at the time of his death in the hands of the said *E. F.* to be administered according to the force form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before p. 435, 6.)

(§ 62.)

Scire facias
against ter-
tenants.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against

To the sheriff of —
 lately in our court before
 without our writ, and by the
 recovered against C. D.
 is convicted, as appears
 on the behalf of the said
 before us, we have been in-
 ment be thereupon given,
 ges (or debt and damages)
 be made to him; and the
 estate, and administration,
 words " was granted to
 ation of the said A. B. in
 ve have been given to us
 .): And we being willing
 t by honest and lawful me
 ke known to the said E. F.
 d, that he be before us
 xt after —, to shew if he
 thing to say for himself
 t not to have his executi
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 D. at the time of his deat
 E. F. to be administered
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 nd receive, &c. (as befor

c.) To the sheriff of —
 B. lately in our court befor
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 e court, recovered agai
 C.

AGAINST HEIRS AND TERTENANTS.

CHAP. XLII.

C. D. (&c.) whereof the said C. D. is convicted, as appears to us of record: And although judgment be thereupon given, yet execution of the damages (or debt and damages) aforesaid still remains to be made to the said A. B. and the said C. D. is since dead, as by the information of the said A. B. in our said court before us, we have been given to understand; wherefore the said A. B. hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the tenants of all the lands and tenements in your bailiwick, of which the said C. D. or any person or persons in trust for him, was or were seised on — next after — in — term, in the — year of our reign, on which day the judgment aforesaid was given, or at any time after, that they be before us at *Westminster*, on — next after —, to shew if they have or know of any thing to say for themselves, why the damages (or debt and damages) aforesaid ought not to be made of those lands and tenements, and rendered to the said A. B. according to the force form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, 435, 6.)

George the Third, (&c.) To the sheriff of —
 greeting: Whereas A. B. lately in our court before
 at *Westminster*, by bill without our writ, and by
 the judgment of the same court, recovered against
 D. and E. F. &c. (stating the judgment); whereof
 the said C. D. and E. F. were convicted, as appears
 us of record: And although judgment be there-

(§ 63.)
 The like,
 against a sur-
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CHAP.
XLII.

upon given, yet execution of the damages (or debt and damages) aforesaid still remains to be made to the said *A. B.* and the said *C. D.* is since dead, as by the information of the said *A. B.* in our said court before us, we have been given to understand; wherefore the said *A. B.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the heir of the said *C. D.* and also to the tenants of all the lands and tenements in your bailiwick, of which the said *C. D.* or any person or persons in trust for him, was or were seised on — next after — in the — year of our reign, on which day the judgment aforesaid was given, or at any time after, and also to the said *E. F.* that they be before us, on — next after —, that is to say, the said heir and ter tenants to shew if they have or know of any thing to say for themselves, why the damages (or debt and damages) aforesaid ought not to be levied on a moiety of those lands and tenements, and the said *E. F.* to shew if he has or knows of any thing to say for himself, why the damages (or debt and damages) aforesaid ought not to be levied on the goods and chattels of him the said *E. F.* (except the oxen and beasts of his plough), and also a moiety of all the lands and tenements, of which the said *E. F.* or any person or persons in trust for him, was or were seised on the said — next after — in the — year aforesaid, on which day the judgment aforesaid was given, or at any time after, according to the force form and effect of the recovery aforesaid, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 435, 6.)

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C. D. and
aforesaid
of *G. H.*

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* deceased lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* and *E. F.* — *l.* for his damages, (or a certain debt of — *l.*) &c. whereof the said *C. D.* and *E. F.* were convicted, as appears to us of record: And whereas for having execution of the judgment aforesaid, we lately by our writ commanded our sheriff of —, that of the goods and chattels of the said *C. D.* and *E. F.* in his bailiwick, he should cause to be made the damages (or debt and damages) aforesaid; and that he should have that money, &c. (as in a *fierifacias*): And our said sheriff of — at that day returned to us, that by virtue of the said writ to him directed, he had caused to be made of the goods and chattels of the said *C. D.* and *E. F.* the sum of — *l.* parcel of the damages (or debt and damages) aforesaid, which money he had ready before us, at the day and place in the said writ mentioned, to render to the said *A. B.* in part satisfaction of his damages (or debt and damages) aforesaid; and that the said *C. D.* and *E. F.* had not, nor had either of them, any other or more goods or chattels in his bailiwick, whereof he could cause to be made the residue of the damages (or debt and damages) aforesaid, or any part thereof: And although judgment be thereupon given, yet execution for — *l.* being the residue of the damages (or debt and damages) aforesaid, still remains to be made; and as well the said *A. B.* as the said *C. D.* and *E. F.* after the giving of the judgment aforesaid, respectively died, as by the information of *G. H.* executor of the last will and testament of the

CHAP.
XLII.

(§ 64.)

Scire facias for the residue, by an executor or administrator, against the heirs and tenants of several defendants.

CHAP.
XLII.

the said *A. B.* (or “ administrator of all and singular the goods chattels and credits which were of the said *A. B.* deceased, at the time of his death, who died intestate, or with the will of the said *A. B.* annexed”) we are given to understand; wherefore the said *G. H.* executor (or administrator) as aforesaid, hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to *J. K.* the son and heir of the said *C. D.* and the tenants of all and singular the lands and tenements in your bailiwick, whereof the said *C. D.* on the — day of — in the — year of our reign, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before us at *Westminster*, on — next after —, to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself, why the said — ought not to be made of those lands and tenements, and rendered to the said *G. H.* executor (or administrator) as aforesaid, for the residue of the damages (or debt and damages) aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him so to do; and also that by honest and lawful men of your bailiwick, you make known to the heir and tenants of all and singular the lands and tenements in your bailiwick, whereof the said *E. F.* on the said — day of — in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before us at *Westminster*, on the said — next after —, to shew if they have or know, or if either of them hath

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CHAP.
XLII.

hath or knoweth, of any thing to say for themselves or himself, why the said — *l.* ought not to be made of those last-mentioned lands and tenements, and rendered to the said *G. H.* executor (or administrator) as aforesaid, for the residue of the damages (or debt and damages) aforesaid, according to the form and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall then and there consider of the said several and respective heirs and tertenants in this behalf: and have there then the names of those by whom you shall so make known to them, and this writ. Witness, (&c.)

By virtue of this writ to me directed, by *G. H.* (§ 65.)
and *J. K.* honest and lawful men of my bailiwick, Return of scire
feci.
I have given notice to the within-named *C. D.* to be and appear before the lord the king, at the day and place within contained, to shew, &c. as by the said writ he is required, and as I am within commanded.

The answer of — sheriff.

The within-named *C. D.* hath not any thing in my bailiwick, where or by which I can give him notice, as I am within commanded; nor is the said *C. D.* found in the same. (§ 66.)
Nihil.

The answer, (&c.)

By virtue of this writ to me directed, by *G. H.* (§ 67.)
and *J. K.* honest and lawful men of my bailiwick, Scire feci as to
one, and nihil
as to another.
I have given notice to the within-named *C. D.* to be and appear before the lord the king, at the day and place within contained, to shew, &c. as by the said

CHAP. XLII. said writ he is required, and as I am within commanded: But the within-named *E. F.* hath not any thing in my bailiwick, where or by which I can give him notice, as I am within commanded; nor is the said *E. F.* found in the same.

The answer, (&c.)

(§ 68.)
Return to a
scire fieri inquiry.

The within-named *E. F.* has no goods or chattels, which were of the within-named *C. D.* deceased at the time of his death, in the hands of the said *E. F.* to be administered, in my bailiwick, whereof I can cause to be made the damages (or debt and damages) within-written, or any part thereof; but the said *E. F.* after the death of the said *C. D.* had divers goods and chattels, which were of the said *C. D.* at the time of his death, in his hands to be administered, to the value of the damages (or debt and damages) within-written; which said goods and chattels the said *E. F.* afterwards, and before the coming of this writ to me, sold, wasted, eloined and converted to his own use, as appears by a certain inquisition taken before me in this behalf, on the oath of honest and lawful men of my said bailiwick, and to this writ annexed: And I further certify, that the said *E. F.* hath nothing in my bailiwick, where or by which I can make known to him, as by the said writ I am commanded; nor is he found in the same: The residue of the execution of this writ appears in a certain inquisition hereunto annexed.

The answer, (&c.)

(§ 69.)
Inquisition.

An inquisition indented, taken at — on the — day of — in the — year of the reign of our sovereign lord *George* the Third, now king of the

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the united kingdom of *Great Britain and Ireland*, &c. before — sheriff of the county aforesaid, by virtue of a writ of our said lord the king directed to the said sheriff, and to this inquisition annexed, to inquire of and upon certain matters in the said writ contained and specified, by the oath of *G. H.* (*Sc.*) honest and lawful men of the bailiwick of the said sheriff, who upon their oath aforesaid say, that *E. F.* in the said writ named, after the death of the said *C. D.* in the said writ also named, had divers goods and chattels which were of the said *C. D.* at the time of his death, in the hands of him the said *E. F.* to be administered, to the value of the damages (or debt and damages) in the said writ specified; which said goods and chattels the said *E. F.* hath sold, wasted, eloigned and converted to his own use. In witness whereof, as well the said sheriff, as the jurors aforesaid, have caused their seals to be affixed to this inquisition, the day and year above-mentioned.

I do hereby certify, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in my bailiwick, whereof the within-named *C. D.* on the day of giving the within-mentioned judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am commanded.

(§ 70.)

Nihil as to scire facias against an heir and tertendants.

The answer, (*Sc.*)

The execution of this writ appears in the schedule hereto annexed.

(§ 71.)

Nihil as to the heir, and scire facit to the tenants of one defendant; and

The answer, (*Sc.*)

J. K. nihil as to the

CHAP.
XLII.
heir and ten-
tenants of an
other.

J. K. in the annexed writ named, hath nothing in my bailiwick, where or by which I can make known to him, as by the said writ I am commanded; nor is the said *J. K.* found in the same: And I have by — and — good and lawful men of my bailiwick, given notice to *L. M.* tenant of — messuages, (&c.) with the appurtenances, in the parish of — in my bailiwick, also to *N. O.* tenant of — acres of land, (&c.) with the appurtenances, in the said parish of — in my bailiwick, (&c.) which were the messuages, lands and tenements of the said *C. D.* in the said writ named, in his life-time, on the day of giving the judgment in the said writ mentioned, of which the said *C. D.* then and after was seised in fee-simple, to be before the lord the king, at the day and place in the said writ contained, to shew in manner therein mentioned: And I do hereby further certify, that there are no tenants, nor is there any tenant, of any other lands or tenements in my bailiwick, whereof the said *C. D.* on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am also commanded: And I do hereby also certify, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in my bailiwick, whereof *E. F.* in the annexed writ named, on the day of giving the said judgment, or ever afterwards, was seised in fee-simple, to whom I can make known, as by the said writ I am also commanded.

The answer, (&c.)

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George the Third, (&c.) To the sheriff of — CHAP. XLII. (572.)
 greeting: Whereas, &c. (as in the first writ, in-
 serting these words, after the return to the sheriff, *Alias scire fa-*
 "as before we have commanded you," and alter- *cius*
 ing the *teste* and return.)

A. B. against C. D. (§ 73.)

Rule on *scire facias*.

Rule to ap-
 pear.

As yet of — term, in the — year of the (§ 74.)
 reign of King George the Third. -Witness
 Edward Lord *Ellenborough*.
Entry of pro-
 ceedings, and
 judgment by
 default in *scire
 facias*, upon
 the return of
scire feci.

— (to wit). Our lord the king sent to his sher-
 riff of —, his writ close in these words, that is to
 say: George the Third, &c. (here copy the *scire
 facias* to the end, and proceed as follows): At which
 day, before our said lord the king at *Westminster*,
 comes the said A. B. in his proper person; and the
 sheriff, to wit, — sheriff of — aforesaid, now
 here returns, that by — and — honest and
 lawful men of his bailiwick, he has given notice to
 the said C. D. to appear before our said lord the
 king, at the day and place in the said writ con-
 tained, to shew cause as by the said writ he is re-
 quired, and as the said sheriff is therein commanded;
 and the said C. D. although on that day solemnly
 demanded, comes not, but makes default: There-
 fore it is considered, that the said A. B. have his
 execution against the said C. D. of the damages (or
 debt and damages) aforesaid, according to the forec-
 form and effect of the said recovery, by the default
 of the said C. D. &c.

— (to

George

CHAP.
XLII.

(§ 75.)

The like, upon
two *nihilis* re-
turned.

— (to wit). Our lord the king sent to his sheriff of — his writ, close in these words, that is to say: *George* the Third, &c. (here copy the first *scire facias* to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, came the said *A. B.* in his proper person; and the sheriff, to wit, — sheriff of — aforesaid, thereupon returned to our said lord the king, that the said *C. D.* had not any thing in his bailiwick, where or by which he could make known to him, as by the said writ he was commanded, nor was he found in the same; and the said *C. D.* came not: Therefore, as before, it was commanded to the sheriff, that by honest and lawful men of his bailiwick, he should make known to the said *C. D.* that he should be before our said lord the king at *Westminster*, on — next after — (the return of the *alias*,) to shew in form aforesaid, if, &c. and further, &c. the same day was given to the said *A. B.* there, &c.: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the said sheriff of — as before returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which he can make known to him, as by the said last-mentioned writ he is commanded, nor is he found in the same; and the said *C. D.* although on that day solemnly called, comes not, but makes default: Therefore it is considered, that the said *A. B.* have his execution against the said *C. D.* for the damages (or debt and damages) aforesaid, according to the force form and effect of the said recovery, by the default of the said *C. D.* &c.

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(to-wit). Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George the Third, &c.* (here copy the *scire facias* to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, comes the said *E. F.* executor (or administrator) as aforesaid, in his proper person; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which he can give him notice, as by the said writ he is commanded, nor is the said *C. D.* found in the same; and the said *C. D.* comes not: Therefore, as before, the sheriff is commanded, that by good and lawful men of his bailiwick, he make known to the said *C. D.* that he be before our said lord the king at *Westminster*, on — next after —, to shew in form aforesaid, if &c. and further, &c. the same day is given to the said *E. F.* executor (or administrator) as aforesaid, at the same place: At which day, before our said lord the king at *Westminster*, comes the said *E. F.* executor (or administrator) as aforesaid, in his proper person; and the said sheriff of — as before returns, that the said *C. D.* hath not any thing in his bailiwick, where or by which he can give him notice, as by the said last-mentioned writ he is commanded, nor is the said *C. D.* found in the same; and the said *C. D.* being solemnly demanded, comes not, but makes default: And hereupon the said *E. F.* executor (or administrator) as aforesaid, prays that the damages in the said action may be assessed, (or, that the damages aforesaid, in form aforesaid assessed, may be adjudged to) and recovered by him the said *E. F.* executor (or administrator) as aforesaid,

CHAP.
XLII.

(§ 76.)

The like, by
an executor or
administrator,
on the statute
8 & 9 W. III.
c. 11. § 6.

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CHAP.
XLII.

according to the form of the statute in such case made and provided : Therefore it is considered, that the damages aforesaid be assessed, (or, adjudged to) and recovered by the said *E. F.* executor (or administrator) as aforesaid, according to the form of the statute aforesaid, by the default of the said *C. D.* &c. : And because it is unknown to the court of our said lord the king now here, what damages the said *A. B.* in his life-time sustained, on occasion of the premises ; therefore the sheriff is commanded, that by the oath of twelve honest and lawful men of his bailiwick, he diligently inquire, what damages the said *A. B.* in his life-time sustained, as well by reason of the premises, as for his costs and charges by him laid out about his suit in this behalf ; and the inquisition which the said sheriff shall thereupon take, he make appear to our said lord the king at *Westminster*, on — next after — under his seal, and the seals of those by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed ; the same day is given to the said *E. F.* executor (or administrator) as aforesaid, at the same place : At which day, before our said lord the king at *Westminster* aforesaid, comes the said *E. F.* executor (or administrator) as aforesaid, in his proper person ; and the sheriff of — aforesaid now here returns, a certain inquisition indented, taken before him at — on — the — day of — in the — year of the reign of our said lord the king, by the oath of twelve honest and lawful men of his bailiwick ; by which it is found, that the said *A. B.* in his life-time sustained damages, by reason of the premises, besides his costs and charges by him laid out about his suit

in

in this behalf, to —l. and for those costs and charges to —l. Therefore it is considered, that the said *E. F.* executor (or administrator) as aforesaid, do recover against the said *C. D.* the damages aforesaid, by the said inquisition in form aforesaid assessed, and also —l. for the costs and charges of this suit, by the court of our said lord the king now here adjudged of increase to the said *E. F.* executor (or administrator) as aforesaid, and with his assent; which said damages costs and charges in the whole amount to —l. and the said *C. D.* Mercy. in mercy, &c.

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XLII.
Judgment
signed, (&c.)

A. B. against *C. D.* (§ 77.)

I appear for the defendant, upon the writ of *scire facias* issued in this cause. Note of appearance.

Yours, &c.

G. H. attorney.

To Mr. *E. F.*

— term, in the — year of the reign of king *George* the Third. (§ 78.)

Declaration in
scire facias,
upon the re-
turn of *scire*
fecit.

(to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the Third, &c. (copy the *scire facias*, and proceed as before, p. 479. to the end of the sheriff's return, and conclude as follows): and the said *C. D.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him, against the said *C. D.* of the damages (or debt and damages) aforesaid, according to the force form and effect of the said recovery, &c.

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XLII.

(§ 79.)

The like, against three defendants, where one appears, and the others make default.

— (to wit). Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George the Third, &c.* (here copy the *scire facias* to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, comes the said *A. B.* in his proper person; and the sheriff, to wit, — sheriff of — aforesaid, now here returns, &c. (as in the last): And the said *C. D. E. F.* and *G. H.* being solemnly demanded, the said *G. H.* comes in his proper person; but the said *C. D.* and *E. F.* do not, nor does either of them come, but make default: And hereupon the said *A. B.* prays that execution may be adjudged to him for the damages (or debt and damages) aforesaid, according to the force form and effect of the said recovery, &c.: But because it is convenient, that there should be but one award of execution in this behalf; therefore let all further proceedings against the said *C. D.* and *E. F.* be stayed, until it shall be determined, whether execution ought to be awarded against the said *G. H.* &c.

(§ 80.)

The like, on two *nihil* returned,

— (to wit). Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George the Third, &c.* (here copy the first *scire facias*, and proceed as before, p. 480. to the end of the second return of *nihil*, and conclude as follows): and the said *C. D.* being solemnly demanded, comes by *G. H.* his attorney: And hereupon the said *A. B.* prays that execution may be adjudged to him, against the said *C. D.* of the damages (or debt and damages) aforesaid, according to the force form and effect of the said recovery, &c.

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(As in the last, to the prayer of execution, which is as follows:) And hereupon the said *A. B.* prays that execution may be adjudged to him, against the said *C. D.* as executor as aforesaid, for the damages (or debt and damages) aforesaid, to be levied of the goods and chattels which were of the said *E. F.* at the time of his death, in the hands of the said *C. D.* to be administered, according to the force form and effect of the said recovery, &c.

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XLII.

(§ 81.)

The like, against an executor.

— (to wit.) Our lord the king sent to his sheriff of —, his writ close in these words, that is to say: *George* the Third, &c. (here copy the first writ of *scire facias* to the end, and proceed as follows): At which day, before our said lord the king at *Westminster*, comes the said *G. H.* executor (or administrator) as aforesaid, by — his attorney; and the sheriff, to wit, — sheriff of — aforesaid, thereupon certifies and returns to our said lord the king, that *J. K.* in the said writ named, had nothing in his bailiwick, &c. (here recite the sheriff's return, *quod vide ante*, p. 478.): and the said *J. K.* at the same day, being solemnly demanded, comes by — his attorney; but the said *L. M.* (&c.) although solemnly demanded, come not, but make default: Therefore it is considered, that the said *G. H.* executor (or administrator) as aforesaid, have his execution against the said *L. M.* (&c.) of the said — *L.* residue of the damages (or debt and damages) aforesaid, to be levied of the messuages lands and tenements, whereof they are returned tenants as aforesaid, according to the force form and effect of the said recovery, by the default of the said *L. M.* (&c.): But let the said execution be stayed, until it be de-

(§ 82.)

Declaration in *scire facias* for the residue, by an executor or administrator, against the heirs and tenants of several defendants; where the heir of one defendant appears, and the tenants make default, on the return of *scire feci*; and two *nilis* are returned, as to the heir and tenants of the other defendant.

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XLII.

terminated, whether the said *G. H.* executor (or administrator) as aforesaid, ought to have execution against the said *J. K.* of the said — *l.* residue, &c. And the heir and tenants of all and singular the lands and tenements whereof the said *E. F.* was seised as aforesaid, although solemnly demanded, come not, but make default: Therefore, as before, the sheriff is commanded, that by honest and lawful men of his bailiwick, he make known to the heir and tenants of all and singular the lands and tenements in his bailiwick, whereof the said *E. F.* on the said — day of — in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, that they be before our said lord the king at *Westminster*, on — next after —; to shew in form aforesaid, if, &c. and further, &c. the same day is given to the said *G. H.* executor (or administrator) as aforesaid, and also to the said *J. K.* at the same place: At which day, before our said lord the king at *Westminster*, come as well the said *G. H.* executor (or administrator) as aforesaid, as the said *J. K.* by their respective attornies aforesaid; and the sheriff of — aforesaid now here certifies and returns to our said lord the king, that there is no heir, nor are there any tenants, nor is there any tenant, of any lands or tenements in his bailiwick, whereof the said *E. F.* in the said writ named, on the day of giving the judgment in the said writ mentioned, or ever afterwards, was seised in fee-simple, to whom the said sheriff can make known, as by the said last-mentioned writ he is commanded; and the said last-mentioned heir and tenants, although solemnly demanded, come not, but again make default: And there

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thereupon the said *G. H.* executor (or administrator) as aforesaid, prays that execution may be adjudged to him against the said *J. K.* of the said — *l.* residue of the damages (or debt and damages) aforesaid, to be levied of the lands and tenements, whereof the said *J. K.* on the said — day of — in the — year aforesaid, on which day the judgment aforesaid was given, or ever afterwards, was seised in fee-simple, and which have descended and come to the said *J. K.* as the heir of the said *C. D.* according to the force form and effect of the said recovery, &c.

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The issue in *scire facias* on judgments, is similar to that against bail, for which *vide ante*, p. 425. and for writs of execution, after *scire facias*, by or against executors or administrators, *vide ante*, p. 321, &c.

George the Third, (&c.) To the sheriff of — greeting: Whereas we lately, by our letters patent under our great seal of the united kingdom of *Great Britain and Ireland*, bearing date at *Westminster* the — day of — in the — year of our reign, reciting that whereas *C. D.* had by his petition humbly represented unto us, that he had by great study and application, found out and invented a new manufacture, (&c.) that he was the first and true inventor thereof, and that the same had not theretofore been used or put in practice, and that the said invention would be of great public utility; he therefore humbly prayed, that we would be

Scire facias, to
repeal letters
patent.

CHAP.
XLII.

most graciously pleased to grant unto him, his executors administrators and assigns, our royal letters patent, for the sole use and benefit of his said discovery and invention, within that part of our said united kingdom of *Great Britain* and *Ireland* called *England*, our dominion of *Wales*, and town of *Berwick* upon *Tweed*, and in all our colonies and plantations abroad, for the term of fourteen years, pursuant to the statute in that case made and provided: And we being willing to give encouragement to all arts and inventions which might be for the public good, were graciously pleased to condescend to the petitioner's request; and therefore we, of our special grace and favour, for us our heirs and successors, did by the said letters patent give and grant to the said *C. D.* his executors administrators and assigns, our especial licence, full power, sole privilege and authority, that he the said *C. D.* his executors administrators and assigns, and every of them, by himself and themselves, or by his or their deputy or deputies, servants or agents, or such others as he the said *C. D.* his executors administrators and assigns should at any time agree with, and no others, from time to time and at all times thereafter, during the term of years therein expressed, should and lawfully might make, use, exercise and vend his said invention, within that part of our said united kingdom of *Great Britain* and *Ireland* called *England*, (&c.) in such manner as to him the said *C. D.* his executors administrators and assigns, or any of them, should in his or their discretions seem meet; and that he the said *C. D.* his executors administrators and assigns, should and lawfully might have and enjoy the whole profit, benefit,

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benefit, commodity and advantage; from time to time coming, growing, accruing and arising by reason of the said invention, for and during the term of years therein mentioned; to have, hold, exercise and enjoy the said licence, powers, privileges and advantages therein before granted, or mentioned to be granted, unto the said *C. D.* his executors administrators and assigns, for and during and unto the full end and term of fourteen years from the date of the said letters patent next and immediately ensuing, and fully to be complete and ended, according to the statute in that case made and provided: And to the end that he the said *C. D.* his executors administrators and assigns, and every of them, might have and enjoy the full benefit, and the sole use and exercise of the said invention, according to our gracious intention therein before declared, we did, by the said letters patent, for us our heirs and successors, require and strictly command all and every person and persons, bodies politic and corporate, and all other our subjects whatsoever, of what estate, quality, degree, name or condition soever they might be, within that said part of our said united kingdom of *Great Britain* and *Ireland* called *England*, (*&c.*) that neither they or any of them, at any time during the continuance of the said term of fourteen years thereby granted, either directly or indirectly, should make, use or put in practice the said invention, or any part of the same, so attained unto by the said *C. D.* as aforesaid, nor in anywise counterfeit, imitate or resemble the same, nor should make or cause to be made any addition thereunto, or subtraction from the same, whereby to pretend himself or themselves

the

benefit,

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the inventor or inventors, deviser or devisors thereof, without the licence consent or agreement of the said *C. D.* his executors administrators and assigns, in writing, under his or their hands and seals first had and obtained in that behalf, upon such pains and penalties as might or could be justly inflicted on such offenders, for their contempt of that our royal command, and further to be answerable to the said *C. D.* his executors administrators and assigns, according to law, for his and their damages thereby occasioned: And in which said letters patent, amongst other provisoes therein expressed, were and are certain provisoes to the purport and effect following, (that is to say): Provided always, and the said letters patent were and should be upon this condition, that if at any time during the said term thereby granted, it should be made appear to us, our heirs or successors, or any six or more of our or their privy council, that that our grant was contrary to law, or prejudicial or inconvenient to our subjects in general, or that the said invention was not a new invention, as to the public use or exercise thereof, in that said part of our said united kingdom of *Great Britain and Ireland* called *England*, (*&c.*) and not invented or found out by the said *C. D.* as aforesaid, then, upon signification or declaration thereof, to be made to us our heirs or successors, under our or their signet or privy seal, or by the lords and others of our or their privy council, or any six or more of them, under their hands, those our letters patent should forthwith cease determine and be utterly void, to all intents and purposes, any thing therein before contained to the contrary thereof in anywise not-

with-

withstanding: Provided also, and the said letters patent were upon this express condition, that if the said *C. D.* should not particularly describe and ascertain the nature of his said invention, and in what manner the same was to be performed, by an instrument in writing under his hand and seal, and cause the same to be inrolled in our high court of chancery, within one calendar month next and immediately after the date of those our letters patent, that then and in such case those our letters patent, and all liberties and advantages whatsoever thereby granted; should utterly cease, determine and become void, any thing therein before contained to the contrary thereof in anywise notwithstanding; as by the said letters patent, inrolled in our said court of chancery, (amongst other things) more fully appears: And whereas we are given to understand, that the said pretended invention of the said *C. D.* was not invented and found out by the said *C. D.*; and further, that the said *C. D.* was not nor is the first and true inventor of the said pretended invention of the said *C. D.* according to the true intent and meaning of the said letters patent, and as therein is mentioned; and further, that the same was before and at the time of making the said letters patent and grant, used by others, in that part of our said united kingdom of *Great Britain* and *Ireland* called *England*; and further, that one *E. F.* one of our subjects, was at the time of making the said letters patent and grant, the first and true inventor of part of the said supposed invention, pretended to be attained unto by the said *C. D.* being a part thereof for vesting the sole use and exercise of which in the said *C. D.* his executors
admi-

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administrators and assigns, the said letters patent were granted as aforesaid; and further, that part of the said supposed invention, (&c.) being a part thereof for vesting, (&c.) was at the time of making the said letters patent and grant, used by the said *E. F.* to wit, at — in your county; and moreover, that although the said *C. D.* did cause a certain instrument in writing under his hand and seal, and bearing date the — day of — in the — year aforesaid, to be intolled in our high court of chancery at *Westminster* in the county of *Middlesex*, within one calendar month next and immediately after the date of our said letters patent, to wit, on the said — day of — in the year aforesaid, thereby pretending, in compliance with the said proviso, particularly to describe and ascertain the nature of his said invention, and in what manner the same was to be performed, as by the said instrument in writing, so inrolled in our said high court of chancery at *Westminster* aforesaid, appears; yet the said *C. D.* hath not, in and by the said instrument in writing so inrolled as aforesaid, or by any other instrument in writing under his hand and seal, inrolled in our said high court of chancery, within one calendar month next and immediately after the date of our said letters patent, particularly described and ascertained the nature of his said invention, and in what manner the same is to be performed, but hath wholly neglected so to do, contrary to the form and effect of the said letters patent, and of the said last-mentioned proviso in that behalf: By means of which said several premises, the said letters patent, so as aforesaid granted to the said *C. D.* are and ought to be void, and of no force

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force or effect in law: And we, being willing that what is just should be done in the premises, command you, that by good and lawful men of your bailiwick, you give notice to the said *C. D.* that he be before us in our chancery, in — now next ensuing, wheresoever we shall then be in *England*, to shew if he hath or knoweth of any thing to say for himself, why the said letters patent so granted to him as aforesaid, and the inrolment of the same, for the reasons aforesaid, ought not to be cancelled, vacated and disallowed, and those letters patent restored into our said chancery, there to be cancelled; and further to do and receive those things which our said chancery shall consider in this behalf; and have there the names of those by whom you shall so give him notice, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

CHAP. XLIII.

Of ERROR.

(§ 1.)
Præcipe for writ of error, coram nobis.

— to wit. Writ of error, *coram nobis*, for *C. D.* at the suit of *A. B.* (or if by plaintiff, for *A. B.* against *C. D.*) on a judgment in case (or as the judgment is), returnable on —.

G. H. attorney.

— 18—.

(§ 2.)
Writ of error, coram nobis.

George the Third, (&c.) To our justices assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case, (or of a certain debt, which the said *A. B.* demanded of the said *C. D.*) as it is said, which said record and proceedings now remain before us as it is said, manifest error hath intervened, to the great damage of the said *C. D.* (or if the writ of error be brought by *baron and feme*, on a judgment against the *feme*, “to the great damage of *E. D.* and the said *C.* his wife,”) as by his (or their) complaint we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then the record and proceedings aforesaid being inspected,

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inspected, you cause to be further done thereupon, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

CHAP.
XLIII.

George the Third, (&c.) To our justices assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before Sir *James Mansfield* knight and his companions, our justices of the bench, by our writ, between *A. B.* and *C. D.* late of — of a plea of trespass on the case (or as the plea is), as it is said, which said record and proceedings, by reason of error happening therein, we have caused to be brought and the same now remain before us, as it is said, manifest error hath intervened, to the great damage of *E. F.* administrator of all and singular the goods chattels and credits, which were of the said *A. B.* who is dead intestate, as it is said, as by the complaint of the said *E. F.* we are informed: We being willing that the error, if any there be, should be in due manner corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, &c. (as before).

(§ 3.)
The like, after
an abatement
of a former
writ.

— to wit. Writ of error for *C. D.* at the suit of *A. B.* (or for *A. B.* against *C. D.*) on a judgment in case (or as the judgment is), in the common pleas, returnable, (&c.).

(§ 4.)
Prescipe for
writ of error,
from the Com-
mon Pleas to
the King's
Bench.

G. H. attorney.

18—.

George

CHAP.
XLIII.

(§ 5.)
Writ of error,
from the Com-
mon Pleas to
the King's
Bench.

George the Third, (Sc.) To our right trusty and well-beloved Sir *James Mansfield* knight, our chief-justice of the bench, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before you and your companions, our justices of the bench, by our writ, between *A. B.* and *C. D.* late of — of a plea of trespass on the case (or as the plea is), manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed: We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then you send to us distinctly and openly, under your seal, the record and proceedings of the plaint aforesaid, with all things concerning the same, and this writ, so that we may have them on — wherever we shall then be in *England*, that the record and proceedings aforesaid being inspected, we may cause to be further done thereupon, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself, (Sc.)

(§ 6.)
The like, in
debt qui tam.

George the Third, (Sc.) To our right trusty, and well-beloved Sir *James Mansfield* knight, our chief-justice of the bench, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before you and your companions, our justices of the bench, by our writ, between *A. B.* who prosecutes as well for us as for himself, and *C. D.* late of — of a plea that the said *C. D.* should render to us and the said *A. B.*

A. B. — *l.* as it is said, manifest error hath intervened, &c. (as in the last).

CHAP.
XLIII.

George the Third, (&c.) To the judges of our court of our palace at *Westminster*, and to each of them; greeting: Because in the record and proceedings, and also in the giving of judgment, in a plea which was before you, in the court of our palace aforesaid, without our writ, between *A. B.* and *C. D.* of a plea of trespass on the case (or as the plea is), as it is said, manifest error hath intervened, &c. (as in the last, to the end).

(§ 7.)

The like, from an inferior court to the King's Bench.

— to wit. Writ of error for *C. D.* at the suit of *A. B.* (or for *A. B.* against *C. D.*) on a judgment in case (or as the judgment is), in the King's Bench by bill, returnable, (&c.)

(§ 8.)

Præcipe for writ of error, from the King's Bench to the Exchequer-chamber.

G. H. attorney.

— 18—.

George the Third, (&c.) To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: Whereas by a statute made in the parliament of the Lady *Elizabeth*, late queen of *England*, held at *Westminster*, the 23d day of *November* in the twenty-seventh year of her reign, it was, among other things, enacted, by the authority of the same parliament, that where any judgment should at any time thereafter be given in the court of King's Bench, in any suit or action of debt, detinue, covenant, account, action upon the case, *ejectione firmæ* or trespass, first commenced or to be first commenced there, other than such only where we should

(§ 9.)

Writ of error from the King's Bench to the Exchequer-chamber.

CHAP.
XLIII.

be party, the party plaintiff or defendant, against whom any such judgment should be given, might at his election sue forth out of the court of Chancery, a special writ of error, to be devised in the said court of Chancery, directed to the chief-justice of the said court of King's Bench for the time being, commanding him to cause the said record, and all things concerning the said judgment, to be brought before the justices of the Common Bench and the barons of the Exchequer, into the Exchequer-chamber, there to be examined by the said justices of the Common Bench and barons aforesaid; which said justices of the Common Bench, and such barons of the Exchequer as are of the coif, or six of them at the least, by virtue of the same act, should thereupon have full power and authority to examine all such errors, as should be assigned or found in or upon any such judgment, and thereupon to reverse or affirm the said judgment, as the law should require, other than for errors to be assigned or found for or concerning the jurisdiction of the said court of King's Bench, or for any want of form in any writ, return, plaint, bill, declaration or other pleading, process, verdict or proceeding whatsoever; and that after the said judgment should be affirmed or reversed, the said record, and all things concerning the same, should be removed and brought back into the said court of King's Bench, that such further proceedings might be thereupon, as well for execution as otherwise, as should appertain; as in the said statute is more fully contained: And because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case (or as the plea is),

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as it is said, manifest error hath intervened; to the great damage of the said *C. D.* as by his complaint we are informed; which said error in no wise concerns us, or the jurisdiction of our said court of King's Bench, or any want of form in any writ, return, plaint, bill, declaration or other pleading, process, verdict or proceeding whatsoever, as we are also informed; we therefore being willing that the error, if any there be, should, according to the form of the statute aforesaid, be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then you cause the record and proceedings aforesaid, with all things concerning the same, to be brought before the said justices of the Common Bench and the barons of our said Exchequer, into our Exchequer-chamber aforesaid, on — the — day of — next ensuing, that the said justices and barons, the record and proceedings aforesaid being seen and examined, may further cause to be done thereupon, what of right, and according to the form of the statute aforesaid, ought to be done. Witness ourself, (&c.)

George the Third. (&c.) To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by our writ, between *A. B.* and *C. D.* late of — of a plea of trespass on the case (or as the plea is), as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed; we being willing that the error, if any there be, should

(§ 10.)
Writ of error,
from the King's
Bench to the
House of Lords,
directly.

CITAP.
XLIII.

in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then without delay you distinctly and openly send under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our present parliament; and this writ; that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, with the assent of the lords spiritual and temporal in the same parliament, for correcting that error, what of right, and according to the law and custom of *England*, ought to be done. Witness ourself, (&c.)

(§ 11.)
The like, after
affirmance in
the King's
Bench.

George the Third, (&c.) To our right trusty and well-beloved *Edward* Lord *Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was before Sir *James Mansfield* knight and his companions, our justices of the bench, by our writ, between *A. B.* and *C. D.* late of — of a plea of trespass on the case (or as the plea is), and also in the affirmance of the same judgment in our court before us, as it is said, manifest error hath intervened, to the great damage, (&c.) we being willing, (&c.) do command you, that if judgment be thereupon given and affirmed, then you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, to us in our parliament, at the next session thereof to be holden on the — day of — next ensuing, and this writ; that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon, &c. (as in the last.).

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George the Third, (&c.) To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: Whereas in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case (or as the plea is), which said record and proceedings, by reason of error happening therein, we caused to be brought before the justices of the Common Bench and the barons of our Exchequer, into our Exchequer-chamber, and the judgment thereupon is affirmed, as it is said, manifest error hath intervened, to the great damage, (&c.) We being willing, (&c.) do command you, that if judgment be thereupon given and affirmed, &c. (as before).

CHAP.
XLIII.

(§ 12.)

The like, after
affirmance in
the Exche-
quer-chamber.

Between $\left. \begin{array}{l} A. B. \\ \text{and} \\ C. D. \end{array} \right\} \text{Case, (or, Debt, \&c.)}$

(§ 13.)

Allowance of
writ of error.

I have allowed a writ of error in this cause, this
— day of — 18—.

—,
Clerk of the errors.

It is ordered, that the writ of error issued between the parties in this cause, be allowed; and upon the plaintiff in error putting in and justifying his bail within four days next ensuing, that further proceedings be stayed on the judgment in the original action, until the said writ of error now depending between the parties, be determined.

(§ 14.)

Rule of allow-
ance, on a writ
of error *coram*
nobis.

By the Court.

CHAP. XLIII. In Error.

(§ 15.)
Notice of bail
in error.

Take notice, that special bail was this day put in, upon the writ of error brought in this cause, with the clerk of the errors, before the honorable Mr. Justice —, at his chambers in *Serjeant's-Inn Chancery Lane, London*; and their names are *E. F.* of — and *G. H.* of —. Dated, (&c.)

Yours, &c.

J. K. attorney for plaintiff in error.

(§ 16.)
Rule for better bail.

To Mr. *L. M.* attorney for defendant in error.

C. D. } Unless the plaintiff in the writ of error puts
and } in better bail, within four days next after
A. B. } notice hereof given to the said plaintiff or his attorney, execution will issue.

—,
Clerk of the errors.

In Error.

C. D. plaintiff,
Between and
A. B. defendant.

(§ 17.)
Notice of justification.

Take notice, that *E. F.* and *G. H.* the bail put in upon the writ of error brought in this cause, of whose additions and places of abode you have already had notice, will on — justify themselves in this honorable court, as sufficient bail for the said plaintiff. Dated the — day of — 18—.

Yours, &c.

J. K. plaintiff's attorney.

To *L. M.* defendant's attorney.

(§ 18.)
Recognizance of bail on error
coram nobis.

You severally acknowledge to owe *A. B.* the sum of — *l.* (double the sum recovered) upon condition

tion that *C. D.* prosecutes his writ of error with effect; and if judgment be affirmed, shall satisfy and pay the damages and costs (or debt damages and costs) recovered, together with such costs and damages as shall be awarded by occasion of the delay of execution; or else you will do it for him.

CHAP.
XLIII.

Pleas before our lord the king at *Westminster*, of — term (the term bail was put in), in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

(§ 19.)
Entry of recognizance of bail, on error from the King's Bench to the Exchequer-chamber.

Roll —.

England, to wit. *Be it remembered*, that on — next after — in this same term, before our lord the king at *Westminster*, — one of the justices of our said lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, hath here recorded, that on the — day of — in the year of our lord 18—, before the same justice, at his chambers situate in *Serjeants'-Inn*, *Chancery Lane*, *London*, came *E. F.* of — and *G. H.* of — in their own proper persons, and according to the form of the statute in such case made and provided, acknowledged themselves, and each of them separately did acknowledge himself, to owe to *A. B.* the sum of —*l.* of lawful money of *Great Britain*, to be paid to the said *A. B.* his executors or assigns; and unless they should so do, the said *E. F.* and *G. H.* did grant and agree, that the said —*l.* of their and each of their lands and chattels should be made, and levied to the use of the said *A. B.*

The

CHAP.
XLIII.

The condition of the above recognizance is such, that whereas the aforesaid *A. B.* lately in the court of our said lord the king before the king himself at *Westminster*, by bill without the writ of our said lord the king, and by the judgment of the same court, recovered against *C. D.* — *I.* for his damages which he had sustained, as well on occasion of the not performing certain promises and undertakings, then lately made by the said *C. D.* to the said *A. B.* as for his costs and charges by him about his suit in that behalf expended ; whereof the said *C. D.* hath been convicted, as appears of record in the said court of the said lord the king before the king himself at *Westminster*; and whereas the said *C. D.* hath brought a writ of error upon the judgment aforesaid, returnable before the justices of our said lord the king of the Common Bench, and barons of his Exchequer of the degree of the coif, in the Exchequer-chamber, on — the — day of — in the said — year of the reign of our said lord the king ; if therefore the said *C. D.* shall prosecute the said writ of error with effect, and also shall satisfy and pay to the said *A. B.* if the said judgment shall be affirmed, or the said writ of error be discontinued in his default, or he shall be nonsuit therein, as well the damages costs and charges aforesaid, adjudged upon the said judgment, as also all such costs charges and damages as shall be awarded to the said *A. B.* for delay of execution of the said judgment, by the prosecution of the said writ of error ; then this recognizance to be void, or otherwise to be and remain in full force and virtue.

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In the Common Pleas.

A. B. } Unless the plaintiff in the writ of error,
v. } brought in this cause, certifies the record
C. D. } into the court of King's Bench, within
 eight days next after notice hereof to be given to
 him or his attorney, a nonsuit will be entered.

CHAP.
 XLIII.

(§ 20.)

Rule to certify the record, on error from the Common Pleas.

—,
 Clerk of the errors.

In the King's Bench.

A. B. } Unless the plaintiff in the writ of error cer-
v. } tifies the record, within eight days next
C. D. } after notice hereof given to the said plain-
 tiff or his attorney, a nonsuit will be entered.

(§ 21.)

The like, on error from the King's Bench.

—,
 Clerk of the errors.

The answer of Sir *James Mansfield* knight, the chief-justice within-named.

(§ 22.)

Chief-justice's return, on error from the Common-Pleas.

The record and proceedings of the plaint, whereof mention is within made, follow in these words, to wit:

Pleas at *Westminster*, before Sir *James Mansfield* knight and his companions, justices of our lord the king of the bench, of the term of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith. Roll —.

— to wit. *C. D.* late of —, was attached (or summoned) to answer *A. B.* &c. (here copy the proceedings, as on the judgment-roll).

The

CHAP.
XLIII.

(§ 23.)

The like, on error from the King's Bench to the Exchequer-chamber

The answer of *Edward* Lord *Ellenborough*, the chief-justice within-named.

The record and proceedings of the plaint, whereof mention is within made, with all things concerning the same, I certify to the justices and barons within specified, at the day and place within contained, in a certain schedule to this writ annexed, as within I am commanded.

Ellenborough.

Pleas before our lord the king at *Westminster*, of the term of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united kingdom of *Great Britain* and *Irland* king, defender of the faith. Roll—

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of trespass on the case (or as the plea is).

— to wit. *C. D.* puts in his place *G. H.* his attorney, (or, *C. D.* in person,) at the suit of the said *A. B.* in the plea aforesaid.

— to wit. Be it remembered, &c. (here copy the proceedings, as on the judgment-roll).

(§ 24.)

Entry of *casetur breve*, on a writ of error brought *tan in redditione iudicii* against the principal, *quam in adjudicatione executionis* against the bail.

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *E. F.* in his proper person; and the said *A. B.* in his proper person also comes, and freely here in court says, that the said writ of error, by the said *E. F.* in form aforesaid prosecuted, did wrongfully and improvidently issue, for this, to wit, that by the writ aforesaid it appears, that the same writ of error was prosecuted by the said *E. F.*

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as bail for the said *C. D.* in the plaint aforesaid, as well upon the giving of judgment in the plaint aforesaid between the said *A. B.* and the said *C. D.* as upon the adjudication of execution on the writ of *scire facias*, issuing out of the king's court of record of — against the said *E. F.* as bail for the said *C. D.* in the same plaint; whereas by the law of the land of *England*, no such writ of error, in the name and at the suit of the said *E. F.* ought to have issued; and for that reason, the said *A. B.* prays that the writ of error, by the said *E. F.* in form aforesaid prosecuted, may be quashed, avoided and held for nothing: Whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it is considered, that the said writ of error, by the said *E. F.* in form aforesaid prosecuted, be quashed, avoided and altogether held for nothing.

For writs of *scire facias quare executionem non*, pending error, *vide ante*, p. 440.

In the King's Bench.

C. D. plaintiff, }
and } in error.
A. B. defendant, }

(§ 23.)

Rule to appear to *scire facias*, in the King's Bench.

Rule for judgment on *scire facias quare executionem non*.

E. F. attorney.

— 18 —

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CHAP. XLIII.

(§ 26.)

Rule to alledge diminution, in the Exchequer-chamber.

In the Exchequer-chamber.

C. D. } Unless the plaintiff in the writ of error al-
v. } ledges diminution, within eight days next
A. B. } after notice hereof given to the said plain-
tiff or his attorney, a nonsuit will be entered.

Clerk of the errors.

(§ 27.)

Rule to assign errors, in the King's Bench.

_____ to assign errors on record.

C. D. and A. B.

Entered.

(§ 28.)

The like, in the Exchequer-chamber.

In the Exchequer-chamber.

C. D. } Unless the plaintiff in the writ of error as-
v. } signs error or errors, within eight days next
A. B. } after notice hereof given to the said plain-
tiff or his attorney, a nonsuit will be entered.

Clerk of the errors.

(§ 29.)

Order to assign errors, in the House of Lords.

Upon reading the petition of *A. B.* shewing that he obtained a judgment against *C. D.* in _____ term last, and that the said *C. D.* for delay hath brought his writ of error into this house the _____ of _____ last, but hath not assigned errors thereon; and praying that the said writ of error may be remitted, to the end he may have execution thereupon: It is ordered by the lords spiritual and temporal in parliament assembled, that the said *C. D.* be, and he is hereby required to assign error thereupon, on or before _____ next, at _____ of the clock in the forenoon; or otherwise the said transcript of the said judgment, made on the behalf of the said *A. B.* shall be and is hereby remitted, to the end he may have execution thereupon,

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upon, as if no such writ of error had been brought into this house.

CHAP.
XLIII.

— Cler. Parl.

— term, in the — year of the reign of king *George* the Third.

(§ 30.)

Assignment of infancy in the defendant.

C. D. } Afterwards, to wit, on — next after
v. } — in this same term, before our lord
A. B. } the king at *Westminster*, comes the said
in error. } *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that he the said *C. D.* appeared in the suit aforesaid, by — his attorney; nevertheless the said *C. D.* at the time of his said appearance, and also at the time of giving the judgment aforesaid, was under the age of twenty one years, to wit, of the age of — years, and no more, to wit, at —; in which case the said *C. D.* ought to have been admitted to appear in the court aforesaid, to defend the suit aforesaid, by his guardian, and not by his attorney; therefore in that there is manifest error: And this he the said *C. D.* is ready to verify, wherefore he prays that the judgment aforesaid, for the error aforesaid, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

A. B. } And hereupon the said *A. B.* by *E. F.* his
ats. } attorney, freely here in court comes and
C. D. } says, that by reason of any thing above
in error. } for error assigned, the judgment aforesaid

(§ 31.)

Replication, of full age.

CHAP.
XLIII.

said ought not to be revoked, annulled or held for nothing; because he says that the said *C. D.* at the time of his said appearance, to wit, in the term of —, and also at the time of giving the judgment aforesaid, was of the full age of twenty one years, to wit, at — aforesaid; and of this he the said *A. B.* puts himself upon the country, &c.

(§ 32.)
Assignment of
coverture in
the defendant,
at the time of
bringing the
action.

C. D. and wife } Afterwards, to wit, on — next after
v. } — in this same term, before our lord
A. B. } the king at *Westminster*, come *C. D.*
in error. } and *E.* his wife, which said *E.* was and
is impleaded in this suit by the name of

E. F. in their proper persons, and say that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that before the day of exhibiting the bill (or, suing out the original writ) of the said *A. B.* against the said *E.* by the name of *E. F.* and before the giving of the judgment aforesaid, to wit, on — at — aforesaid, the said *E.* intermarried with and took to husband the said *C. D.* and that she the said *E.* at the time of exhibiting the bill (or, suing out the original writ) aforesaid, and also at the time of giving the judgment aforesaid, was and yet is covert of the said *C. D.* then and yet her husband, to wit, at — aforesaid; therefore in that there is manifest error: And this they the said *C. D.* and *E.* his wife are ready to verify, wherefore they pray that the judgment aforesaid, for the error aforesaid, may be revoked, annulled and altogether held for nothing, and that they may be restored to all things which they have lost by occasion of the judgment aforesaid, &c.

A. B.

A. B. } And hereupon the said *A. B.* by *E. F.* his
 ats. } attorney, freely here in court comes and
C. D. } says, that by reason of any thing above
 andwife, } for error assigned, the judgment afore-
 in error. } said ought not to be revoked, annulled
 or held for nothing; because he says that the said *E.*
 at the time of exhibiting the bill (or, suing out the
 original writ) aforesaid, was not nor is covert of the
 said *C. D.* in manner and form as the said *C. D.* and
E. have above alledged; and of this he the said *A. B.*
 puts himself upon the country, &c.

CHAP.
 XLIII.

(§ 33.)
 Replication
 thereto.

C. D. } Afterwards, to wit, on — next after
 v. } — in this same term, before our lord
 the king at *Westminster*, comes the said
C. D. by *G. H.* his attorney, and says
 that in the record and proceedings aforesaid, and
 also in giving the judgment aforesaid, there is ma-
 nifest error in this, to wit, that by the record afore-
 said it appears, that the judgment aforesaid, in form
 aforesaid given, was given for the said *A. B.* against
 the said *C. D.* in the plea aforesaid; when in truth
 and in fact, the said *A. B.* in the plea aforesaid
 named, before the trial of the issue joined in the
 record aforesaid, between the parties aforesaid, and
 before the giving of the judgment aforesaid, to wit,
 on — at — died; therefore in that there is ma-
 nifest error: And this he the said *C. D.* is ready to
 verify, wherefore he prays that the judgment afore-
 said, for the error aforesaid, may be revoked, an-
 nulled and altogether held for nothing, and that he
 may be restored to all things which he hath lost by
 occasion of the said judgment, &c. And the said
C. D. also prays the writ of our lord the king, to
 give

(§ 34.)

Assignment of
 the death of
 the plaintiff
 before trial,
 and a ward of
seire' ius to
 his executor.

A. B.

CHAP.
XLIII.

give notice to — and — executors of the last will and testament of the said *A. B.* that they be before our said lord the king at *Westminster*, on —, to hear the record and proceedings aforesaid, and the matter above assigned for error; and it is granted to him, &c.

(§ 35.)
The like, of
the death of
one of the de-
fendants in the
action.

C. D. } Afterwards, to wit, on — next after
v. } — in this same term, before our lord
A. B. } the king at *Westminster*, comes the said
in error. } *C. D.* by *G. H.* his attorney, and says
that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* as well against the said *E. F.* as against the said *C. D.* when in truth and in fact the said *E. F.* in the plea aforesaid named, before the trial of the issue joined in the record aforesaid, between the parties aforesaid, and before the giving of the judgment aforesaid, to wit, on — at — died; therefore in that there is manifest error: And this he the said *C. D.* is ready to verify, wherefore he prays that the judgment aforesaid, for the error aforesaid, may be revoked, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the judgment aforesaid, &c.

(§ 36.)
Replication
thereto.

A. B. } And the said *A. B.* by *E. F.* his attorney,
ats. } comes and says, that by reason of any
C. D. } thing above for error assigned, the judg-
in error. } ment aforesaid ought not to be revoked,
annulled or held for nothing; because he says that
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CHAP.
XI III.

the said *E. F.* in the plea aforesaid named, is yet living and in full life, to wit, at —; without this that he the said *E. F.* before the trial of the issue aforesaid, joined in the said record between the parties aforesaid, died, in manner and form as the said *C. D.* hath above alledged: And this he the said *A. B.* is ready to verify, wherefore he prays that the judgment aforesaid may be in all things affirmed, &c.

C. D. } And the said *C. D.* as before says, that (§ 37.)
v. } the said *E. F.* before the trial of the Rejoinder.
A. B. } issue aforesaid, joined in the said record
in error. } between the parties aforesaid, died, in
manner and form as he the said *C. D.* hath above
alledged; and this he the said *C. D.* prays may be
inquired of by the country, &c.

— term; in the — year of the reign of (§ 38.)
king *George* the Third.

C. D. } Afterwards, to wit, on — in this same
v. } term, before our lord the king at *West-*
A. B. } *minster*, comes the said *C. D.* by *G. L.*
in error. } his attorney, and say that in the re-
cord and proceedings aforesaid; and also in giving
the judgment aforesaid, there is manifest error in
this, to wit, that the declaration aforesaid, and the
matters therein contained, are not sufficient in law
for the said *A. B.* to have or maintain his aforesaid
action thereof against the said *C. D.*; there is also
error in this, to wit, that by the record aforesaid
it appears, that the judgment aforesaid; in form
aforesaid given, was given for the said *A. B.* against

Assignment of
general errors,
in the King's
Bench.

CHAP.
XLIII.

the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

(§ 39.)
Assignment of
the want of an
original writ.

C. D. } Afterwards, to wit, on — in this same
v. } term, before our lord the king at *West-*
A. B. } *minster*, comes the said *C. D.* by *G. H.*
in error. } his attorney, and says that in the
record and proceedings aforesaid, and also in giving
the judgment aforesaid, there is manifest error in
this, to wit, that the declaration aforesaid, and the
matters therein contained, are not sufficient in law
for the said *A. B.* to have or maintain his aforesaid
action thereof against the said *C. D.*; there is also
error in this, to wit, that by the record aforesaid it
appears, that the said *C. D.* was attached to answer
to the said *A. B.* in the plea aforesaid, yet no original
writ between the parties aforesaid, in the plea
aforesaid, is filed or remaining of record, in the said
court of our said lord the king of the bench at *West-*
minster aforesaid; therefore in that there is manifest
error; there is also error in this, to wit, that by the
record aforesaid it appears, that the judgment
aforesaid, in form aforesaid given, was given for the
said *A. B.* against the said *C. D.* whereas by the
law of the land, the said judgment ought to have
been given for the said *C. D.* against the said *A. B.*
And the said *C. D.* prays a writ of our said lord the
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king, to be directed to the *custos brevium* of the said court of the bench at *Westminster*, to certify to our said lord the king the truth of the same; and it is granted to him, &c. And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

CHAP.
XLIII.

— to wit. *Certiorari* to certify an original writ, between *A. B.* plaintiff and *C. D.* late of — defendant, returnable without delay.

(§ 40.)

Præcipe for certiorari, to certify an original writ.

G. H. attorney.

— 18—.

George the Third, (&c.) To our right trusty and well-beloved — holding the office of keeper of the writs, rolls and records of our court of the bench, greeting: We being willing for certain causes to be certified, whether any original writ between *A. B.* and *C. D.* late of — in a plea of trespass on the case (or as the plea is), be filed in your custody, of — term in the — year of our reign, or not; do command you, that having searched our original writs directed to the sheriff of — and which are filed of record in your custody, of the aforesaid — term in the — year of our reign, what you shall find therein of an original writ between the parties aforesaid, of the plea aforesaid, you certify to us without delay, wherever we shall be in *England*, together with the return and indorsement thereof, as fully and en-

(§ 41.)

certiorari.

CHAP.
XLIII.

tirely as the same remain in your custody, and this writ. Witness *Edward Lord Ellenborough*, (&c.)

(§ 42.)

Rule to return
certiorari.

— to return the writ of *certiorari*.

B. and D.

Entered.

The answer of — holding the office of keeper of the writs, rolls and records within-named.

(§ 43.)

Return there-
to, that there
is an original
writ.

By virtue of this writ to us directed, we do hereby certify to our lord the king, that having searched the original writs directed to the sheriff of — which are filed of record in our custody, of — term in the — year of the reign of our said lord the king, we find that there is an original writ between the parties within-named, in a plea of trespass on the case (or as the plea is), directed to the sheriff of — filed of record in our custody, of the term aforesaid; the tenor of which said original writ, together with the return and indorsement thereof, as fully and entirely as the same remain in our custody, we do hereby certify to our said lord the king, as appears by the schedule hereunto annexed and as we are within-commanded.

(Here follows a copy of the original writ, with the sheriff's return, &c. indorsed thereon.)

(§ 44.)

Assignment of
the want of a
warrant of at-
torney.

Afterwards, to wit, on — in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest er-

for

ror in this, to wit, that the declaration aforesaid, and the matters therein contained; are not sufficient in law for the said *A. B.* to have or maintain his aforesaid action thereof against the said *C. D.*; there is also error in this, to wit; that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.*; there is also error in this, to wit, that by the record aforesaid it appears, that the said *A. B.* appeared by *E. F.* his attorney, against the said *C. D.* in the plea aforesaid; nevertheless there is no warrant of attorney filed or remaining of record; in the said court of our said lord the king of the bench at *Westminster*, between the parties aforesaid, in the plea aforesaid, to warrant the said *E. F.* to be attorney for the said *A. B.* against the said *C. D.* in the plea aforesaid; therefore in that there is manifest error: And the said *C. D.* prays a writ of our said lord the king, to be directed to the chief-justice of the said court of the bench, to certify to our said lord the king the truth of the same; and it is granted to him, &c. And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing; and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

CHAP.
XLIII.

(§ 45.)

Præcipe for *certiorari*, to certify warrant of attorney.

— to wit. *Certiorari* to certify warrant of attorney, for *A. B.* plaintiff against *C. D.* late of — defendant, returnable without delay.

G. H. attorney,

— 18—

(§ 46.)

Certiorari.

George the Third, (&c.) To our right trusty and well-beloved Sir *James Mansfield* knight, our chief-justice of the bench, greeting: We being willing for certain causes to be certified, whether *A. B.* made *E. F.* gentleman his attorney of record, against *C. D.* late of — of a plea of trespass on the case (or as the plea is), before you and your companions, our justices of the bench aforesaid, of the term of — in the — year of our reign, or not; do command you, that having searched the rolls and other memorandums of warrants of attorney, for the county of — being in your custody of record, of the aforesaid term of — in the — year of our reign aforesaid, what you shall find therein concerning the said warrant of attorney, between the parties aforesaid of the plea aforesaid, you certify to us without delay, wheresoever we shall be in *England*, as fully and entirely as the same remains in your custody, together with this writ. Witness *Edward Lord Ellenborough, (&c.)*

(§ 47.)

Return thereto, that there is no warrant of attorney.

The answer of Sir *James Mansfield* knight, the chief-justice within-named.

I certify to our lord the king, that having searched the rolls and other memorandums of warrants of attorney, for the county of —, of the term and year within written, being in my custody; I have not found in the same, any warrant of attorney between

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tween the within-named *A. B.* and *C. D.* of the plea within-mentioned.

CHAP.
XLIII.

George the Third, (&c.) To the sheriff of — greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before Sir *James Mansfield* knight and his companions, our justices of the bench, by our writ, between *A. B.* plaintiff and *C. D.* late of — defendant, of a plea of trespass on the case (or as the plea is), as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed; the record and proceedings of which said judgment we have lately caused to be brought before us, for certain causes of error; and the said *C. D.* hath duly assigned errors of record upon the judgment aforesaid: And we being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid, as is just, command you, that by good and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *C. D.*; and further to do and receive what our said court before us shall consider of the said *A. B.* in this behalf; and have there the names of those by whom you shall so make known to him, and this writ. Witness *Edward Lord Ellenborough, (&c.)*

(§ 48.)

Scire facias ad audiendum errores, on error from the Common Pleas.

George the Third, (&c.) To the sheriff of — greeting: Whereas lately in our court before Sir *James Mansfield* knight and his companions, our

(§ 49.)

The like, on a judgment in *scire facias* against tertendants.

I. 1 4

justices

CHAP.
XLIII.

justices of the bench at *Westminster*, it was considered, that *A. B.* should have execution against *E. F.* and *G. H.* tenants of the lands and tenements of *C. D.* late of — then deceased, as well of a certain debt of — *l.* as of — *l.* which in our said court of the bench aforesaid, were adjudged to the said *A. B.* against the said *C. D.* for his damages which he had sustained, on occasion of the detaining of that debt; whereof the said *E. F.* and *G. H.* on our writ of *scire facias*, issuing against the tenants of the lands and tenements of the said *C. D.* on the judgment aforesaid, are convicted: And because in the adjudication of the execution aforesaid, manifest error hath intervened in the record and proceedings of that adjudication, to the great damage of the said *E. F.* and *G. H.* as by their complaint we are informed; the record of which said judgment and writ of *scire facias*, for certain causes of error, we lately caused to be brought before us, as appears to us of record: Therefore we command you, that by good and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *E. F.* and *G. H.*; and further to do and receive, &c. (as before, p. 519.)

(§ 50.)
The like, on
error from an
inferior court.

George the Third, (&c.) To the sheriff of — greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint lately levied in our court of — before the judges of the same court, between *A. B.* and *C. D.* of a plea of trespass on the case (or as the plea is), manifest error hath intervened, to the great damage of the

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C. D. ha
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to us:

said *C. D.* as by his complaint we are informed; which said record and proceedings we have for certain reasons, caused to come in our court before us; and the said *C. D.* hath duly assigned errors of record upon the judgment aforesaid: And we being willing, &c. (as before, p. 519.)

CHAP.
XLIII.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us, impleaded *C. D.* late of — in a plea that whereas, &c. (reciting the original writ,) to the damage of the said *A. B.* of — *l.* as it is said; and the said *C. D.* because he did not come before us, to answer to the said *A. B.* in the same plea, was put in *exigent*, and in your county court (or in the hustings of pleas of land, holden in the *Guildhall* of the city of *London*) on that occasion was afterwards outlawed; as by the record and proceedings thereof, remaining in our said court before us, manifestly appears: And because on behalf of the said *C. D.* as we are informed, manifest error hath intervened in the record and proceedings aforesaid, and also in the pronouncing of the outlawry aforesaid; and thereupon the said *C. D.* hath prosecuted our writ of error, directed to our justices assigned to hold pleas in our court before us, commanding them that the record and proceedings aforesaid being inspected, they cause to be further done thereupon, for the annulling of the outlawry aforesaid, what of right and according to the law and custom of *England*, ought to be done in the premises; and the said *C. D.* hath thereupon duly assigned his errors of record, as by the inspection thereof likewise appears to us: Therefore we command you, that by good and

(§ 51.)

The like, on error to reverse an outlawry, in the King's Bench.

CHAP.
XLIII.

and lawful men of your bailiwick, you make known to the said *A. B.* that he be before us, on — where, soever we shall then be in *England*, to hear the record and proceedings aforesaid, and also the errors assigned in the pronouncing of the outlawry aforesaid, if it shall seem expedient for the said *C. D.*; and further to do and receive, &c. (as before, p. 519.)

(§ 52.)

The like, on error to reverse a common recovery.

George the Third, (&c.) To the sheriff of — greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before Sir *James Mansfield* knight and his companions, our justices of the bench at *Westminster*, upon a writ of entry *sur disseisin en le post*, between *A. B.* demandant and *C. D.* deforcant, of — messuages and — acres of land with the appurtenances, in the parish of — in your said county, and in which said plaint the said *C. D.* then tenant of the tenements aforesaid with the appurtenances in the same court vouched thereof to warranty *E. F.* who did warrant the same to him, and further thereof vouched to warranty *G. H.* who did warrant the same to him, which said record and proceedings we lately caused to be brought and they now remain before us, manifest error hath intervened, to the great damage of *J. K.* as by his complaint we are informed: And we being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, that by honest and lawful men of your bailiwick, you make known to the said *A. B.* and also to *L. M.* (&c.) the now tenants of the tenements aforesaid, that they
be

he before us, on — wheresoever we shall then be in *England*, to hear the record and proceedings aforesaid, if it shall seem expedient for the said *J. K.*; and further to do and receive, &c. (as before, p. 519.)

A. B. } And hereupon afterwards, to wit, on
ats. } — next after — in — term, in
C. D. } the — year of the reign of our said
in error. } lord the king, the said *A. B.* by *E. F.*
his attorney, freely comes here into court, and says that there is no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid; and he prays that the court of our said lord the king now here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c. But because, (&c.)

(§ 53.)
Joinder in error, in the King's Bench.

A. B. } Whereupon — next after — in this
ats. } same term, is given by the court of our
C. D. } said lord the king now here, to return
in error. } to the court of our said lord the king,
the several writs of *certiorari* above prayed; the same day is given to the said *A. B.* there, &c. And the said chief-justice of our said lord the king of the bench aforesaid, and the said *custos brevium* of the same court, at that day did not return the said writs, nor did they do any thing thereon: And hereupon the said *A. B.* comes voluntarily into court, by — his attorney, and says that there is not any error either in the record and proceedings aforesaid, or in giving the said judgment; and he prays that the

(§ 54.)
The like, after a rule given to return the *certiorari*, with an entry of *non misit brevia*.

said

CHAP.
XLIII.

said court of our said lord the king here, may proceed to examine as well the record and proceedings aforesaid, as the said matters above assigned for error, and that the judgment aforesaid may be in all things affirmed, &c. But because, (&c.)

(§. 55.)
Plea of release
of errors.

A. B. } And the said *A. B.* by *E. F.* his attorney,
ats. } comes and says that the said *C. D.* ought
C. D. } not further to prosecute or maintain his
in error. } writ of error aforesaid, against him the
said *A. B.* because he says that after the judgment
aforesaid, in form aforesaid recovered, and before
the day of suing out the said writ of error, to wit,
on — at — he the said *C. D.* by the name of
— by his certain writing of release, sealed with
the seal of him the said *C. D.* and to the court of
our said lord the king now here shown, the date
whereof is the same day and year aforesaid, did re-
mise, release and for ever quit claim to the said
A. B. by the name of — his heirs, executors and
administrators, all and all manner of error and er-
rors, writ and writs of error, and all benefits and
advantages of the same, and all misprisions of error
and errors, defects and imperfections whatsoever,
had, made, committed, omitted, done or suffered in
about touching or concerning the judgment afore-
said, obtained against him the said *C. D.* by the said
A. B. in the said — term then last past, in the
said court of our said lord the king of Common
Bench at *Westminster*, for — *l.* of debt, besides
costs of suit, or in about touching or concerning
any warrant, process, original, declaration, plea,
entry or other proceeding whatsoever, of or in any
manner concerning the same judgment; as by the
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said writing of release more fully appears: And this he the said *A. B.* is ready to verify, wherefore he prays judgment if the said *C. D.* ought further to prosecute or maintain his writ of error aforesaid against him the said *A. B. &c.*

C. D. } And the said *C. D.* says that he, by rea- (§ 56.)
v. } son of any thing by the said *A. B.* in Replication
A. B. } his said plea above alledged, ought not thereto.
in error. } to be barred from further prosecuting and maintaining his writ of error aforesaid, against the said *A. B.* on the judgment aforesaid; because he says that the said writing of release by him the said *A. B.* in manner and form aforesaid above pleaded in bar of the errors aforesaid, by the said *C. D.* above assigned, is not the deed of him the said *C. D.* And this he the said *C. D.* prays may be inquired of by the country, &c.

C. D. } Afterwards, to wit, on the — day of (§ 57.)
v. } — in this same term, before the jus- Assignment of
A. B. } tices of our lord the king of the Bench, in the Exche-
in error. } and the barons of the Exchequer of our quer-chamber:
said lord the king of the degree of the coif, in the Exchequer-chamber at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c.
(as before, p. 513, 14.)

C. D.

CHAP:
XLIII.

(§ 58.)

The like, on a
judgment re-
vived by *scire*
facias.

C. D. } Afterwards, to wit, on the — day of
v. } — in this same term, before the jus-
A. B. } tices of our lord the king of the Bench,
in error. } and the barons of the Exchequer of our
said lord the king of the degree of the coif, in the
Exchequer-chamber at *Westminster*, comes the said
C. D. by *G. H.* his attorney, and says that in the
record and proceedings aforesaid, and also in giving
the judgment and award of execution aforesaid,
there is manifest error in this, to wit, that there is
not any such record of the supposed recovery against
him the said *C. D.* at the suit of the said *A. B.* re-
maining in the said court of our said lord the king
before the king himself at *Westminster* aforesaid, as
the said *A. B.* hath above in that behalf alledged;
therefore in that there is manifest error; there is
also error in this, to wit, that by the record afore-
said it appears, that execution was adjudged to the
said *A. B.* of the damages in the said writs of *scire*
facias mentioned, according to the form and effect
of the said supposed recovery therein also mentioned,
although no such recovery was had by the said *A. B.*
against the said *C. D.* therefore in that there is ma-
nifest error: And the said *C. D.* prays that the judg-
ment and award of execution aforesaid, in form
aforesaid given and made, for the above and other
errors in the record and proceedings aforesaid, may
be reversed, annulled and altogether held for no-
thing, and that he the said *C. D.* may be restored
to all things which he hath lost by occasion of the
said judgment and award of execution, and that
the said *A. B.* may rejoin to the said errors, &c.

C. D.

C. D.
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C. D. } Afterwards, to wit, on the — day of
v. } — in this same term, before the jus-
A. B. } tices of our lord the king of the Bench,
 in error. } and the barons of the Exchequer of our
 said lord the king of the degree of the coif, in the
 Exchequer-chamber at *Westminster*, comes the said
C. D. by *G. H.* his attorney, and says that in the
 record and proceedings aforesaid, and also in giving
 the judgment aforesaid, there is manifest error in
 this, to wit, that there is no bill filed and remain-
 ing of record in the court of our said lord the king
 before the king himself, to warrant or support the
 judgment or proceedings aforesaid; therefore in that
 there is manifest error; there is also error in this,
 to wit, that by the record aforesaid it appears, that
 the said *A. B.* appeared by *E. F.* his attorney, against
 the said *C. D.* in the plea aforesaid; nevertheless
 there is no warrant of attorney, filed and remaining
 of record in the said court of our said lord the king
 before the king himself, to warrant such appearance
 of the said *A. B.* therefore in that there is manifest
 error; there is also error in this, to wit, that the
 declaration aforesaid, and the matters therein con-
 tained, are not sufficient in law, &c. (assigning the
 common errors as before, p. 513, 14.): Whereupon
 the said *C. D.* prays his majesty's writ of *certiorari*, to
 be directed to his said majesty's chief-justice of the
 said court of our said lord the king before the king
 himself, to certify more fully the truth of the pre-
 mises, to the justices and barons aforesaid; and it is
 granted to him, &c. And the said *C. D.* also
 prays that the judgment aforesaid, in form aforesaid
 given, for the errors aforesaid, and other errors in
 the record and proceedings aforesaid, may be re-
 versed,

CHAP.
 XLIII.

(§ 59.)
 Assignment of
 the want of a
 bill and war-
 rant of attor-
 ney.

C. D.

CHAP.
XLIII.

versed, annulled and altogether held for nothing, and that he the said *C. D.* may be restored to all things which he hath lost by occasion of the said judgment, and that the said *A. B.* may rejoin to these errors, &c.

(§ 60.)

Certiorari for a bill, to the chief-justice of the king's Bench.

George the Third, (&c.) To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: We being willing for certain causes to be certified, whether there be any bill filed against *C. D.* at the suit of *A. B.* in a plea of trespass on the case (or as the plea is), before you of record, or not; do command you, that having searched the files and other remembrances of the bills of the county of —, of the term of — in the — year of our reign, which are filed of record in your custody, what you shall find therein of the said bill between the parties aforesaid, of the plea aforesaid, you do certify without delay to our justices of the Common Bench and the barons of our Exchequer, in our court of Exchequer-chamber at *Westminster*, together with this writ. Witness Sir *James Mansfield* knight, (*&c.*)

(§ 61.)

Return of a bill thereto.

The answer of *Edward Lord Ellenborough*, the chief-justice within-named.

Having searched the files and other remembrances of the bills of the county of —, of the term of — in the — year of the reign of our said lord the king, affiled of record in my custody; I there find a certain bill of the same term, between the parties within mentioned, of the plea within specified; the tenor of which said bill is set forth in a

certain

certain schedule to this writ annexed: And this I certify to his said majesty's justices of the Common Bench, and barons of the Exchequer within-written, as I am within commanded.

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XLIII,

Ellenborough.

George the Third, (&c.) To our right trusty and well-beloved *Edward Lord Ellenborough*, our chief-justice assigned to hold pleas in our court before us, greeting: Because in the record and proceedings, and also in the giving of judgment, in a plaint which was in our court before us, by bill, between *A. B.* and *C. D.* of a plea of trespass on the case (or as the plea is), as it is said, manifest error hath intervened, to the great damage of the said *C. D.* as by his complaint we are informed; the record and proceedings of which said judgment we have lately caused to be brought before our justices of our Common Bench, and our barons of our Exchequer of the degree of the coif, to correct the errors in the same, according to the form of the statute in such case made and provided, in the chamber of our Exchequer aforesaid: And the said *C. D.* appearing in the same Exchequer-chamber, hath said that there is no bill filed, &c. (reciting so much of the assignment of errors, as relates to the want of a bill and warrant of attorney): And we being willing to be certified of the premises aforesaid in this behalf, command you, that having searched the files and other remembrances of bills of the county of —, of — term in the — year of our reign, and which are filed of record in your custody, and also the rolls and other memorandums of warrants of attorney of

(§ 62.)

Certiorari for a bill and warrant of attorney, to the chief-justice of the King's Bench.

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CHAP.
XLIII.

the same term, in your custody likewise remaining of record, what you shall find therein concerning the said bill and warrant of attorney, you certify to our justices of the Common Bench and barons of our Exchequer of the degree of the coif, immediately, into the chamber of our Exchequer aforesaid, together with this writ. Witness Sir *James Mansfield* knight, (*Sc.*)

(§ 63.)

Return thereto, that there is no bill or warrant of attorney.

The answer of *Edward Lord Ellenborough*, the chief-justice within-named.

Having searched the files of bills of the county of —, of — term within-written, being in my custody of record, I find no bill filed of record between the parties within-written, of the plea within specified: Having also searched the rolls and other memorandums of warrants of attorney of the same term, being likewise in my custody of record, I there find no warrant of attorney filed of record, between the parties within-written: And this I certify to his said majesty's justices of the Common Bench and barons of the Exchequer within-written, as I am within commanded.

Ellenborough.

(§ 64.)

Joinder in error, in the Exchequer-chamber.

A. B.

ats.

C. D.

in error.

And hereupon the said *A. B.* by — his attorney, freely comes before the justices of our said lord the king of the Bench, and the barons of the Exchequer of our said lord the king of the degree of the coif, in the Exchequer-chamber at *Westminster* aforesaid, and says that there is not any error in the record and proceedings aforesaid, or in giving the judgment aforesaid; and he prays that the said court

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CHAP.
XLIII.

of Exchequer-chamber of our said lord the king here, may proceed to examine as well the record and proceedings aforesaid, as the matter aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed, &c. But because, (&c.)

C. D. } Afterwards, that is to say, on the ——— day of ——— in the ——— year of the
v. }
A. B. } reign of our sovereign lord *George* the
in error. } Third, king of the united kingdom of
Great Britain and Ireland, &c. before our said lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (as before, p: 513, 14..)

(§ 65.)

Assignment of general errors, in the House of Lords.

Afterwards, that is to say, on the ——— day of ——— in the ——— year of the reign of our sovereign lord *George* the Third, king of the united kingdom of *Great Britain and Ireland*, &c. before our said lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving and affirming the judgment aforesaid, there is manifest error in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid given by the said

(§ 66.)

The like, after affirmance in the Exchequer-chamber.

CHAP.
XLIII.

court of our said lord the king before the king himself at *Westminster* aforesaid, was given for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* therefore in that there is manifest error; there is also error in affirming the said judgment, because he says that the judgment aforesaid was affirmed in the court of our lord the king of Exchequer-chamber at *Westminster*, before the justices of the Common Bench and the barons of the said Exchequer; whereas no such affirmance of the said judgment ought to have been given thereupon, but by the law of the land the said judgment ought to have been reversed; therefore in that there is manifest error: And the said *C. D.* prays that the judgment aforesaid, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, and the affirmance thereof as aforesaid, and that the said *A. B.* may rejoin to the errors above assigned, &c.

(§ 67.)
Joinder in error, in the House of Lords.

A. B. } And the said *A. B.* by — his attorney,
ats. } comes and says, that there is no error
C. D. } either in the record and proceedings
in error. } aforesaid, or in giving the judgment
aforesaid; and he prays that the court of our lord the king in his parliament here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid may be in all things affirmed, &c. But because the court of our said lord the king in
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his parliament aforesaid, is not yet advised what judgment to give of and concerning the premises, a day is therefore given to the said parties here, until — wheresoever, &c. to hear their judgment thereon; for that the court of our said lord the king in his parliament aforesaid, is not yet advised thereof, &c.

(After copying the judgment-roll in the original action, proceed on a new line as follows:)

(5 GE.)

Issue, on error
coram nobis.

Afterwards, to wit, on — next after —, in the — year of the reign of our sovereign lord *George* the Third, now king of the united kingdom of *Great Britain* and *Ireland*, &c. before our said lord the king at *Westminster*, comes the said *C. D.* in his proper person, (or by — his attorney; or if he be an infant, by *G. H.* his guardian, by the court of our said lord the king hereunto specially admitted,) and brings into the court of our said lord the king now here, a certain writ of our said lord the king, for correcting error of and upon the premises aforesaid; which said record and proceedings now remain in the said court of our said lord the king before the king himself here; and he prays that the said writ may be allowed, and it is allowed him, by the same court here, &c. which said writ follows in these words, to wit: *George* the Third, &c. (here copy the writ of error, and proceed with the assignment of errors as follows).

Whereupon the said *C. D.* says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (to the end of the pleadings, beginning each with a new

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XLIII.

line, and conclude by *bill*, with the following award of *venire facias*: Therefore let a jury thereupon come before our lord the king at *Westminster*, on — next after —, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid, at the same place. (Or by *original*, it is commanded to the sheriff of —, &c. as before, p. 189.)

(§ 69.)
The like, on
error in law,
in the King's
Bench.

— term, (the term the transcript was brought in,) in the — year of the reign of king *George* the Third.

England, to wit. Our lord the king hath sent to his right trusty and well-beloved Sir *James Mansfield* knight, his chief-justice of the bench, his writ close in these words, to wit: *George* the Third, &c. (here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed on a new line as follows):

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (here copy the assignment of errors, and joinder in error, and conclude with a continuance by *curia advisari vult* as follows): But because the court of our said lord the king now here, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king, until — wheresoever our said lord the king shall then be in *England*, to hear the judgment aforesaid:

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XLIII.

(As in the last, to the end of the transcript, and then as follows:)

(§ 70.)

The like, after a *scire facias quare executionem non*.

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and says that execution of the said judgment still remains to be made to him; therefore he prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, that he make known, &c. (as in the entry of a *non-pros* in the King's Bench, for not assigning errors, after a *scire facias quare executionem non*, for which *vide post*, p. 544, &c. to the day given by the rule for the plaintiff to assign errors, and then as follows): At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said *C. D.* being solemnly called, also comes by — his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (here copy the assignment of errors and joinder, and conclude with a continuance by *curia advisari vult*, as in the last.)

(As before, p. 534. to the end of the assignment of errors, and then as follows:)

(§ 71.)

The like, after a *certiorari*, on error assigned for want of an original writ.

Which said writ of *certiorari* so prayed and granted, follows in these words, to wit: *George* the Third, &c. (here copy the writ of *certiorari*, and proceed as follows): Which said keeper of the writs rolls and records returned and certified to our said

CHAP.
XLIII.

lord the king, that having searched the original writs, &c. (here recite the return, as before, p. 516.): And which said schedule, so annexed to the said writ of *certiorari*, follows in these words, to wit: *George the Third, &c.* (here copy the schedule): Which said writ of *certiorari*, together with the return of the same, is filed among the records without day, of — term aforesaid. And hereupon afterwards, to wit, on — in — term, in the — year of the reign of our said lord the king, the said *A. B.* by *E. F.* his attorney, freely comes here into court, and says that there is no error, &c. (here copy the joinder in error, and conclude with a continuance by *curia advisari vult*, as before, p. 534, 5.)

(§ 72.)

The like, after a *certiorari*, on error assigned for want of a warrant of attorney.

— Which said writ of *certiorari* so prayed and granted, follows in these words, to wit: *George the Third, &c.* (here copy the writ of *certiorari*, and proceed as follows): Which said chief-justice of the bench aforesaid returned and certified to our said lord the king, that by virtue of the said writ of *certiorari*, he had searched, &c. (here recite the return, and copy the schedule, &c. as in the last).

(§ 73.)

The like, after *scire facere* returned, on a *scire facias* ad *audiendum errores*.

(As before, p. 534. to these words in the assignment of errors, "And this he the said *C. D.* is ready to verify," and then as follows:)

And the said *C. D.* prays the writ of our said lord the king, to warn the said *A. B.* to be before our said lord the king, to hear the record and proceedings aforesaid, and the matters aforesaid for error assigned; and it is granted to him, &c. by which it is commanded to the sheriff of the county aforesaid, that by good and lawful men of his bailiwick, he
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make known to the said *A. B.* that he be before our said lord the king, on — wheresoever our said lord the king shall then be in *England*, to hear the record and proceedings aforesaid, and the matter aforesaid for error assigned, if, &c. and further to do and receive what the said court of our said lord the king shall consider of him in this behalf; the same day is given to the said *C. D.* &c.: At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid, and offers himself against the said *A. B.*; and the sheriff, to wit, — sheriff of the said county, returns that by virtue of the said writ to him directed, he hath by — and — good, &c. caused it to be made known to the said *A. B.* that he be before our said lord the king, at the time in the said writ mentioned, as by the said writ he was commanded, &c. And the said *A. B.* being solemnly called, comes by — his attorney; whereupon the said *C. D.* as before saith, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, by alledging the said errors by him in form aforesaid alledged; and he prays that the judgment aforesaid in form aforesaid given, for the errors aforesaid, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether hld for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

And the said *A. B.* by his attorney aforesaid, comes and says that there is no error, &c. (here copy the joinder in error, and conclude as before.)

(As in the last, to the day given on the *scire facias*, and then as follows:)

(§ 74.)
The like, after
two *was* re-
turned.
At

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XLIII.

At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the sheriff, to wit, — sheriff of the said county, returns that the said *A. B.* hath not any thing in his bailiwick, where or by which he can give him notice, as by that writ he was commanded, neither is the said *A. B.* found in the same; and the said *A. B.* doth not come: Therefore as before, it is commanded to the said sheriff of — that by good, &c. he make known to the said *A. B.* that he be before our said lord the king, on — (the return of the second *scire facias*), wheresoever our said lord the king shall then be in *England*, to hear the record and proceedings aforesaid, if, &c. and further, &c. the same day is given to the said *C. D.* &c.: At which day, before our said lord the king at *Westminster* aforesaid, comes the said *C. D.* by his attorney aforesaid; and the sheriff of the county aforesaid as before returns, that the said *A. B.* hath not any thing in his bailiwick, where or by which he can make known to him, (&c.) nor is he found in the same; and the said *A. B.* being solemnly called, comes by — his attorney: Whereupon the said *C. D.* as before saith, &c. (as in the last).

(§ 75.)

Rule for *conci-
lium*, in the
King's Bench.

— next after — in the — year of the
reign of king *George* the Third.

A. B. } — next after — is appointed to hear
and } the counsel for both parties. Upon the
C. D. } motion of Mr. —.

By the Court.

(§ 76.)

Issue on error,
from the King's

Pleas in the Exchequer-chamber at *Westminster*,
before Sir *James Mansfield* knight, chief-justice of
the

the Common Bench of our sovereign lord the king, Sir *Archibald Macdonald* knight, chief-baron of the Exchequer of our sovereign lord the king of the degree of the coif, *John Heath* esquire, Sir *Giles Rooke* knight, and Sir *Alan Chambre* knight, the three other justices of the Common Bench of our sovereign lord the king; and also before Sir *Beaumont Hotham* knight, Sir *Alexander Thomson* knight, and Sir *Robert Graham* knight, the three other barons of the Exchequer of our sovereign lord the king of the degree of the coif, on — the — day of — in the — year of the reign of king *George the Third*, &c.

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XLIII.
Bench to the
Exchequer-
chamber.

Our sovereign lord the king hath sent to his right trusty and well-beloved *Edward Lord Ellenborough*, his chief-justice assigned to hold pleas in the court of our said lord the king before the king himself, his writ close in these words, to wit: *George the Third*, &c. (here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed as follows):

And thereupon comes here into court in the said Exchequer-chamber, the said *C. D.* in his proper person, and prays a day to assign error or errors in the record and proceedings aforesaid; whereupon a day is given to him by the court here, to assign error or errors in the record and proceedings aforesaid, until — the — day of — next, &c.

Pleas in the Exchequer-chamber, &c. (as before, *mutatis mutandis*).

And thereupon comes here into court, in the said Exchequer-chamber, the said *C. D.* in his proper person, and prays a further day to assign error or errors

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XLIII.

errors in the record and proceedings aforesaid; whereupon a further day is here given him by this court, to assign error or errors in the record and proceedings aforesaid, until — the — day of — next, &c.

Pleas in the Exchequer-chamber, &c. (as before).

At which day, comes here into court in the said Exchequer-chamber, the said *C. D.* in his proper person, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid there is manifest error, &c. (here copy the assignment of errors). And the said *C. D.* prays a writ to be directed to the sheriff of — to give notice to the said *A. B.* that he be here, to hear the record and proceedings aforesaid; and it is granted to him, &c. Therefore the sheriff is commanded, that by good and lawful men of his bailiwick, he give notice to the said *A. B.* that he be here, on — the — day of — next, &c.

Pleas in the Exchequer-chamber, &c. (as before).

At which day, come here into court in the said Exchequer-chamber, as well the said *C. D.* in his proper person, as the said *A. B.* in his proper person; and the sheriff did not send the writ, nor did he do any thing thereupon; therefore the said *C. D.* as before says, that in the record and proceedings aforesaid, and also in giving the said judgment, there is manifest error, by alledging the error aforesaid, by him above for error assigned and alledged; and he prays that the said judgment by reason of that error, and other errors in the record and proceedings aforesaid, may be reversed, annulled and altogether held for nothing. &c.

And

And the said *A. B.* says that there is not any error &c. (here copy the joinder in error). But because the court of our lord the king here is willing to advise among themselves of and upon the premises, before judgment is given thereupon, a day is given here to the said parties, till — the — day of — next, &c.

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XLIII.

Pleas before our lord the king at *Westminster*, of the term of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our Lord 18—.

(§ 77.)

Record of nisi prius in error, on an issue in fact.

Roll—.

Way.

England, to wit. Our lord the king hath sent to his trusty and well-beloved Sir *James Mansfield* knight, his chief-justice of the bench, his writ close in these words, to wit: *George* the Third, &c. (here copy the writ of error and return, with the proceedings in the original action, as in the transcript, and proceed as follows):

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *C. D.* by *G. H.* his attorney, and says that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error, &c. (here copy the assignment of errors and pleadings thereon, to the end of the issue and award of *venire facias*, and proceed with a second *placita*, &c. as follows):

Pleas before our lord the king, &c. (as above).

— to

And

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XLIII.

— to wit. The jury between *C. D.* by his attorney plaintiff in error, and *A. B.* defendant, of a plea of error in fact, is respited before our lord the king, until — wheresoever our said lord the king shall then be in *England*, unless the king's right trusty and well-beloved *Edward Lord Ellenborough*; his majesty's chief justice assigned to hold pleas in the court of our said lord the king before the king himself, shall first come on — the — day of — at the *Guildhall* of the city of *London* (or at *Westminster-hall* in the county of *Middlesex* aforesaid), according to the form of the statute in such case made and provided, for default of the jurors, because none of them did appear: Therefore let the sheriff have the bodies of the said jurors, to make the said jury between the parties aforesaid, of the plea aforesaid, accordingly; the same day is given to the said parties, &c.

(§ 78.)
Entry of non-
pros, in the
King's Bench.

As yet of — term, in the — year of the reign of king *George* the Third. Witness *Edward Lord Ellenborough*.

England, to wit. *C. D.* puts in his place *G. H.* his attorney, to prosecute his writ of error against *A. B.* in a plea of trespass on the case (or as the plea is).

England, to wit. The said *A. B.* puts in his place *E. F.* his attorney, at the suit of the said *C. D.* on the said writ of error, in the plea aforesaid.

England, to wit. Our lord the king hath sent to his right trusty and well-beloved — his chief-justice, (&c.) his writ close in these words, to wit: *George* the Third, &c. (here copy the writ of error and

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and return, with the proceedings in the original action, as in the transcript, and proceed as follows):

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his attorney, and prays that the said *C. D.* may assign errors of record, in the record and proceedings aforesaid; whereupon a day is given by the court of our said lord the king now here, until — next after —, that is to say, for the said *C. D.* to assign errors in the record and proceedings aforesaid: At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid; and the said *C. D.* although solemnly called, doth not come, nor hath he assigned any error of record, in the record and proceedings aforesaid, nor doth he further prosecute his said writ of error, but makes default: Therefore it is considered, that the said *C. D.* take nothing by his writ aforesaid, and that the said *A. B.* do go thereof without day, &c. and that the said *A. B.* have his execution against the said *C. D.* of his damages (or debt and damages) aforesaid, according to the force form and effect of the said recovery, &c. It is also considered, that the said *A. B.* do recover against the said *C. D.* — *l.* by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error; and that the said *A. B.* have execution thereof, &c. And the said *C. D.* in mercy, &c.

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CHAP.
XLIII.

(S 79.)

The like, after
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cutionem non.*

(As in the last, to the end of the transcript, and then as follows:)

Afterwards, to wit, on — next after — in this same term, before our lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and says that execution of the judgment aforesaid still remains to be made to him; therefore he prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, that he make known to the said *C. D.* to be before our said lord the king, wheresoever, &c. to shew if he hath or knoweth of any thing to say for himself, why the said *A. B.* ought not to have his execution against him, of his damages costs and charges aforesaid, according to the force form and effect of the said recovery; and it is granted to him, &c. by which it is commanded to the sheriff of the county of — aforesaid, that by honest and lawful men of his bailiwick, he make known to the said *C. D.* that he be before our said lord the king, on — (the return of the *scire faci*), wheresoever, &c. to shew in form aforesaid, if, &c. and further, &c. the same day is given to the said *A. B.* &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and offers himself against the said *C. D.* in the plea aforesaid; and the sheriff, to wit, — sheriff of the said county of — returns, that by virtue of the said writ to him directed, by — and — honest, &c. he has given notice to the said *C. D.* to appear, &c. to shew, as by that writ he was required; and the said *C. D.* being solemnly called, doth not come, but makes default: And hereupon the said *A. B.* says, that the said *C. D.* hath not assigned any error or errors in the record

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CHAP.
XLLI.

record and proceedings aforesaid; therefore a day is given to the parties aforesaid, to come before our said lord the king, on — wheresoever, &c. that is to say, for the said *C. D.* to assign error or errors in the record and proceedings aforesaid, &c. At which day, before our said lord the king at *Westminster*; comes the said *A. B.* by his attorney aforesaid; and the said *C. D.* at that day, although solemnly called, doth not come, but again makes default; nor does he further prosecute his said writ of error against the said *A. B.* Therefore it is considered, &c. (as in the last).

(As in the last, to the sheriff's return, and then as follows:). And the sheriff, to wit, — sheriff of the said court, returns that the said *C. D.* hath not any thing in his bailiwick, where or by which he can give him notice, as by that writ he was commanded, nor is the said *C. D.* found in the same; and the said *C. D.* doth not come: Therefore, as before, the said sheriff is commanded; that by honest, &c. he make known to the said *C. D.* that he be before our said lord the king, on — (the return of the second *scire facias*), wheresoever, &c. to shew in form aforesaid, if, &c. and further, &c. the same day is given to the said *A. B.* there, &c. At which day, before our said lord the king at *Westminster*, comes the said *A. B.* by his attorney aforesaid, and offers himself against the said *C. D.* and the aforesaid sheriff of the said county of — as before returns, that the said *C. D.* hath not any thing, &c. nor is the said *C. D.* found in the same; and the said *C. D.* although solemnly called, doth not come, but makes default: And hereupon, &c. (as in the last).

(§ 80.)

The like, after
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Pleas

CHAP.
XLIII.

(§ 81.)

The like, on
error from the
King's Bench
to the Exche-
quer-chamber.

Pleas in the Exchequer-chamber, &c. (as before, p. 538, 9. to the end of the second *placita*, and then as follows):

At which day, the said *C. D.* being solemnly called, did not come, neither does he further prosecute his said writ of error: Therefore it is considered, that the said *C. D.* take nothing by his said writ of error, but that he be in mercy, &c. and that the said *A. B.* do go thereof without day, &c. And it is further considered, that the said *A. B.* do recover against the said *C. D.* — *l.* by the court of our said lord the king adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error: Whereupon the record and proceedings of the said justices of the Common Bench and the said barons of the Exchequer, before them had in the premises, are remitted by the said justices of the Common Bench and barons of the Exchequer, before our said lord the king, wheresoever, &c. according to the form of the statute of the twenty-seventh year of the reign of the late queen *Elizabeth*, &c.

(§ 82.)

The like, on
error in the
House of Lords.

Afterwards, to wit, on — the — day of — in the — year of the reign of our sovereign lord *George* the Third, king of the united kingdom of *Great Britain* and *Ireland*, &c. before our lord the king and the peers of this realm, in this present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *A. B.* in his proper person, and prays that the said *C. D.* may assign errors

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in the record and proceedings aforesaid; therefore a day is given to the said *C. D.* before our said lord the king in parliament, to assign errors in the record and proceedings aforesaid, until — the — day of — instant: At which day, before our said lord the king in his parliament, come the said *A. B.* in his proper person; and the said *C. D.* though solemnly called, doth not come, but makes default, nor doth he further prosecute the said writ for correcting errors against the said *A. B.* Therefore it is considered by the said court of our said lord the king in his parliament, that the said *C. D.* take nothing by his said writ of error, but that he be in mercy, &c. and that the said *A. B.* do go thereof without day, &c. It is also considered by the said court of our said lord the king in his parliament, that the said *A. B.* recover against the said *C. D.* — *l.* by the court of our said lord the king in his parliament adjudged to the said *A. B.* and with his assent, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error; and that the record and proceedings aforesaid be remitted from the court of parliament aforesaid, to the court of our said lord the king before the king himself, to the end that execution may be had thereupon, &c.

Cler. Parl.

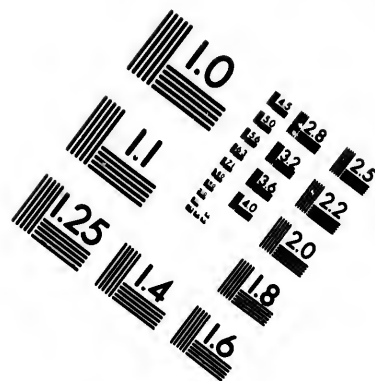
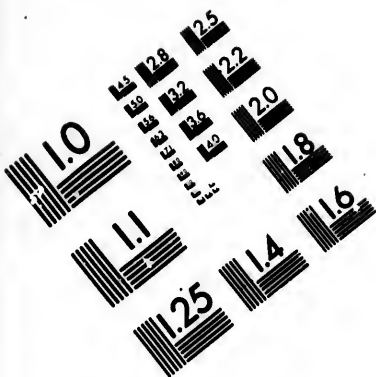
(Entry of warrants of attorney as before, p. 542.)

(§ 83.)

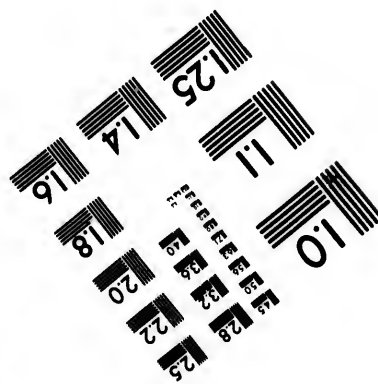
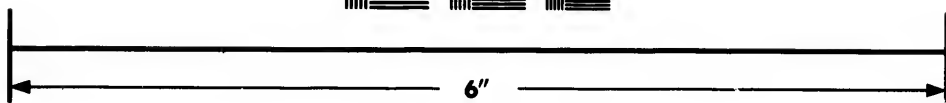
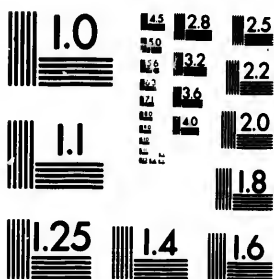
England, to wit. Our lord the king hath sent to his right trusty and well-beloved Sir *James Mansfield*

Affirmance in the King's Bench, of a judgment for the plaintiff.





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CHAP.
XLIII.

field knight, his chief-justice of the bench, his writ close in these words, to wit: George the Third, &c. (here copy the issue, to the end of the continuance by curia advisari vult, and proceed as follows): At which day, before our said lord the king at Westminster, come the parties aforesaid, by their attornies aforesaid; whereupon as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid by the said C. D. above for error assigned, being seen and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the court of our said lord the king now here, that there is no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid: Therefore it is considered, that the judgment aforesaid, in form aforesaid given, be in all things affirmed, and stand in full force and effect, the several matters above for error assigned in anywise notwithstanding: And it is further considered, that the said A. B. do recover against the said C. D. as well his damages (or debt and damages) aforesaid, as also — l. adjudged to him by the court of our said lord the king now here, according to the form of the statute in such case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error; which said damages costs and charges in the whole amount to — l. and that the said A. B. have execution thereof, &c. and the said C. D. in mercy, &c.

Judgment
signed, (&c.)

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(As in the last, to the end of the issue, and then as follows:)

At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; whereupon as well the record and proceedings aforesaid, and the judgment aforesaid in form aforesaid given, as the matter aforesaid by the said *C. D.* above for error assigned, being seen and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court of our said lord the king now here, that in the record and proceedings aforesaid, and also in giving the judgment aforesaid, there is manifest error: Therefore it is considered, that the judgment aforesaid, for the error aforesaid, and other errors in the record and proceedings aforesaid, be reversed annulled and altogether held for nothing; and that the said *C. D.* be restored to all things which he hath lost by occasion of the said judgment, &c.

(As in the last, to the beginning of the award of restitution, and then as follows:)

— and that the said *A. B.* do recover against the said *C. D.* his debt aforesaid, and also — *l.* for his damages which he hath sustained, as well by means of the detaining the said debt, as for his costs and charges by him about his suit in this behalf expended, by the court of our said lord the king now here adjudged to the said *A. B.* and with his assent, and that he have execution thereof, &c. and the said *C. D.* in mercy, &c.

CHAP.
XLIII.

(§ 84.)

Reversal in the
King's Bench,
of a judgment
for the plain-
tiff.

(§ 85.)

The like, on a
judgment for
the defendant
in debt.

CHAP.
XLIII.

(§ 86.)

Affirmance in
the Exche-
quer-chamber,
of a judgment
for the plain-
tiff.

(To the end of the issue, and then as follows:)

— to wit. *C. D.* puts in his place *G. H.* his at-
torney, against *A. B.* in a plea of correcting error.— to wit. The said *A. B.* puts in his place *E. F.*
his attorney, at the suit of the said *C. D.* in the plea
aforesaid.Pleas in the Exchequer-chamber, &c. (as before,
p. 538, 9. *mutatis mutandis*).

At which day, come here into court in the said Exchequer-chamber, as well the said *C. D.* as the said *A. B.* by their attornies aforesaid; whereupon the premises being considered, and as well the record and proceedings aforesaid, and the judgment aforesaid thereon given, as also the cause for error above assigned, being by the court of our lord the king here diligently examined and fully understood, it appears to the said court of our said lord the king here, that the judgment aforesaid is not in anywise erroneous or defective, and that in the record and proceedings aforesaid there is not any error: Therefore it is considered, that the judgment aforesaid be in all things affirmed, and stand in its full force strength and effect, the said cause above for error assigned and alledged in anywise notwithstanding: And it is further considered, that the said *A. B.* recover against the said *C. D.* — *l.* by the court of our said lord the king here adjudged to the said *A. B.* and with his assent, according to the form of the statute in that case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error; whereupon the re-
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cord and proceedings of the said justices of the Common Bench and the said barons of the Exchequer, before them had in the premises, are remitted by the said justices and barons, before our said lord the king, wheresoever, &c. according to the form of the statute of the 27th year of the reign of the late queen *Elizabeth*, &c.

(As in the last, till the proceedings are brought down to the day of giving the judgment, and then as follows:)

At which day, come here into court in the said Exchequer-chamber, as well the said *C. D.* in his proper person, as the said *A. B.* by his attorney aforesaid: Whereupon as well the record and proceedings aforesaid, and the judgments aforesaid in form aforesaid given, as the matters aforesaid by the said *C. D.* above for error assigned, being seen and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court of our said lord the king now here, that the judgment aforesaid, in form aforesaid given, whereby it was considered that the said *A. B.* should recover against the said *C. D.* his said debt, and also — *l.* for his damages which he had sustained, as well by occasion of the detaining the said debt, as for his costs and charges by him about his suit in that behalf expended, and that the said *C. D.* should be in mercy, &c. is not in anywise erroneous or defective; and that in the record and proceedings aforesaid, as to the said last-mentioned judgment, there is not any error: Therefore it is considered, that the said last-mentioned judgment be in all things affirmed, and stand in its full force strength and effect, the said matters above

The like, of one judgment for debt and costs, and reversal of another for damages, on stat. 8 & 9 W. III. c. 11. § 8.

CHAP.
XLIII.

for error assigned and alledged in any wise notwithstanding. But inasmuch as it further appears to the said court of our said lord the king now here, that there is manifest error in the record and proceedings aforesaid, as to the judgment aforesaid in form aforesaid given, whereby it was considered that the said *A. B.* should recover against the said *C. D.* his damages aforesaid, to the said sum of — *l.* in form aforesaid found, and also — *l.* for his further costs and charges by him about his suit in that behalf expended, and that the said *C. D.* should be in mercy, &c.; therefore it is considered, that the said last-mentioned judgment, for the error aforesaid, be reversed annulled and altogether held for nothing, and that the said *C. D.* be restored to all things which he hath lost by occasion of the said last-mentioned judgment, &c. And hereupon the record and proceedings of the said justices of the Common Bench, and the said barons of the Exchequer, before them had in the premises, are remitted, &c. (as in the last).

(§ 87.)
Rule nisi, for computing interest, on an affirmance in the Exchequer-chamber.

A. B. } It is ordered, that the plaintiff in error
and } upon notice, (&c.) shall on, (&c.) shew
C. D. } cause, why it should not be referred to
in error. } the clerk of the errors, to calculate and ascertain the amount of the interest upon the final judgment, after the rate of 4 *l. per cent.* from the time of final judgment being entered up, until the affirmance of the said judgment in this court; and that such interest may be added to the damages, for which such final judgment was entered up. Upon motion of Mr. —.

(§ 88.) Afterwards, to wit, on — the — day of —
Entry of proceedings and in the — year of the reign of our sovereign lord
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George the Third, king of the united kingdom of *Great Britain and Ireland, &c.* a transcript of the record and proceedings aforesaid, between the parties aforesaid, of the plea aforesaid, with all things concerning the same, by means of a certain writ of our lord the king for correcting errors, prosecuted by the said *C. D.* against the said *A. B.* of and upon the premises, by the court of our said lord the king before the king himself here, was transmitted before the justices of our said lord the king of his court of Common Bench, and the barons of the Exchequer of our said lord the king of the degree of the coif, in the Exchequer-chamber, according to the form of the statute made in the 27th year of the reign of the lady *Elizabeth*, late queen of *England, &c.*: And the said *C. D.* appearing in the Exchequer-chamber aforesaid, assigned certain matters for error in the record and proceedings aforesaid, and in giving the judgment aforesaid, for reversing the said judgment; to which the said *A. B.* also appearing in the said court of Exchequer-chamber, pleaded that there was no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid: And afterwards, to wit, on — the — day of — in the — year of the reign of our said lord the king, as well the record and proceedings aforesaid, and the judgment aforesaid given in form aforesaid, as also the matters by the said *C. D.* for error assigned, being by the court of Exchequer-chamber diligently examined, and fully understood, it seemed to the said court of Exchequer-chamber, that there was no error either in the record and proceedings aforesaid, or in giving the judgment aforesaid: Therefore it was then and there considered by the said court of Exchequer-

CHAP.
XLIII.

affirmance in
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George

CHAP.
XLIII.

Exchequer-chamber, that the judgment aforesaid should be in all things affirmed, and stand in its full force strength and effect, the matters aforesaid above for error assigned and alledged in anywise notwithstanding: And it was then and there further considered by the same court, that the said *A. B.* should recover against the said *C. D.* — *l.* by the same court there adjudged to the said *A. B.* at his request, according to the form of the statute in such case made and provided; for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error: And thereupon as well the record aforesaid, as the proceedings of the justices of the Common-Bench and barons of the Exchequer aforesaid, before them had in the premises, were by the said justices and barons remitted into the court of our said lord the king before the king himself, according to the form of the statute in such case made and provided, and now remain in the said court of our said lord the king before the king himself, &c.

(§ 89.)
Entry of satisfaction.

Afterwards, to wit, on — next after — in the — year of the reign of our said lord the now king, before the king himself at *Westminster*, came the said *A. B.* by his attorney aforesaid; and acknowledged that he had been satisfied by the said *C. D.* for the damages costs and charges aforesaid: Therefore let the said *C. D.* be quit of the said damages costs and charges, &c.

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To the right honorable the lords spiritual and temporal, in parliament assembled.

The humble petition of *A. B.* defendant in a writ of error in parliament, wherein *C. D.* is plaintiff;

Sheweth,

That your petitioner obtained a judgment after verdict, in the court of King's Bench, against the said *C. D.* in an action of debt for — *l.* which in — term last, on a writ of error brought by the said *C. D.* in the Exchequer-chamber, was unanimously affirmed by all the judges of the court of Common Pleas and barons of the Exchequer: That the said *C. D.* hath lately brought a writ of error returnable in parliament, in which the plaintiff in error hath named himself by a different addition from what he is named in the said action, with an intent thereby, as your petitioner is advised, to delay your petitioner, in a most unreasonable and unusual manner, from the recovery of his just debt.

That the plaintiff in error hath nevertheless assigned his errors; and your petitioner hath joined in error.

Your petitioner therefore most humbly prays your lordships, to appoint such a day for taking the premises into your consideration, and arguing the said errors, as to your lordships great wisdom shall seem meet.

And your petitioner shall ever pray, &c.

At which day, before the same court of parliament at *Westminster*, come as well the said *C. D.*: as the said *A. B.* in their proper persons; whereupon all and singular the premises being seen, and by the

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XLIII.

(§ 90.)

Petition for a hearing, in the House of Lords.

(§ 91.)

Affirmance in the House of Lords, of a judgment in the King's

court

CHAP.
XLIII.

Bench, affirm-
ed in the Ex-
chequer-
chamber.

court of parliament aforesaid now here fully understood, and as well the record and proceedings aforesaid, and the judgment thereon given, as the said causes and matters by the said *C. D.* above for error assigned, being diligently examined and inspected, and mature deliberation being thereupon had, it seems to the court of parliament aforesaid now here, that there is no error either in the record and proceedings aforesaid, or in the giving of the judgment aforesaid, or in the affirmance of the same judgment, and that the said record is in nowise vicious or defective: Therefore it is considered by the same court of parliament, that the judgment aforesaid, and also the affirmance of the same judgment, be in all things affirmed, and stand in their full force and effect, the said causes and matters by the said *C. D.* above for error assigned in anywise notwithstanding: And it is further considered by the same court of parliament now here, that the said *A. B.* do recover against the said *C. D.* — *l.* by the same court of parliament adjudged to the said *A. B.* and with his assent, according to the form of the statute in such case made and provided, for his damages costs and charges which he hath sustained and expended, by reason of the delay of the execution of the judgment aforesaid, on pretence of prosecuting the said writ of error: And thereupon the record aforesaid, and also the proceedings aforesaid in the same court of parliament had in the premises, are remitted by the same court of parliament, to the court of our said lord the king before the king himself, wheresoever, &c.

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Cler. Parl.

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Afterwards, to wit, on the — day of — in the — year of the reign of our said lord the king, the said lord the king sent to his right trusty and well-beloved *Edward Lord Ellenborough*, the chief-justice of the same lord the king, assigned to hold pleas in the court of our said lord the king before the king himself, his writ close in these words, to wit: *George the Third, &c.* (here copy the writ of error, and proceed as follows): By virtue of which said writ, the said chief-justice with his own proper hands brought the record and proceedings in the plaint aforesaid, with all things concerning the same, to our said lord the king in the present parliament, according to the exigency of that writ.

CHAP.
XLIII.

(§ 92.)

Entry of proceedings and affirmance in the House of Lords, and remittitur to the King's Bench.

Afterwards, to wit, on the — day of — in the — year of the reign of our said lord the king, before our said lord the king and the peers of this realm, in the present parliament at *Westminster* in the county of *Middlesex* assembled, comes the said *C. D.* in his proper person, and immediately says that in the record and proceedings aforesaid, and also in the judgment aforesaid thereupon given, in the said court of Exchequer-chamber of our said lord the king, there is manifest error, &c. (stating the assignment of errors and joinder): But because the court of our said lord the king before the king himself in his parliament, are not yet advised what judgment to give of and upon the premises, a day is therefore given to the parties aforesaid, before our said lord the king in his parliament, until — the — day of — next ensuing, wheresoever, &c. to hear their judgment of and upon the premises, because the court of our said lord the king in his parlia-

Cler. Parl.

After-

CHAP.
XLIII.

parliament here, are not yet advised thereof; &c. At which day, before the same court of parliament at *Westminster* aforesaid, come as well the said *C. D.* as the said *A. B.* with reupon all and singular the premises being seen, &c. (as in the last precedent, to the end).

(§ 93.)
Fieri facias,
after non-pros
or affirmance
in the King's
Bench.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* late of — in your bailiwick, you cause to be made — *l.* (or a certain debt of — *l.*) which *A. B.* lately in our court before Sir *James Mansfield* knight and his companions, then our justices of the bench at *Westminster*, recovered against the said *C. D.* (&c.) whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us at *Westminster*, for certain supposed causes of error therein, and which are now there remaining, appears to us of record; and also — *l.* which in our said court before us at *Westminster* aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended; on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or on an affirmance, “the said judgment being in our said court before us, in all things affirmed;”) whereof the

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the said *C. D.* is also convicted, as appears to us of record; and have the said monies before us, on — wheresoever we shall then be in *England*, to render to the said *A. B.* for his damages costs and charges aforesaid; and have there this writ. Witness *Edward Lord Ellenborough*, (&c.)

CHAP.
XLIII.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* late of — in your bailiwick, you cause to be made — *l.* which lately in our court before us were adjudged to *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of a certain judgment, obtained by the said *A. B.* against the said *C. D.* in our court before *Sir James Mansfield* knight and his companions, our justices of the bench at *Westminster*, on pretence of prosecuting our writ of error brought by the said *C. D.* against the said *A. B.* of and upon the said judgment, because the said *C. D.* did not prosecute the said writ of error with effect; (or, the said judgment being in our said court before us, in all things affirmed;) whereof the said *C. D.* is convicted, as by the record and proceedings thereof, which for certain supposed causes of error therein, we lately caused to be brought into our said court before us, and which are now there remaining, appears to us of record; and have the said money, &c. (as in the last).

(§ 94.)

The like, for the damages and costs in error only.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels

(§ 95.)

The like, after a non-pros or

CHAP.
XLIII.
affirmance in
the Exche-
quer-chamber.

chattels of *C. D.* in your bailiwick, you cause to be made — *l.* (or a certain debt of — *l.*) which *A. B.* lately in our court before us at *Westminster*; recovered against the said *C. D.* (&c.) whereof the said *C. D.* is convicted, as appears to us of record; and also — *l.* which in our court of Exchequer-chamber at *Westminster*, before our justices of the bench and the barons of our Exchequer of the degree of the coif, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, the said judgment being in our said court of Exchequer-chamber in all things affirmed;) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record; and have the said monies before us at *Westminster*, on — next after —, to render to the said *A. B.* for his damages costs and charges aforesaid; and have there then this writ. Witness, (&c.)

(§ 96.)
The like, after
an action on
the judgment,
and a writ of
error thereon.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.* (or a certain debt of — *l.*) which *A. B.* lately in our court before us at *Westminster*;

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CHAP.
XLIII.

recovered against the said *C. D.* (&c.) whereof the said *C. D.* is convicted, as appears to us of record; and also — *l.* which in our court of Exchequer-chamber at *Westminster*, before our justices of the bench and the barons of our Exchequer of the degree of the coif, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, the said judgment being in our said court of Exchequer-chamber in all things affirmed;) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record; and also — *l.* which the said *A. B.* lately in our said court before us at *Westminster* aforesaid, recovered against the said *C. D.* for his damages which he had sustained, as well by reason of the detention of the said first-mentioned damages (or, debt and damages) costs and charges, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* is also convicted, as appears to us of record; and also — *l.* which in our said court of Exchequer-chamber, before our justices and barons aforesaid, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he

CHAP.
XLIII.

had sustained and expended, on occasion of the delay of the execution of the said last-mentioned judgment, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said last-mentioned writ of error with effect; (or, the said last-mentioned judgment being in our said court of Exchequer-chamber in all things affirmed;) whereof the said *C. D.* is also convicted, as by the record and proceedings of our said justices and barons, before them had in the premises last aforesaid, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, also appears to us of record; and have the said monies, &c. (as before.)

(§ 97.)

The like, for
the damages
and costs in
error only.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made — *l.*, which lately in our court of Exchequer-chamber at *Westminster*, before our justices of the bench and the barons, of our Exchequer of the degree of the coif, were adjudged to *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of the execution of a certain judgment, obtained by the said *A. B.* against the said *C. D.* in our court before us, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, the said judgment being in our said court of Exchequer-chamber in all things affirmed;) whereof the said *C. D.*

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C. D. is convicted, as by the record and proceedings of our said justices and barons, before them had in the premises, and by them remitted into and now remaining in our said court before us at *Westminster* aforesaid, appears to us of record; and have the said monies, &c. (as before.)

CHAP.
XLIII.

George the Third, (&c.) To the sheriff of ———
greeting: We command you, that of the goods and chattels of *C. D.* in your bailiwick, you cause to be made ———*l.* (or, a certain debt of ———*l.*) which *A. B.* lately in our court before us at *Westminster*, recovered against the said *C. D.* (&c.) whereof the said *C. D.* is convicted, as appears to us of record; and also ———*l.* which in our court of parliament were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, the said judgment being in our said court of parliament in all things affirmed;) whereof the said *C. D.* is also convicted, as by the inspection of the record and proceedings thereof, remitted from our said court of parliament into our court before us, also appears to us of record; and have the said monies, &c. (as before.)

(§ 98.)

The like, after a *non-pros* or *affirmance* in the House of Lords.

George the Third, (&c.) To the sheriff of ———
greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely

(§ 99.)

Capias ad satis faciendum, after a *non-pros* or *affirmance* in K. B.

CHAP.
XLIII.

keep, so that you may have his body before us, on — whersoever we shall then be in *England*, to satisfy *A. B.* — *l.* (or, a certain debt of — *l.*) which the said *A. B.* lately in our court before Sir *James Mansfield* knight and his companions, then our justices of the bench at *Westminster*, recovered against the said *C. D.* (&c.) whereof the said *C. D.* is convicted, as by the inspection of the record and proceedings thereof, which we lately caused to be brought into our court before us at *Westminster*, for certain supposed causes of error therein, and which are now there remaining; appears to us of record; and also — *l.* which in our said court before us at *Westminster*, were adjudged to the said *A. B.* according to the form of the statute in such case made and provided, for his damages costs and charges which he had sustained and expended, on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting our writ of error brought thereupon by the said *C. D.* against the said *A. B.* because the said *C. D.* did not prosecute the said writ of error with effect; (or, the said judgment being in our said court before us in all things affirmed;) whereof the said *C. D.* is also convicted, as appears to us of record; and have there this writ. Witness, (&c.)

The different writs of *capias ad satisfaciendum*, after a *nonpros* or affirmance in the Exchequer-chamber or House of Lords, may be easily collected from the above form, and the foregoing writs of *feri facias* in similar cases.

George the Third, (&c.) To the sheriff of —
greeting: Whereas *A. B.* lately, to wit, in —
term, in the — year of our reign, in our court
before Sir *James Mansfield* knight and his com-
panions, then our justices of the bench at *West-*
minster, by our writ and by the judgment of the
same court, recovered against *C. D.* late of —
— *l.* which in our same court were adjudged to
the said *A. B.* for his damages, (&c.) whereof the
said *C. D.* was convicted, as by the inspection of
the record and proceedings thereof, which for cer-
tain causes of error we caused to be brought into
our court before us at *Westminster*, appears to us
of record: And for divers errors found in the re-
cord and proceedings aforesaid, and also in the
giving of the judgment aforesaid, we have reversed
and totally annulled the said judgment; and we
have further considered in our said court before us
at *Westminster* aforesaid, that the said *C. D.* be
restored to all things which he hath lost on occasion
of the judgment aforesaid: And now on the behalf
of the said *C. D.* in our said court before us we
have been informed, that the said *A. B.* hath had
his execution of the damages aforesaid, on pretence
of the judgment aforesaid, given in our court of the
Bench aforesaid, and is yet possessed thereof, to wit,
at —; wherenpon the said *C. D.* hath humbly be-
sought us to provide him a proper remedy in this
behalf: And we being willing that what is just in
this behalf should be done, command you, that by
honest and lawful men of your bailiwick, you make
known to the said *A. B.* that he be before us, on
— wheresoever we shall then be in *England*, to
shew if he hath or knoweth of any thing to say for

CHAP.
XLIII.

(§ 100.)

Scire facias
quare restitutio-
nem non, after
a judgment re-
versed in the
King's Bench.

CHAP.
XLIII.

himself, why the said *C. D.* ought not to have restitution of the damages aforesaid, according to the force form and effect of the judgment aforesaid, given in our said court before us; and further to do and receive, &c. (as before, p. 436.)

(§ 101.)

The like, after a judgment reversed in the Exchequer-chamber.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* — l, for his damages, (&c.) whereof the said *C. D.* is convicted, as appears to us of record; and afterwards the said *C. D.* brought our writ for correcting error of and upon the record and proceedings aforesaid, against the said *A. B.* returnable before our justices of the Common Bench and the barons of our Exchequer, in our Exchequer-chamber: And thereupon afterwards, to wit, on the — day of — in the — year of our reign, before our justices of the Common Bench and the barons of our Exchequer aforesaid, in our said Exchequer-chamber, it was considered, that the judgment aforesaid, for divers errors in the record and proceedings aforesaid, should be reversed annulled and altogether held for nothing, and that the said *C. D.* should be restored to all things which he had lost on occasion of that judgment; as by the inspection of the record and proceedings thereof, now remaining in our said court before us, also appears to us of record: And now on the behalf of the said *C. D.* in our said court before us, we have been informed, that the said *A. B.* hath had his execution of the damages aforesaid, in formaforesaid recovered, and is yet possessed thereof; where-

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XLIII.

whereupon the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick; you make known to the said *A. B.* that he be before us at *Westminster*; on — next after —, to shew if he hath or knoweth of any thing to say for himself, why the said *C. D.* ought not to have restitution of the damages aforesaid, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before p. 436.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately, that is to say, in — term, in the — year of our reign, in our court before Sir *James Mansfield* knight and his companions, then our justices of the bench at *Westminster*, by our writ and by the judgment of the same court, recovered against *C. D.* late of — — for his damages, (&c.) whereof the said *C. D.* is convicted, as by the record and proceedings thereof, which for certain causes of error we lately caused to be brought into our court before us, appears to us of record: And by reason of divers errors in the said record and proceedings, and also in giving the judgment aforesaid, we have reversed and totally annulled the same; and we have further considered in our said court before us, that the said *C. D.* be restored to all things which he hath lost on occasion of the judgment aforesaid: And whereas the said *A. B.* on pretence of the said former judgment, hath had his execution of the damages aforesaid, and is yet possessed thereof, as we have been informed: There-

(\$ 102.)

Writ of restitution, after a judgment reversed in the King's Bench.

CHAP.
XLIII.

fore we command you, that if it can be made appear to you, that the said *A. B.* hath had his execution of the damages aforesaid, by virtue of the judgment aforesaid, then without delay you cause the said *C. D.* to have full restitution of the said — *l.*: and if you cannot cause him to have restitution thereof, then that of the goods and chattels of the said *A. B.* in your bailiwick, you cause to be made the said — *l.* and cause that money to be delivered without delay to the said *C. D.* (or, that you take the said *A. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever, &c. to restore and make satisfaction to the said *C. D.* of the said — *l.*): And in what manner you shall execute this our writ, make appear to us, on — wheresoever (&c.) and have there this writ. Witness, (&c.)

(§ 103.)

The like, after a judgment reversed in the Exchequer-chamber.

George the Third, (&c.) To the sheriff of — greeting: Whereas *A. B.* lately in our court before us at *Westminster*, by bill without our writ, and by the judgment of the same court, recovered against *C. D.* — *l.* for his damages, (&c.) whereof the said *C. D.* was convicted, as appeared to us of record: And afterwards, to wit, on the — day of — in the — year of our reign, the transcript of the record and proceedings aforesaid, with all things concerning the same, by virtue of our certain writ for correcting error prosecuted by the said *C. D.* in the premises, was transmitted from our said court before us, before our justices of the Common Bench and the barons of our Exchequer of the degree of the coif, in the Exchequer-chamber, according to the form of the statute made in the parliament of the lady

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lady *Elizabeth* late queen of *England*, holden at *Westminster*, on the 23d day of *November* in the twenty-seventh year of her reign: And afterwards, to wit, on the — day of — in the — year of our reign aforesaid, before our said justices of the Common Bench and barons of our Exchequer, in the Exchequer-chamber aforesaid, it was considered, that the judgment aforesaid, for divers errors in the record and proceedings aforesaid, should be reversed annulled and altogether held for nothing, and that the said *C. D.* should be restored to all things which he had lost by occasion of the judgment aforesaid: And afterwards the record aforesaid, with the proceedings thereupon had in the premises, before the said justices and barons of the Exchequer aforesaid, the same justices and barons have remitted before us at *Westminster* aforesaid, according to the form of the statute aforesaid, and they now remain in our same court before us: And now on the behalf of the said *C. D.* in our said court before us we have been informed, that the said *A. B.* on pretence of the said former judgment, hath had his execution of the damages aforesaid, and is yet possessed thereof: Therefore we command you, &c. (as in the last, making the writ returnable on a day certain).

George the Third, (&c.) To the sheriff of — (§ 104.)
greeting: If *C. D.* shall give you security that his writ of false-judgment.
suit shall be prosecuted, then in your full county cause the plaint to be recorded, which was in the same county without our writ, between *A. B.* and the said *C. D.* of a certain trespass on the case done to the said *A. B.* by the said *C. D.* as it is said, wherein the said *C. D.* complaineth that false judgment hath been given against him in the said county;
and

CHAP.
XLIII.

and that you have the said record before us, on — wheresoever we shall then be in *England*, under your seal, and the seals of four lawful knights of the same county, of such as shall be present at the said recording; and summon by good summoners the said *A. B.* that he be then there, to hear the said record; and have you there the summoners, the names of the said four knights, and this writ. Witness our self at *Westminster*, the — day of — in the — year of our reign.

By the lord chancellor of *Great Britain*, at the instance of the defendant.

(§ 105.)
Return
thereto.

By virtue of this writ to me directed, I have in my full county, held at — the — day of — in the — year of the reign of our sovereign lord *George the Third*, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, caused the plaint to be recorded, whereof mention is within made; and I have the record of the same plaint before our said lord the king, on the day within contained, under my seal, and the seals of four lawful knights of my said county, of such as were present at the said recording; And by — and — I have summoned the within-named *A. B.* that he be before our said lord the king, on the day aforesaid, to hear the said record, as by this writ I am commanded; which said record is contained in a schedule to this writ annexed.

(§ 106.)
Proceedings in
the county-
court, from le-
vying the
plaint to final
judgment after
verdict.

— to wit. The — county-court of *J. K.* esquire, sheriff of the county aforesaid, held at — in and for the said county, and within the jurisdiction of the same court, according to the custom of the said court, from time whereof the memory of

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man is not to the contrary there used and approved of in the same court, on — the — day of — in the — year of the reign of our sovereign lord *George* the Third, by the grace of God of the united kingdom of *Great Britain* and *Ireland* king, defender of the faith, and in the year of our lord 18—, before *L. M.* (&c.) freeholders within the said county, and suitors of the same court. Be it remembered, that at this court comes here *A. B.* in his proper person, and now in the same court here, levies his plaint against *C. D.* of a plea of trespass on the case, to the damage of the said *A. B.* of thirty-nine shillings and eleven-pence; and in the same court here finds pledges to prosecute his said plaint, to wit, *John Doe* and *Richard Roe*; and now in the same court here, prays the process of the same court here to be made to him thereon against the said *C. D.* in the plea of his said plaint; and it is granted to him, &c. And upon this it is in and by the same court here commanded to —, one of the bailiffs errant of the said *J. K.* sheriff of the said county, and minister of the same court here, that he summon by good summoners the said *C. D.* within the jurisdiction of the same court, that he be and appear at the next court of the county aforesaid, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — next ensuing, to answer to the said *A. B.* in the plea of the said plaint; and what the said minister shall do thereon, that he certify to the same next court; the same day is in and by the same court here given to the said *A. B.* to be there, &c. At which same next court, to wit, the — county-court of the said *J. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the

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XLIII.

the said county, and within the jurisdiction of the same court, on — the — day of — in the said — year of the reign of our said lord the now king, before *N. O.* (&c.) freeholders within the said county, and suitors of the same court, comes the said *A. B.* in his proper person, and offers himself against the said *C. D.* in the plea of his said plaint; and the said — bailiff and minister of the same court, now returns to the same court here, the aforesaid precept to him in form aforesaid directed, in all things served and executed, to wit, that he by virtue of that precept, to him in form aforesaid directed, by — and — good summoners, hath summoned the said *C. D.* within the jurisdiction of the said court, that he be and appear at the same next court, to answer the said *A. B.* in the plea of the said plaint, as he was commanded: Whereupon the said *C. D.* being solemnly called, comes into this same court here, in his proper person; and thereupon the said *A. B.* in this same court, puts in his place *E. F.* his attorney, against the said *C. D.* in the plea of the said plaint; and the said *C. D.* in this same court here puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea of the said plaint; and thereupon the said *A. B.* prays a day to declare against the said *C. D.* in the plea of the said plaint here, until the next court of the county aforesaid, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c. the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county-court of the said *J. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county,

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XLIII.

county; and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *P. Q.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and hereupon the said *A. B.* prays a further day to declare against the said *C. D.* in the plea of the said plaint here, until the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c. the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county-court of the said *J. K.* esquire, sheriff of the said county, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *R. S.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid: And thereupon the said *A. B.* by his said attorney, now declares here in this same court, against the said *C. D.* in the plea of the said plaint, in manner and form following, that is to say: In the county-court. *A. B.* complains against *C. D.* of a plea of trespass on the case; for that whereas, &c. (here copy the declaration.) And thereupon the said *C. D.* prays leave to imparl thereto here, until the next court of the county aforesaid, to be holden in and for the same county here, to wit, at — aforesaid in the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now

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XLIII.

— now next ensuing ; and he hath it, &c. the same day is given to the said *A. B.* to be there, &c. At which same next court; to wit, the — county-court of the said *J. K.* esquire; sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king; before *T. U.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and thereupon the said *C. D.* by his attorney aforesaid, defends the wrong and injury when, &c. and saith that he did not undertake or promise, in manner and form as the said *A. B.* hath above thereof complained against him; and of this he the said *C. D.* puts himself upon the country, &c. And hereupon the said *A. B.* prays leave to reply thereto here, until the next court of the county aforesaid, to be holden in and for the same county here, to wit, at — aforesaid in the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing; and he hath it, &c. the same day is given to the said *C. D.* to be there, &c. At which same next court, to wit, the — county-court of the said *J. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *V. W.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and thereupon the said *A. B.* doth likewise put himself upon the country: Therefore

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to try the issue above joined between the parties aforesaid, it is commanded by the court here, to — and — bailiffs and ministers of the aforesaid court, that they cause to come at the next court, to be holden at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on — the — day of — now next ensuing, twelve honest and lawful men of the same county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given in and by the said court here to the parties aforesaid, to be there, &c. At which same next court, to wit, at the — county-court of the said *J. K.* esquire, sheriff of the county aforesaid, held at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *X. Y.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the said — and — bailiffs and ministers of the aforesaid court, to whom, &c. have not returned the aforesaid precept, nor have they or either of them done any thing thereon: Therefore, as before, it is commanded by the court here, to the aforesaid — and — bailiffs and ministers of the same court, that they cause to come at the next court to be holden at — aforesaid, in and for the said county, and within the jurisdiction of the same court, on — the — day of — now next ensuing, twelve honest and lawful men of the same county, and within the jurisdiction of the same court, by whom, &c. and who neither, &c. to recognize, &c. because

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XLIII.

because as well, &c. the same day is given in and by the said court here to the parties aforesaid, to be there, &c. Before which said next court, the aforesaid *J. K.* was in due manner removed from his said office of sheriff of the county aforesaid, and *Z. A.* esquire was duly chosen, constituted and appointed sheriff of the said county, in the lieu and stead of the said *J. K.* At which same next court, to wit, at the first county-court of the said *Z. A.* esquire, sheriff of the county aforesaid, held at — aforesaid in and for the said county, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the — year of the reign of our said lord the now king, before *B. C.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and the said — and —, bailiffs and ministers of the court aforesaid, have sent here the aforesaid precept to them in form aforesaid directed, in all things served and executed, together with a panel of the names of twelve honest and lawful men of the county aforesaid, and within the jurisdiction of the said court, and who are in nowise of kin either to the said *A. B.* or to the said *C. D.* impannelled to recognize in form aforesaid, between the parties aforesaid: And those jurors in form aforesaid so impannelled, namely, *D. E.* (&c.) being solemnly called in the same court appear, who being chosen tried and sworn by the same court here, to speak the truth of the premises above contained, and put in issue between the said parties, upon their oath say, that the said *C. D.* did undertake and promise, in manner and form as the said *A. B.* hath above thereof complained against him; and they assess the damages of the said *A. B.* by reason of the premises aforesaid, over and above his costs and charges by

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him laid out about his suit in this behalf, to —s. and for those costs and charges to — pence: And thereupon the said *A. B.* prays the judgment of the court here, of and upon the premises aforesaid: But because the court now here hath not yet determined what judgment to give in the premises, a day is therefore given by this court, as well to the said *A. B.* as to the said *C. D.* until the next court of the county aforesaid, to be holden at — aforesaid, in and for the said county, and within the jurisdiction of this court, on — the — day of — next ensuing, for hearing the judgment of the same court thereupon, for that this court hath not yet thereof determined, &c. At which same next court, to wit, at the second county court of the said *Z. A.* sheriff of the county aforesaid, held at — aforesaid, in and for the county aforesaid, and within the jurisdiction of the same court, on the aforesaid — the — day of — in the said — year of the reign of our said lord the now king, before *F. G.* (&c.) freeholders within the said county, and suitors of the same court, come as well the said *A. B.* as the said *C. D.* by their attornies aforesaid; and thereupon all and singular the premises aforesaid being seen and inspected, and by the court here fully understood, and mature deliberation being thereupon had, it is considered in and by the same court here, that the said *A. B.* do recover against the said *C. D.* his damages costs and charges, in form aforesaid assessed by the said jury, to — and also —*l.* for his costs and charges aforesaid, by the said court here adjudged of increase to the said *A. B.* and with his assent; which said damages in the whole amount to —*l.* and the said *C. D.* in mercy, &c.

Z. A. sheriff.

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CHAP.
XLIII.

(§ 107.)

Assignment of
false-judg-
ment.

And hereupon the said *C. D.* says that the record aforesaid is vicious, and in many respects defective, and that false-judgment is given against him in and upon the plaint aforesaid, in this, to wit, that the consideration of and for the supposed promises and undertakings in the said declaration mentioned, is not stated or alledged, nor does the same appear in or by the said declaration, to have arisen or happened within the jurisdiction of the county-court of the sheriff of the county aforesaid; and also in this, to wit, that by the record aforesaid it appears, that the judgment aforesaid, in form aforesaid given, was given for the said *A. B.* against the said *C. D.* whereas by the law of the land, the said judgment ought to have been given for the said *C. D.* against the said *A. B.* And so the said *C. D.* says, that in the said court of the said county, false-judgment hath in divers instances been given against him in the plaint aforesaid; and he prays that the said judgment, for the above and other defects in the record aforesaid, may be reversed annulled and altogether held for nothing, as being false and of no effect, and that the said *C. D.* may be restored to all things which he has lost by occasion of the said judgment, &c.

 (§ 108.)
Joinder.

And the said *A. B.* says, that the said record is in nowise vicious or defective, nor is any false-judgment given against the said *C. D.* in or upon the plaint aforesaid; and he prays that the said court here may proceed to the examination of the said record, and to the reformation and correction of the false-judgment, if any shall be found or appear to be given therein, &c. But because, (&c.)

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CHAP. XLIV.

Of REPLEVIN.

THE forms in this chapter may be divided into five parts, as they relate to the following subjects: 1st. the making and conducting of the distress, upon which the replevin is founded; 2dly. the authority for and granting of the replevin, by writ or *plaint*; 3dly. the removal of the cause from the inferior court, by *pone*, *recordari facias loquelam*, or *accedas ad curiam*, and remanding it by *procedendo*; 4thly. the proceedings in replevin in the court above, from the declaration to final judgment and execution, inclusive; and lastly, the proceedings on the writ of *second deliverance*.

I hereby authorize and require you to distrain the goods and chattels in the dwelling house (or, "in and upon the farm lands and premises") of *A. B.* situate at — in the county of —, for — *l.* being — years rent, due to me for the same at — last; and to proceed thereon, for the recovery of the said rent, as the law directs. Dated the — day of — 18—.

(§ 1.)
Warrant to
distrain for
rent.

Yours, &c.

To *E. F.* my bailiff.

C. D.

An inventory of the several goods and chattels distrained by me *C. D.* (or "*E. F.*" the bailiff,) the — day

(§ 2.)
Inventory of
the goods dis-
trained.

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— day of — in the year of our Lord 18—, in the dwelling-house, (&c.) of *A. B.* situate at — in the county of —, (and if the distress be made by a bailiff, say “ by the authority and on the behalf of *C. D.*”) for the sum of —*l.* being — years rent due to me, (or, “ to the said *C. D.*”) at — last.

In the *Dwelling-house.*

In the *Parlour*: One table, (&c.)

(§ 3.)
Notice of dis-
tress.

Mr. *A. B.*

Take notice, that I have this day distrained (or, “ that as bailiff to *C. D.* your landlord, I have this day distrained”) on the premises above-mentioned, the several goods and chattels specified in the above inventory, for the sum of —*l.* being — years rent due to me, (or, “ to the said *C. D.*”) at — last, for the said premises; and that unless you pay the said rent, with the charges of distraining for the same, within five days from the date hereof, the said goods and chattels will be appraised and sold according to law. Given under my hand, the — day of — in the year of our Lord 18—.

C. D.

Witness

R. S.

(§ 4.)
The like, for
the arrears of
a rent-charge.

Take notice, that by the order and on behalf of *C. D.* I have this day taken and distrained, in and upon the farm and lands called — in your occupation, in the parish of — in the county of — all the corn grain and effects in the inventory hereunder written mentioned, for the sum of —*l.* being — years annuity or rent-charge of —*l.* per annum, due to the said *C. D.* at — last, and charged on, and issuing and payable out of, certain

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manors, farms lands and premises called — in the said parish of — in the county of — aforesaid; of which the farm and lands first above-mentioned are part and parcel; and that unless the said arrears of the said annuity or rent charge, together with the expences of this distress, are paid and satisfied, the said corn grain and effects will be disposed of according to law. Dated, (&c.)

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E. F.

To Mr. A. B. and all whom it may concern.

Memorandum, that I A. B. do hereby consent and agree, that C. D. my landlord, who hath distrained my goods and chattels for rent, in a dwelling-house, (&c.) situate at — in the county of —, shall continue in possession of my said goods and chattels in the said dwelling-house, (&c.) for the space of — days from the date hereof; the said C. D. having agreed to forbear the sale of the said goods and chattels for the said space of time, to enable me to discharge the said rent. And I the said A. B. do hereby agree to pay the expences of keeping the said possession. As witness my hand, the — day of — in the year of our Lord 18—.

(§ 5.)

Memorandum of tenant's consent, to the landlord's continuing in possession.

A. B.

You, and each of you, shall well and truly appraise the goods and chattels mentioned in this inventory, (the constable at the same time holding the inventory in his hand, and shewing it to the appraisers:) according to the best of your judgment. So help you God.

(§ 6.)

Appraiser's oath.

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XLIV.
(§ 7.)
Memorandum
thereof.

Memorandum, that on the — day of — in the year of our Lord 18—, *G. H.* of — and *J. K.* of — two sworn appraisers, were sworn upon the holy evangelists, by me *L. M.* of — constable, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best of their judgment. As witness my hand.

L. M. Constable,

Present at the time of swearing the said *G. H.* and *J. K.* as above, and witnesses thereto.

N. O.

P. 2.

(§ 8.)
Form of appraisalment.

We the above-named *G. H.* and *J. K.* being sworn upon the holy evangelists, by *L. M.* the constable above-named, well and truly to appraise the goods and chattels mentioned in this inventory, according to the best of our judgment; and having viewed the said goods and chattels, do appraise and value the same at the sum of —-*l.* As witness our hands, the — day of — in the year of our Lord 18—.

G. H.

J. K.

Witness

R. S.

Sworn appraisers.

(The two last forms are usually written on the inventory.)

(§ 9.)
Deputation to grant replevins.

— (to wit.) *W. P.* esquire, sheriff of the county aforesaid, to *R. V.* gentleman: I do hereby appoint you one of my deputies, for making or granting replevins within the said county, pursuant to

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to the statute in that case made and provided; and for your so doing, this shall be your sufficient warrant and authority. Given under the seal of my office, the — day of — 18—.

By the same sheriff.

George the Third, (&c.) To the sheriff of — (§ 10.)
greeting: We command you, that justly and without delay you cause to be replevied to *A. B.* his cattle goods and chattels, which *C. D.* took and unjustly detains, as it is said; and afterwards cause him to be justly remedied in this behalf, that we may no longer hear any clamour thereupon, for want of justice. Witness ourself at *Westminster*, the — day of — in the — year of our reign. Writ of replevin.

George the Third, (&c.) To the sheriff of — (§ 11.)
greeting: We command you, as before you were commanded, that justly, &c. (reciting the former writ to the end,) or signify to us the cause, wherefore you would not or could not execute our mandate to you thereupon before directed. Witness, (&c.) *Alias.*

George the Third, (&c.) To the sheriff of — (§ 12.)
greeting: Whereas we have oftentimes commanded you, that justly, &c. (reciting the *alias*, to the end:) And you disregarding our aforesaid mandates, as we have heard, have not hitherto taken care to replevy to the said *A. B.* his cattle goods and chattels aforesaid, or at least to signify to us the cause wherefore you would not or could not do it, in manifest contempt of us and of our aforesaid mandates; and to the great damage and injury of the said *A. B.* at which we are greatly surprised and offended: We therefore command you, firmly injoining you, that
P p 4 you

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XLIV.

you cause to be replevied to the said *A. B.* his cattle goods and chattels aforesaid, according to the tenor of our aforesaid mandates to you thereupon before directed, or that you be yourself before us, on — wheresoever, (&c.) to shew why you have neglected to execute our aforesaid mandates, to you thereupon so often directed; and have there this writ. Witness, (&c.)

(§ 13.)
Plaint in replevin.

— (to wit.) *A. B.* complains of *C. D.* in a plea of taking and unjustly detaining his cattle goods and chattels, against gages and pledges, &c.

Pledges to prosecute { *John Doe*
and
Richard Roe.

(§ 14.)
Replevin bond.

Know all men by these presents, That we *A. B.* of — *W. G.* of — and *T. S.* of — are held and firmly bound to *W. P.* esquire, sheriff of the county of —, in the sum of — *l.* (double the value of the cattle or goods distrained,) of lawful money of the united kingdom of *Great Britain and Ireland*, current in *England*, to be paid to the said sheriff, or his certain attorney, executors administrators or assigns; for which payment to be well and truly made, we bind ourselves, and each and every of us in the whole, our and each and every of our heirs, executors and administrators, firmly by these presents: Sealed with our seals. Dated the — day of — (&c.)

The condition of this obligation is such, that if the above-bounden *A. B.* do appear at the next county-court, to be holden for the county of —, at —, on the — day of — next, and do then and there prosecute his suit with effect and without delay,

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delay, against *C. D.* for the taking and unjustly detaining of his cattle goods and chattels, to wit, (here set forth the cattle or goods distrained,) and do make return of the said cattle goods and chattels, if a return thereof shall be adjudged; that then this present obligation shall be void and of none effect, or else to be and remain in full force and virtue.

Sealed, (&c.)

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XLIV.

Know all men by these presents, that I *W. P.* (§ 15.)
esquire, sheriff of the county of —, have at the request of the within-named *C. D.* the avowant (or, Assignment thereof.
“person making cognizance”) in this cause, assigned over this replevin-bond unto him the said *C. D.* pursuant to the statute in such case made and provided. In witness whereof, I have hereunto set my hand and seal of office, this — day of — 18—.

Sealed, (&c.)

— (to wit.) *W. P.* esquire, sheriff of the county (§ 16.)
aforesaid, to the bailiff of the hundred of — in the said county, and to *John Doe* and *Richard Roe* my bailiffs, and to every of them, jointly and severally, greeting: Forasmuch as *A. B.* hath found me sufficient security, as well for prosecuting his suit with effect against *C. D.* for taking and unjustly detaining his cattle goods and chattels, to wit, (&c.) which the said *C. D.* hath taken and unjustly detains, as it is said, as also for making return thereof, if return thereof shall be adjudged; therefore on behalf of the said *A. B.* I command you, and every of you, jointly and severally, that without delay you replevy, and cause to be delivered to the said *A. B.* his said cattle goods and chattels; and that you immediately
Precept to replevy.

CHAP.
XLIV.

mediately summon the said *C. D.* to appear at my next county-court, to be holden at — in and for the said county, to answer the said *A. B.* in the plea aforesaid; and in what manner you shall have executed this precept, certify to me at my said next county-court, to be held at the time and place aforesaid, under the peril attending the neglect thereof. Given under the seal of my office, this — day of — in the year of our Lord 18—.

(§ 17.)
Summons
thereon.

— (to wit.) By virtue of a warrant from the sheriff of the county of — to me directed, I summon you to appear at the next county-court to be holden at — in and for the county aforesaid, to answer *A. B.* in a plea of taking and unjustly detaining his cattle goods and chattels. Dated the — day of — 18—.

M. E. bailiff.

To Mr. *C. D.*

(§ 18.)
*Capias in writ
thernam, on a
writ of paries
replevin.*

George the Third, (&c.) To the sheriff of — greeting: Whereas we have oftentimes commanded you, that justly and without delay you should cause to be replevied to *A. B.* his cattle goods and chattels, to wit, (&c.) which *C. D.* hath taken and unjustly detained, as it is said, according to our writ to you before directed, or that you should be yourself before us, on — wheresoever, (&c.) to shew why you neglected to execute our mandates to you thereupon so often directed: And you at that day returned to us, that the cattle goods and chattels aforesaid were eloigned by the said *C. D.* out of your bailiwick, to places to you unknown, so that you could in nowise replevy the same to the said *A. B.*: Therefore we command you, that you take

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take in *withernam*, the cattle goods and chattels of the said *C. D.* in your bailiwick, to the value of the cattle goods and chattels by him the said *C. D.* before taken, and deliver them to the said *A. B.* to be kept by him, until the said *C. D.* will deliver the aforesaid cattle goods and chattels to the said *A. B.*: And in what manner you shall have executed this our writ, make appear to us, on — wheresoever, (&c.) that we may cause to be further done thereupon, what of right and according to the law and custom of *England* we shall see meet to be done. We also command you, that if the said *A. B.* shall make you secure of prosecuting his claim, and of returning the cattle goods and chattels aforesaid, if a return thereof shall be adjudged, then that you put by gages and safe pledges the said *C. D.* that he be before us, at the time last aforesaid, to answer to the said *A. B.* of the taking and unjustly detaining of his cattle goods and chattels aforesaid; and have there this writ. Witness, (&c.)

— (to wit). *W. P.* esquire, high-sheriff of the said county, to all and singular my bailiffs of the said county, greeting: Forasmuch as *A. B.* hath found me sufficient security, as well to prosecute his plaint against *C. D.* for taking and unjustly detaining his cattle goods and chattels, to wit, (&c.) as to make return thereof, if return thereof shall be adjudged; and thereupon, by virtue of my office, I have often commanded you, and every of you, that you or some or one of you should cause to be replevied to the said *A. B.* his aforesaid cattle goods and chattels, which the said *C. D.* hath taken and unjustly detains, as it is said: And you, upon my several precepts of replevin to you directed as aforesaid, have

CHAP.
XLIV.

(§ 19.)
Precept in nature of a *withernam*, by the sheriff, on a plaint.

CHAP.
XLIV.

have certified, that the cattle goods and chattels aforesaid are eloigned to places to you unknown, so that you cannot replevy the same to the said *A. B.*: Therefore I now command you, and every of you, that you, or some or one of you, do take in *withernam*, the cattle goods and chattels of the said *C. D.* to the value of the said cattle goods and chattels so eloigned as aforesaid, and deliver the same to the said *A. B.* for his cattle goods and chattels last aforesaid; and also that you put by gages and safe pledges the said *C. D.* so that he be and appear at my next county-court, to be holden at — in and for the said county, on the — day of — next, to answer to the said *A. B.* of the plea aforesaid; and that you or one of you return an answer to this my mandate, at my said next county-court. Given under the seal of my office, the — day of — (*&c.*)

(§ 20.)

Writ de proprietate probanda.

George the Third, (&c.) To the sheriff of — greeting: Whereas you were oftentimes commanded, that justly and without delay you should cause to be replevied to *A. B.* his cattle goods and chattels, to wit, (*&c.*) which *C. D.* had taken and unjustly detained, as it was said, or that you should signify to us the cause, wherefore you would not or could not execute our mandate to you thereupon before directed: And you disregarding our aforesaid mandates, as we were informed, neglected to replevy the aforesaid cattle goods and chattels to the said *A. B.* or to signify to us the cause wherefore you would not or could not do it, in manifest contempt of us and of our aforesaid mandates, and to the great damage and injury of the said *A. B.* at which we were greatly surprised

prised and offended: We therefore commanded
 and firmly enjoined you, that you should cause to
 be replevied to the said *A. B.* his cattle goods and
 chattels aforesaid, according to the tenor of our man-
 dates aforesaid; to you thereupon before directed,
 or that you should be yourself before us, on —
 wheresoever we should then be in *England*, to shew
 wherefore our aforesaid mandates to you thereupon
 directed, you had so often neglected or been un-
 able to execute: And you at that day returned to
 us, that one *P. L.* claimed the property of the cat-
 tle goods and chattels aforesaid to belong to him,
 whereby you had not then been able to replevy the
 aforesaid cattle goods and chattels to the said *A. B.*
 and that no other writ for replevying the same
 had been delivered to you: We therefore, being
 unwilling that the said *A. B.* should by such false
 suggestion be defrauded of his cattle goods and
 chattels aforesaid, whereby, if they belong to him,
 they cannot be replevied, according to the law and
 custom of *England*; command you, that taking
 with you the keeper of the pleas of our crown of the
 county aforesaid, in the presence of the said *C. D.*
 if he will attend, after being summoned by you
 in that behalf, you diligently inquire, by the oath
 of good and lawful men of your bailiwick, by
 whom, (&c.) whether the cattle goods and chattels
 aforesaid, so taken and detained, are the cattle goods
 and chattels of the said *A. B.* or of the said *P. L.*
 And if by that inquisition it shall appear to you, that
 the cattle goods and chattels aforesaid are the cat-
 tle goods and chattels of the said *A. B.* then that
 you cause them to be replevied to the said *A. B.* ac-
 cording to the tenor of our mandates to you there-
 upon formerly directed: And nevertheless, if the
 said

CHAP.
XLIV.

said *A. B.* shall make you secure, (&c.) then that you attach the said *P. L.* so that you may have him before us, on — wheresoever, (&c.) to answer as well to us for his contempt in this behalf, as to the said *A. B.* for the damage which he has sustained on occasion of the claim aforesaid: We likewise command you, that you put by gages and safe pledges the said *C. D.* that he be before us, at the time aforesaid, to answer to the said *A. B.* of a plea wherefore he took the aforesaid cattle goods and chattels, and unjustly detained them, as it is said; and have there the names of the pledges, and this writ. Witness, (&c.)

(§ 21.)
Pone by the
plaintiff.

George the Third, (&c.) To the sheriff of — greeting: Put, at the prayer of the plaintiff, before us on — wheresoever we shall then be in *England*, the plaint which is in your county, by our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said: and summon by good summoners the said *C. D.* that he be then there, to answer to the said *A. B.* thereupon; and have there the summoners, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

(§ 22.)
The like, by
the defendant.

George the Third, (&c.) To the sheriff of — greeting: Put before us, on — wheresoever we shall then be in *England*, the plaint which is in your county, by our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; and apprise the said *A. B.* that he may be there, if he will, to prosecute his

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CHAP.
XLIV.

his plaint aforesaid against the said *C. D.*; and have there this writ, and the other writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign. And because *E. F.* clerk of — sheriff of the county aforesaid, who frequently in the absence of the sheriff of that county holds the pleas of the same county, is the kinsman of the said *A. B.* for which the same sheriff favours him the said *A. B.* in the plea aforesaid, as it is said; let this writ be executed, if the cause be true, and the said *C. D.* require it, otherwise not.

— (to wit.) *Re. fa. lo.* for — (the plaintiff or defendant, naming him,) of a plaint between *A. B.* and *C. D.* for taking and unjustly detaining the cattle goods and chattels of the said *A. B.* (§ 23.)
Præcipe for recordari facias lo. quclam.

Returnable on —. — attorney.
— 18—.

George the Third, (&c.) To the sheriff of — greeting: We command you, that in your full county you cause the plaint to be recorded, which is in the same county, without our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; and that you have the said record before us, on — wheresoever we shall then be in *England*, under your seal, and the seals of four lawful knights of the same county, of those who were present at the said recording; and that you prefix the same day to the parties, that they be then there to proceed in that plaint, as shall be just; and that you have there the names of the said four knights, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign. (§ 24.)
Recordari facias loquclam, l y the plaintiff.

I. et

CHAP. XLIV. Let this writ be executed, if the aforesaid *A. B.* require it, otherwise not.

If the *recordari* be sued out by the defendant, there must be a cause assigned at the end of the writ, as thus: Because the said *C. D.* in pleading asserts, that he took the said cattle goods and chattels in his separate soil, as doing him damage there, in which soil the said *A. B.* claims to have common of pasture, as he says; which said plaint, inasmuch as it concerns the freehold as aforesaid, ought not, according to the law and custom of *England*, to be impleaded in the same county, without our writ; let this writ be executed, if the cause be true, and the said *C. D.* require it, otherwise not.

Summons on *re. fa. lo.* as before, p. 586.

(§ 25.)
Return to the
recordari.

By virtue of this writ to me directed, in my full county holden at — in and for the county of —, on — the — day of — in the — year of the reign, (&c.) I caused to be recorded the plaint, which is in the same county, without the writ of our said lord the king, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it is said; which said plaint appears in a certain schedule to this writ annexed; and I have the said record before our said lord the king at *Westminster*, at the day within contained, under my seal, and the seals of *E. F.* (&c.) four lawful knights of the same county, who were present at the said recording; and I have prefixed the same day to the parties within-named, that they may be then there, ready to proceed in the

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CHAP.
XLIV.

The answer of — sheriff.

— (to wit.) At the — county-court of *W. P.*
esquire, sheriff of the county aforesaid, held at —
in and for the said county, on — the — day
of — in the — year of the reign of our sove-
reign lord *George* the Third, by the grace of God,
(*&c.*) and in the year of our Lord 18—, before
E. F. (*&c.*) freeholders of the said county, (amongst
other things,) it is entered as follows:

— (to wit.) *A. B.* yeoman complains of *C. D.*
of a plea of taking and unjustly detaining his cat-
tle goods and chattels, to wit, (*&c.*) and also found
pledges, as well to prosecute his suit with effect,
as to make a return of the said cattle goods and
chattels, if a return thereof shall be adjudged by
law, to wit, *G. H.* of — and *J. K.* of —.

By the same sheriff.

George the Third, (*&c.*) To the sheriff of —
greeting: Put by gages and safe pledges, *C. D.* late
of —, that he be before us, on — wheresoever we
shall then be in *England*, to answer to *A. B.* of a plea
wherefore he took the cattle goods and chattels of
the said *A. B.* and unjustly detained them against
gages and pledges, as it is said; and to shew where-
fore he was not in our court before us, on — last
past, as that day was prefixed to him; and have
there the names of the pledges, and this writ. Wit-
ness *Edward* Lord *Ellenborough* at *Westminster*,
the — day of — in the — year of our reign.

(§ 26.)

Pone, upon a
recordari.

Q q

George

CHAP.
XLIV.

(§ 27.)

Distringas
thereon.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you distrain *C. D.* late of —, by all his lands and chattels in your bailiwick, so that neither he, nor any one by him, do lay hands on the same, until you shall have another command from us in that behalf, and that you answer to us for the issues thereof, so that you have his body before us, on — wheresoever we shall then be in *England*, to answer to *A. B.* of a plea wherefore, &c. (as in the *pone*, to the words “ as it is said,”) and to hear judgment thereupon of his many defaults; and have there this writ. Witness *Edward Lord Ellenborough, (&c.)*

(§ 28.)

Capias.

George the Third, (&c.) To the sheriff of — greeting: We command you, that you take *C. D.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever we shall then be in *England*, to answer *A. B.* of a plea wherefore, &c. (as in the former writs, to the words “ as it is said,”) and have there this writ. Witness, (*&c.*)

(§ 29.)

Procedendo,
where the *re-*
cordari is not
returned.

George the Third, (&c.) To the sheriff of — greeting: Although we lately commanded you, that in your full county you should cause the plaint to be recorded, which was in the same county, without our writ, between *A. B.* and *C. D.* of the cattle goods and chattels of the said *A. B.* taken and unjustly detained, as it was said; and that you should have the said record before us, on — wheresoever we should then be in *England*, under your seal, and the seals of four lawful knights of the same county, of those who should be present at the said recording;

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XLIV.

ing; and that you should prefix the same day to the parties, that they might be then there, to proceed in that plaint, as should be just; and that you should have there the names of the said four knights, and that writ: Yet we being now moved with certain causes in our court before us, command you, that in the same plaint against the said *C. D.* at the suit of the said *A. B.* before you levied or affirmed, and now depending undetermined, you proceed at your next county-court to be holden in and for the same county, with what speed you can, in such manner, according to the law and custom of *England*, as you shall see proper, our said writ to you in that behalf heretofore directed to the contrary in anywise notwithstanding. Witness, (&c.)

George the Third, (&c.) To the sheriff of ——— (§ 30.)
greeting: We command you, that taking with you *Accedas ad curiam.*
four discreet and lawful knights of your county, you go in your proper person to the court of ———, and in that full court you cause to be recorded the plaint which is in the same court, without our writ, between *A. B.* and *C. D.* (&c.) and have that record before us, on ——— wheresoever we shall then be in *England*, under your seal, and the seals of four lawful men of the same court, who were present at that recording; and prefix the same day to the parties aforesaid, that they be then there, to proceed in that plaint, as shall be just; and have there the names of the said four lawful men, and this writ. Witness ourself at *Westminster, (&c.)* Because the said *C. D.* is bailiff of the aforesaid ——— of his court aforesaid, and holds pleas in the same court, and ought not to be a judge in his own cause: let this writ be executed,

CHAP.
XLIV.

if the cause be true, and the said *A. B.* require it, otherwise not.

(§ 31.)
Procedendo
thereon.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that taking with you four discreet and lawful knights of your county, you should go in your proper person to the court of — and in that full court you should cause to be recorded the plaint, which was in the same court, without our writ, between *A. B.* and *C. D.* (&c.) and that you should have that record under your seal, and the seals of four lawful men of the same court, who were present at that recording, and prefix the same day to the parties, that they should be then there to proceed in that plaint, as should be just, and that you should have there the names of the said four lawful men, and that writ; because the said *C. D.* was bailiff of the aforesaid — of his court aforesaid, and held pleas in the same court, and ought not to be a judge in his own cause; and that the said writ should be executed if the cause were true, and the said *A. B.* required it, otherwise not. And you on that day returned to us, that by virtue of the said writ to you directed, on —, taking with you four discreet and lawful knights of your county, you went in your proper person to the court of — then held there, and in that full court you caused the plaint to be recorded, whereof mention is made in the aforesaid writ; the record of which said plaint, annexed to the said writ, you had ready before us at the aforesaid day, under your seal, and the seals of four lawful men of the same court, who were present at that recording; and that you had prefixed the same

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same day to the parties aforesaid, as by the said writ you were commanded: Which said record follows in these words, to wit, *A. B.* complains against *C. D.* of a plea, &c. (here copy the record): And for divers causes us thereunto moving, it was considered in our same court, that the said — (the lord) ought further to proceed in the plaint aforesaid, betwixt the parties aforesaid: Therefore we command you, firmly enjoining you, that you give in charge to the said — that he proceed further in the plaint aforesaid, according to law and the custom of his manor aforesaid, our aforesaid writ to you thereupon directed in anywise notwithstanding; and that he render to the parties aforesaid full and speedy justice in the premises, according to the custom aforesaid, as of right and according to law and the custom of the manor aforesaid, shall have been used to be done. Witness *Edward Lord Ellenborough*, (&c.)

A. B. } — next after — is given to the (§ 32.)
v. } plaintiff in replevin to declare, other- Rule to de-
C. D. } wise let there be a return of the goods. clare.

Entered.

In the King's Bench.

— term, (&c.) (§ 33.)
— (to wit). *C. D.* was summoned to answer *A. B.* Declaration in
of a plea wherefore he took the cattle goods and chat- replevin.
tels of the said *A. B.* and unjustly detained the same
against gages and pledges, until, &c.; and thereupon
the said *A. B.* by *E. F.* his attorney complains, that
the said *C. D.* on the — day of — in the year of
our Lord 18— at the parish of — in the county of
— in a certain dwelling house there, (or, “ in a cer-

CHAP.
XLIV.

tain place there called —,") took the cattle goods and chattels, to wit, (&c.) of the said *A. B.* and unjustly detained the same against gages and pledges until, &c. Wherefore the said *A. B.* says that he is injured, and hath sustained damage to the value of —*l.* and therefore he brings his suit, &c.

(§ 34.)
Plea of non
cepil.

C. D. } And the said *C. D.* by — his attorney,
ats. } comes and defends the wrong and injury
A. B. } when, &c. and says that he did not take the said cattle goods and chattels in the said declaration mentioned, in manner and form as the said *A. B.* hath above thereof complained against him: And of this he the said *C. D.* puts himself upon the country, &c.

(§ 35.)
Cepil in alio loco, with an avowry or cognizance for a return.

C. D. } And the said *C. D.* by *G. H.* his attorney,
ats. } comes and defends the wrong and in-
A. B. } jury when, &c. and prays judgment of the declaration aforesaid; because he says, that he took the cattle goods and chattels aforesaid in the parish of —, in a certain place there called —, in the county aforesaid; without this, that he took the aforesaid cattle goods and chattels at —, in the aforesaid place called —, as the said *A. B.* by his declaration aforesaid hath above supposed; and this he the said *C. D.* is ready to verify, wherefore he prays judgment of the declaration aforesaid, &c. And for having a return of the said cattle goods and chattels, the said *C. D.* well avows (or, "as bailiff of *G. N.* esquire, well acknowledges") the taking, &c. (as in the next form.)

(§ 36.)
Avowry or cognizance for damage feasant, on a freehold.

C. D. } And the said *C. D.* by *G. H.* his attorney,
ats. } comes and defends the wrong and injury
A. B. } when, &c. and well avows (or, "as bailiff of
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of *G. N.*

G. N. well acknowledges") the taking of the said cattle, in the said place in which, &c. and justly, &c. Because he saith, that the said place in which, &c. now is, and at the said time when, &c. was the close soil and freehold of him the said *C. D.* (or, "of the said *G. N.*"): And because the said cattle at the said time when, &c. were in the said place in which, &c. eating up the grass there then growing, and doing damage there to the said *C. D.* he the said *C. D.* well avows (or, "as bailiff of the said *G. N.* well acknowledges") the taking of the said cattle, in the said place in which, &c. and justly, &c. as for and in the name of a distress for the said damage, so there done and doing, &c.

A. B. } And the said *A. B.* says that the said *C. D.* (§ 37.)
v. } by reason of any thing in his said avowry Plea in bar
C. D. } (or cognizance) above alledged, ought not thereto.
to avow (or, "as bailiff of the said *G. N.* to acknowledge") the taking of the said cattle, in the said place in which, &c. and justly, &c. Because he says that the said place in which, &c. now is, and at the said time when, &c. was, the close soil and freehold of him the said *A. B.* and not the close soil and freehold of the said *C. D.* (or, "*G. N.*") in manner and form as the said *C. D.* hath above in his said avowry (or "cognizance") in that behalf alledged: And this he the said *A. B.* prays may be inquired of by the country, &c.

C. D. } And the said *C. D.* by — his attorney, (§ 38.)
ats. } comes and defends the wrong and injury Avowry or
A. B. } when, &c. and well avows (or, "as bailiff cognizance for
of *G. N.* esquire, well acknowledges") the taking of rent, on stat.
11 G. II. c. 19.
§ 22.

CHAP.
XLIV.

the said goods and chattels in the said declaration mentioned, in the said dwelling-house in which, &c. (or if not mentioned in the declaration, "in a certain dwelling-house, situate and being at the parish aforesaid in the county aforesaid,") and justly, &c. because he says, that the said *A. B.* for a long space of time, to wit, for the space of — next before and ending on the — day of — in the year of our Lord 18—, and from thence until and at the said time when, &c. held and enjoyed the said dwelling-house in which, &c. with the appurtenances, as tenant thereof to the said *C. D.* (or, "*G. N.*") by virtue of a certain demise thereof to him the said *A. B.* theretofore made, at and under a certain yearly rent, to wit, the yearly rent of —*l.* payable quarterly, on the — day of —, (&c.) in every year, by even and equal portions: And because —*l.* of the rent aforesaid, for the said space of — ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the said time when, &c. were due and in arrear from the said *A. B.* to the said *C. D.* (or, "*G. N.*") he the said *C. D.* well avows (or, "as bailiff of the said *G. N.* well acknowledges") the taking of the said goods and chattels, in the said dwelling-house in which, &c. and justly, &c. as for and in the name of a distress for the said rent so due and in arrear as aforesaid; and which said rent still remains due and in arrear to the said *C. D.* (or, "*G. N.*") And this he the said *C. D.* is ready to verify, wherefore he prays judgment, and a return of the said goods and chattels, together with his damages, &c. according to the form of the statute in such case made and provided, to be adjudged to him, &c.

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If part of the rent has been satisfied, say " And because — *l.* parcel of the sum of — *l.* of the rent aforesaid, for the said space of — ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the said time when, &c. were due and in arrear from the said *A. B.* to the said *C. D.* (or, "*G. N.*") the residue of the said sum of — *l.* of the rent aforesaid having been before then paid and satisfied, he the said *C. D.* well avows, (&c.) for the said sum of — *l.* parcel, &c. so due and in arrear as aforesaid; and which said sum of — *l.* parcel, &c. still remains due, &c." (as before).

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XLIV.

A. B. } And the said *A. B.* saith that the said *C. D.*
v. } by reason of any thing in his said avowry
C. D. } (or cognizance) above alledged, ought not
to avow (or, " as bailiff of the said *G. N.* to acknowledge") the taking of the said goods and chattels in the said declaration mentioned, in the said dwelling-house in which, &c. and justly, &c. Because he says, that he the said *A. B.* did not hold or enjoy the said dwelling-house in which, &c. with the appurtenances, as tenant thereof to the said *C. D.* (or, " the said *G. N.*") under the supposed demise thereof in the said avowry (or cognizance) mentioned, in manner and form as the said *C. D.* hath above in his said avowry (or cognizance) in that behalf alledged: And this he the said *A. B.* prays may be inquired of by the country, &c. And for a further plea in this behalf, the said *A. B.* by leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, saith

(§ 39.)
Pleas in bar
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CHAP.
XLIV.

saith that the said *C. D.* by reason of any thing in his said avowry (or cognizance) above alledged, ought not to avow (or, "as bailiff of the said *G. N.* to acknowledge") the taking of the said goods and chattels, in the said dwelling-house in which, &c. and justly, &c. Because he says, that no part of the said supposed rent in the said avowry (or cognizance) mentioned, was or is in arrear from the said *A. B.* to the said *C. D.* (or, "*G. N.*") in manner and form as the said *C. D.* hath above in his said avowry (or cognizance) in that behalf alledged: And this he the said *A. B.* also prays may be inquired of by the country, &c.

(§ 46.)
Issue.

— term, (the term of which the declaration is intituled,) in the — year of the reign of king *George* the Third.

— to wit. *C. D.* was summoned to answer *A. B.* &c. (as in the declaration, to the end.)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. (copying the pleadings :) Therefore it is commanded to the sheriff, that he cause to come before our lord the king, on — wheresoever our said lord the king shall then be in *England*, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. the same day is given to the parties aforesaid, &c.

The jury-process and record of *nisi prius* in replevin are the same as in other cases, except that the plea or action is described as "a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.*"

Afterwards

Afterwards, &c. (as before, p. 238. to the words "tried and sworn," and then as follows:)—say upon their oath, that the said *C. D.* did take the within-mentioned cattle goods and chattels, in manner and form as the said *A. B.* hath within complained against him; and they assess the damages, &c. (as before, p. 247.)

CHAP.
XLIV.

(§ 41.)

Postea for the plaintiff, *non cepit.*

— as to the first issue within joined between the parties aforesaid, upon their oath say, that the said *A. B.* held and enjoyed the within-mentioned messuage or dwelling-house and premises with the appurtenances, as tenant thereof to the said *C. D.* by virtue of the within-mentioned demise, as the said *C. D.* hath within in that behalf pleading alledged: And as to the last issue within joined between the parties aforesaid, the jurors aforesaid upon their oath aforesaid say, that at the time in that behalf within mentioned, the rent within specified was in arrear and unpaid from the said *A. B.* to the said *C. D.* as the said *C. D.* hath within in that behalf in pleading alledged: Therefore, &c.

(§ 42.)

The like for the defendant, on several issues.

(As in the last, to the end of the finding upon the issues, and then as follows:) And the jurors aforesaid, at the prayer of the said *C. D.* according to the form of the statute in such case made and provided, having proceeded to inquire concerning the sum of the arrears of the rent within specified, and the value of the cattle goods and chattels distrained, upon their oath aforesaid say, that the sum of such arrears was — *l.* and that the cattle goods and chattels distrained were of the true value of — *l.*: Therefore, &c.

(§ 43.)

The like, on stat. 17 Car. II. c. 7.

The

Afterwards

CHAP.
XLIV.

The judgments in replevin, which will next be given, are either for the plaintiff or defendant; and for the latter, they are either for a return of the cattle or goods at common law, to which damages and costs are super-added by the statutes 7 Hen. VIII. c. 4. § 3. and 21 Hen. VIII. c. 19. § 3., or for the arrears of rent, or value of the cattle or goods distrained, on the statute 17 Car. II. c. 7.

(§ 44.)
Judgment for
the plaintiff,
by *nil dicit*.

As yet of — term, (the term of which interlocutory judgment is signed,) in the — year of the reign of king George the Third. Witness Edward Lord Ellenborough.

— to wit. *A. B.* puts in his place *E. F.* his attorney, against *C. D.* in a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* against gages and pledges, &c.

— to wit. The said *C. D.* puts in his place *G. H.* his attorney, at the suit of the said *A. B.* in the plea aforesaid.

— to wit. *C. D.* was summoned to answer *A. B.* of a plea wherefore, &c. (here copy the declaration *verbatim*, and proceed on a new line as follows:)

And the said *C. D.* by *G. H.* his attorney, comes and defends the wrong and injury when, &c. and says nothing in bar or preclusion of the said action of the said *A. B.* whereby the said *A. B.* remains therein undefended against the said *C. D.* wherefore the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the taking and unjustly detaining of the cattle goods and chattels aforesaid: But because it is unknown, &c. (as before, p. 260, 61. making the writ of inquiry re-

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&c. 276

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CHAP.
XLIV.

The judgment for the plaintiff in *replevin*, on demurrer or verdict, is the same as in *trespass*, or other action for damages, for which *vide ante*, p. 272, &c. 276, &c.

— to wit. *C. D.* puts in his place *G. H.* his attorney, at the suit of *A. B.* in a plea of taking and unjustly detaining the cattle goods and chattels of the said *A. B.* against gages and pledges, &c.

(§ 45.)

The like for the defendant, for a return, &c. on a *non-pros* for want of a declaration.

— to wit. *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained the same against gages and pledges, &c. And thereupon the said *C. D.* in his proper person, offers himself on the fourth day against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, comes not, but makes default, nor does he further prosecute his writ against the said *C. D.* Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the said cattle goods and chattels, &c.: It is also considered by the court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges by him laid out about his defence in this behalf, by the said court here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; and that the said *C. D.* have execution thereof, &c.

Judgment signed, (&c.).

Execution.

(Entry

CHAP.
XLIV.

(§ 46.)

he like, for
want of a plea
in bar; with
award of re-
torno habendo,
and writ of in-
quiry of da-
mages.

(Entry of warrants of attorney for both parties,
as before, p. 604.)

— to wit. *C. D.* was summoned to answer
unto *A. B.* of a plea, &c. (here copy the declaration
and avowry or cognizance, and proceed as fol-
lows:)

And upon this the said *C. D.* prays that the said
A. B. may plead in bar of the said avowry (or cog-
nizance); and thereupon a day is given to the said
A. B. before the lord the king, until — where-
soever the said lord the king shall then be in *Eng-
land*, that is to say, for him the said *A. B.* to plead
in bar of the said avowry (or cognizance), &c. the
same day is given to the said *C. D.* &c. At which
day, before the said lord the king at *Westminster*,
comes the said *C. D.* by his attorney aforesaid, and
offers himself against the said *A. B.* in the plea afore-
said; but the said *A. B.* although solemnly called,
comes not, but makes default, nor hath he pleaded
in bar of the said avowry (or cognizance), nor does
he further prosecute his writ against the said *C. D.*:
Therefore it is considered, that the said *A. B.* take
nothing by his said writ, but that he and his pledges
to prosecute be in mercy, &c. and that the said *C. D.*
do go thereof without day, &c. and that he have a
return of the cattle goods and chattels aforesaid,
&c. And it is further considered, that the said
C. D. ought to recover against the said *A. B.* his
damages on occasion of the premises, according to
the form of the statute, &c. Therefore it is com-
manded to the sheriff, that without delay he cause
the cattle goods and chattels aforesaid to be returned
to the said *C. D.*; and that he do not deliver them,
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Judgment
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of the said lord the king, which shall make express mention of the judgment aforesaid; and in what manner he shall execute the writ of the said lord the king, he make appear to the said lord the king, on — wheresoever, (&c.) It is also commanded to the sheriff, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire what damages the said *C. D.* hath sustained, as well on occasion of the premises, according to the form of the statute in such case made and provided, as for his costs and charges by him laid out about his defence in this behalf; and that the inquisition which the said sheriff shall thereupon take, he make appear to the said lord the king, at the time aforesaid, wheresoever, &c. under his seal, and the seals of those by whose oath he shall take that inquisition; and that he have there the names of them by whose oath he shall take that inquisition, together with the writ of the said lord the king to him thereupon directed; the same day is given to the said *C. D.*, &c.

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(After the judgment for a return, proceed as follows:) And hereupon the said *C. D.* freely here in court remits to the said *A. B.* his damages aforesaid; therefore let the said *A. B.* be acquitted thereof: And it is further considered by his majesty's court here, that the said *C. D.* do recover against the said *A. B.* — *l.* for his costs and charges, &c. (as before, p. 605.)

(§ 47.)

The like, with
a remittitur
damna.

(Entry of warrants of attorney for both parties, as before; p. 604; and after entering the proceedings, to the end of the demurrer-book, go on as follows:) At which day, before our said lord the king

(§ 48.)

The like, on
demurrer to a
plea in bar.

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XLIV.

Judgment
signed, (&c.)

king at *Westminster*, come the parties aforesaid, by their attornies aforesaid; whereupon all and singular the premises being seen, and by the court of our said lord the king now here fully understood, and mature deliberation being thereupon had, it appears to the said court here, that the said plea of the said *A. B.* by him above pleaded in bar of the avowry (or cognizance) aforesaid, and the matters therein contained, are not sufficient in law to bar the said *C. D.* from avowing (or, acknowledging) the taking of the said cattle goods and chattels, in the said place in which, &c. to be just, as the said *C. D.* hath above alledged: Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the cattle goods and chatte's aforesaid, to hold to him irreplevisable for ever; and that he ought to recover against the said *A. B.* his damages on occasion of the premises, according to the form of the statute; &c. Therefore it is commanded to the sheriff, that without delay he cause the cattle goods and chattels aforesaid, to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid; and in what manner, &c. (as before, p. 607.)

(§ 49.)
The like, on
verdict.

(To the end of the *postea*, and then as follows:)
Therefore it is considered, that the said *A. B.* take nothing by his writ aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever: And it is further considered, that the said *C. D.* do re-

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CHAP.
XLIV.

cover against the said *A. B.* his damages aforesaid, by the jury aforesaid in form aforesaid assessed, and also — *l.* for his costs and charges aforesaid, by the court of our said lord the king now here adjudged of increase to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided; which said damages costs and charges in the whole amount to — *l.* and the said *Mercy. A. B.* in mercy, &c.

(Entry of warrant of attorney for the defendant, as before, p 605.)

(§ 50.)

The like, for the arrears of rent, &c. or stat. 17 Car. 11. c. 7. § 2. on a non-pro for want of a declaration.

— (to wit.) *C. D.* was summoned to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And thereupon the said *C. D.* in his proper person offers himself, on the fourth day, against the said *A. B.* in the plea aforesaid; and the said *A. B.* comes not, but makes default: Therefore it is considered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the said cattle goods and chattels, &c.: And thereupon the said *C. D.* according to the form of the statute in such case made and provided, suggests, and gives the court here to understand and be informed, that he the said *C. D.* took the said cattle goods and chattels of the said *A. B.* for the taking whereof he was summoned to be in the said court of our said lord the king before the king himself, to answer to the said *A. B.* as aforesaid, at the parish of — in the said county of —, in a certain place there called —, and that he took the same as bailiff of

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E. F.

CHAP.
XLIV.

E. F. for that the said *A. B.* for the space of — next before and ending on the — day of — in the year of our Lord 18—, and from thence until the time of taking the said cattle goods and chattels, held and enjoyed the said place in which, &c. with the appurtenances, amongst other things, as tenant thereof to the said *E. F.* at and under the yearly rent of — *l.* payable —; and because the sum of — *l.* of the rent aforesaid, for the said space of — ending as aforesaid, on the said — day of — in the year aforesaid, and from thence until and at the time of taking the said cattle goods and chattels, was in arrear and unpaid from the said *A. B.* to the said *E. F.* he the said *C. D.* as bailiff of the said *E. F.* took the said cattle goods and chattels, as for and in the name of a distress for the said rent so due and in arrear from the said *A. B.* to the said *E. F.* as aforesaid: And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ of our said lord the king, to be directed to the sheriff of —, to inquire of the sum in arrear of the rent aforesaid, and of the value of the cattle goods and chattels aforesaid; and it is granted to him, &c. Therefore it is commanded to the said sheriff of —, that according to the form of the statute aforesaid, he diligently inquire, by the oath of twelve good and lawful men of his bailiwick, how much of the yearly rent aforesaid, at the time of taking and distraining the said cattle goods and chattels, was in arrear and unpaid, and how much the said cattle goods and chattels so as aforesaid taken and distrained were worth, according to the true value of the same; and that the inquisition which the said sheriff

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sheriff shall thereupon take, he make appear to our said lord the king, on — wheresoever our said lord the king shall then be *England*, under his seal, and the seals of those by whose oath he shall take the said inquisition; and that he have there the names of them by whose oath he shall take the said inquisition, together with the writ of our said lord the king to him thereupon directed; the same day is given to the said *C. D.* &c. At which day, before our said lord the king at *Westminster*, comes the said *C. D.* by his attorney aforesaid; and the sheriff of —, to wit — now here returns a certain inquisition indented, taken before him at — in the said county, on — the — day of — in the — year of the reign of our said lord the king, by the oath of twelve good and lawful men of his county; whereby it appears, that the sum of — *l.* of the said yearly-rent, was in arrear and unpaid, and due and owing from the said *A. B.* to the said *C. D.* at the time in the said avowry (or cognizance) mentioned, and of the distress taken; and that the cattle goods and chattels distrained were worth, according to the true value thereof, the sum of — *l.* Therefore it is considered, that the said *C. D.* do recover against the said *A. B.* the said sum of — *l.* being the arrearages of the said rent, by the said inquisition in form aforesaid found, and also — *l.* by the court of our said lord the king now here adjudged to the said *C. D.* and at his request, for his costs and charges by him laid out about his defence in this behalf, according to the form of the statute in such case made and provided; which said arrearages costs and charges in the whole amount to — *l.* and that the said *C. D.* have execution thereof, &c.

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XLIV.

Judgment
signed, (&c.)

Execution.

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XLIV.

(§ 51.)

The like, where the goods are found to be of less value than the rent.

Therefore it is considered, that the said *C. D.* do recover against the said *A. B.* the said — *l.* parcel of the rent aforesaid, by the said inquisition in form aforesaid found, and also — *l.* by the court of our said lord the king now here adjudged to the said *C. D.* and at his request, for his costs and charges, &c. (as in the last;) which said value costs and charges in the whole amount to — *l.* and that the said *C. D.* have execution thereof, &c.

Execution.

(§ 52.)

The like, for want of a plea in bar.

(Entry of warrants of attorney for both parties, as before, p. 604.)

— to wit. *C. D.* was summoned to answer unto *A. B.* of a plea, &c. (here copy the declaration, and avowry or cognizance, and proceed as follows:)

And upon this the said *C. D.* prays that the said *A. B.* may plead in bar of the said avowry (or cognizance), &c. (as before, p. 606. to the end of the judgment for a return, and then as follows:) And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ, &c. (as in the last but one, to the end.)

(§ 53.)

The like, on demurrer to a plea in bar.

(Entry of warrants of attorney for both parties, as before, p. 604; and after entering the proceedings, to the end of the demurrer-book, proceed as follows:)

At which day, before our said lord the king at *Westminster*, came the parties aforesaid, by their attornies aforesaid; and hereupon all and singular the premises being seen, &c. (as before, p. 608. to the word "alledged:") Therefore it is considered,

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dered, that the said *A. B.* take nothing by his said writ, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prays the writ of our said lord the king, to be directed to the sheriff of the said county of —, to inquire of the value of the cattle goods and chattels aforesaid: Therefore the sheriff is commanded, that by the oath of twelve good and lawful men of his bailiwick, he diligently inquire, how much the said cattle goods and chattels were worth, at the time of taking the same, according to their true value; and that the inquisition which the said sheriff shall thereupon take, he make appear, &c. (as before, p. 610, 11. making the jury find “ that the said cattle goods and chattels, at the time of taking the same, were worth —*l.* according to their true value.”)

(To the end of the *postea*, and then as follows:)

(§ 54.)

Therefore it is considered, that the said *A. B.* take nothing by his writ aforesaid, but that he and his pledges to prosecute be in mercy, &c. and that the said *C. D.* do go thereof without day, &c. It is also considered, that the said *C. D.* do recover against the said *A. B.* the said —*l.* being the sum of the arrears aforesaid, in form aforesaid assessed, and also —*l.* by the court of our said lord the king now here adjudged to the said *C. D.* and with his assent, according to the form of the statute in such case made and provided, for his costs and charges by him laid out about his defence in this behalf; which said arrears costs and charges in the

The like, on a nonsuit or verdict.

CHAP.
XLIV.

whole amount to — *l.* and that the said *C. D.* have execution thereof, &c.

(§ 55.)

Writ of inquiry of damages, for the plaintiff.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore the said *C. D.* on the — day of — in the year of our Lord 18—, at the parish of — in your county, in a certain place there called —, took the cattle goods and chattels of the said *A. B.* to wit, &c. (here set out the cattle and goods, as in the declaration,) and unjustly detained them against gages and pledges, until, &c. Wherefore the said *A. B.* said that he was injured, and had sustained damage to the value of — *l.* and therefore he brought his suit, &c. And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that it was afterwards considered by the same court, that the said *A. B.* ought to recover against the said *C. D.* his damages on occasion of the taking and unjustly detaining of the cattle goods and chattels aforesaid: But because it is unknown, &c. (as before, p. 166, 7. making the writ returnable on a general return-day, wheresoever, &c.)

(§ 55.)

The like for the defendant, on demurrer to a plea in bar.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore the said *C. D.* on — at —, in a certain place there called —, took the cattle goods and chattels of the said *A. B.* to wit, (&c.) and unjustly detained them against gages and pledges, until, &c. And the said *C. D.* appearing in our said court before us at *Westminster*, by — his attorney,

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ney, well avowed (or, "as bailiff of *E. F.* well acknowledged") the taking of the said cattle goods and chattels, &c. (reciting the avowry or cognizance, plea in bar, demurrer and joinder:) And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the said plea of the said *C. D.* by him above pleaded in bar of the avowry (or cognizance) aforesaid, and the matters therein contained, were not sufficient in law, &c. (as before, p. 608.): It was also considered by the same court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he ought to recover against the said *A. B.* his damages on occasion of the premises, according to the form of the statute in such case made and provided: But because it is unknown, &c. (as before, p. 166, 7. making the writ to inquire "what damages the said *C. D.* hath sustained, as well on occasion of the premises, according to the form of the statute, (&c.) as for his costs and charges by him laid out about his defence in this behalf;" and returnable as the last.)

George the Third, (&c.) To the sheriff of —
greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *C. D.* offered himself in our said court before us, on the fourth day, against the said *A. B.* in the plea aforesaid; but the said *A. B.* although solemnly called, came not, but made default, nor did he further prosecute his writ

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against

CHAP.
XLIV.

(§ 57.)

The like, to ascertain the arrears of rent, &c. on stat. 17 Car. II. c. 7. § 2. on a *non-pros* for want of a declaration.

CHAP.
XLIV.

against the said *C. D.* Therefore it was considered by the same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. And thereupon it hath been suggested in our said court before us, by the said *C. D.* that he took the said cattle goods and chattels of the said *A. B.* for the taking whereof he was summoned to be in our said court before us, to answer the said *A. B.* as aforesaid, at — in the said county, in a certain place there called —, and that he took the same as bailiff of *E. F.* for that the said *A. B.* for the space of —, next before and ending on the — day of — in the year of our Lord 18—, and from thence until and at the time of taking the said cattle goods and chattels, held and enjoyed the said place in which, &c. with the appurtenances, amongst other things, as tenant thereof to the said *E. F.* at and under the yearly rent of —*l.* And because —*l.* of the rent aforesaid, for the said space of — ending as aforesaid, on the said, (&c.) and from thence until and at the time of taking the said cattle goods and chattels, were due and in arrear from the said *A. B.* to the said *E. F.* he the said *C. D.* as bailiff of the said *E. F.* took the said cattle goods and chattels, as for and in the name of a distress for the said rent, so due and in arrear from the said *A. B.* to the said *E. F.* as aforesaid: And hereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, to be directed to you, to inquire of the arrears of the rent aforesaid, and of the value of the said cattle goods and chattels, and it was granted to him, &c.

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as by the record and proceedings thereof, still remaining in our said court before us at *Westminster* aforesaid, fully appears: Therefore we command you, that according to the form of the statute aforesaid, you diligently inquire, by the oath of twelve good and lawful men of your bailiwick, how much of the yearly rent aforesaid, at the time of taking and distraining the said cattle goods and chattels, was in arrear and unpaid, and how much the said cattle goods and chattels so as aforesaid taken and distrained were worth, according to the true value of the same; and the inquisition which you shall thereupon take, make appear to us, on — wheresoever we shall then be in *England*, under your seal, and the seals of those by whose oath you shall take the said inquisition; and have there the names of them by whose oath you shall take the said inquisition, and this writ. Witness *Edward Lord Ellenborough*, (&c.)

George the Third, (&c.) To the sheriff of —
greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore the said *C. D.* on — at — in your county, in a certain place there called —, took the cattle goods and chattels of the said *A. B.* to wit, (set out the cattle and goods mentioned in the declaration,) and unjustly detained them against gages and pledges, until, &c. And the said *C. D.* appearing in our said court before us at *Westminster* aforesaid, by — his attorney, well avowed (or, “as bailiff of *E. F.* well acknowledged”) the taking of the said cattle goods and chattels, &c. (here recite the whole of the avowry or cognizance, and proceed as follows):

(§ 58.)

The like, for
want of a plea
in bar.

CHAP.
XLIV.

follows): And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that it was afterwards considered in the same court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels; &c. And thereupon the said *C. D.* according to the form of the statute in such case made and provided, prayed our writ, &c. (as in the last, to the end).

(§ 59.)
The like, to ascertain the value of the goods, on demurrer to a plea in bar.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned, &c. (as in the last, to the end of the declaration:) And the said *C. D.* appearing in our said court before us at *Westminster*, by — his attorney, well avowed (or, “as bailiff of *E. F.* well acknowledged”) the taking of the said cattle goods and chattels, &c. (reciting the avowry or cognizance, plea in bar, demurrer and joinder:) And such proceedings were thereupon had in our said court before us at *Westminster* aforesaid, that it was afterwards considered by the same court, that the said plea of the said *C. D.* by him above pleaded in bar of the avowry (or cognizance) aforesaid, and the matters therein contained, were not sufficient in law, &c. (as before, p. 608.) It was also considered by the same court, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c.: And thereupon the said *C. D.* according

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ording to the form of the statute in such case made and provided, prayed our writ, to be directed to you, to inquire of the value of the cattle goods and chattels aforesaid; and it was granted to him, &c. as by the record and proceedings thereof, still remaining in our said court before us at *Westminster* aforesaid, fully appears: Therefore we command you, that according to the form of the statute in such case made and provided, you diligently inquire, by the oath of twelve good and lawful men of your bailiwick, how much the said cattle goods and chattels were worth, at the time of taking the same, according to their true value; and the inquisition which you shall thereupon take, make appear, &c. (as before p. 617.)

CHAP.
XLIV.

In the King's Bench.

A. B. plaintiff,
Between and
C. D. defendant.

(§ 60.)

Notice of inquiry, on stat.
17 Car. II. c. 7.
§ 2.

Take notice, that a writ of inquiry will be executed in this cause, on — (at the distance of fifteen days at least,) at —, (as before, p. 172, 3.) touching the sum in arrear, at the time of the distress taken, and the value of the goods (or cattle) distrained, (or on demurrer, “ of the value of the distress,”) according to the form of the statute in such case made and provided. Dated, (&c.)

Yours, &c.

E. F. plaintiff's attorney.

To Mr. G. H. defendant's attorney.

— (to wit.) An inquisition indented, taken at —, &c. (as before p. 173, 4; to “ good and law-
ful

(§ 61.)
Inquisition
and return.

CHAP.
XLIV.

ful men of the said county," and then as follows:)
 who upon their oath say, that the sum of — l. of
 the yearly rent in the said writ mentioned, was in
 arrear and unpaid from the said *A. B.* to the said
C. D. at the time of taking and distraining the cat-
 tle goods and chattels in the said writ also men-
 tioned; and that the said cattle goods and chattels
 were then worth, according to their true value,
 the sum of — l. (or, on demurrer, "that the
 cattle goods and chattels in the said writ mentioned
 were worth, at the time of taking the same, accord-
 ing to their true value, the sum of — l.") In wit-
 ness whereof, as well I the said sheriff, as the said
 jurors, have set our seals to this inquisition, the
 day and year, and at the place above written.

The execution of this writ appears in the inqui-
 sition hereunto annexed.

The answer of — sheriff.

(§ 62.)
Fieri facias, for
 the plaintiff.

George the Third, (&c.) To the sheriff of —
 greeting: We command you, that of the goods and
 chattels of *C. D.* in your bailiwick, you cause to be
 made — l. which *A. B.* lately in our court before
 us at *Westminster*, recovered against him, for his
 damages which he had sustained, as well on occasion
 of the taking and unjustly detaining of the cattle
 goods and chattels of the said *A. B.* as for his costs
 and charges by him about his suit in that behalf ex-
 pended; whereof the said *C. D.* is convicted, &c.
 (as before, p. 320.)

(§ 63.)
 The like, for
 defendant,
 on stat. 17
 Car. II. c. 7.

George the Third, (&c.) To the sheriff of —
 greeting: We command you, that of the goods and
 chattels of *A. B.* in your bailiwick, you cause to be
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made — *l.* which *C. D.* lately in our court before us at *Westminster*, recovered against him, for certain arrearages of rent, according to the form of the statute in such case made and provided; and also — *l.* which in our same court before us were adjudged to the said *C. D.* for his costs and charges by him laid out about his defence in a certain action of replevin, lately commenced and depending in the same court, at the suit of the said *A. B.* against the said *C. D.* whereof the said *A. B.* is convicted, as appears to us of record: And have the said monies before us, on — wheresoever we shall then be in *England*, to render to the said *C. D.* for the arrearages of rent, and costs and charges aforesaid; and have there this writ. Witness, (&c.)

CHAP.
XLIV.
for the arrears
of rent, &c.

George the Third, (&c.) To the sheriff of — greeting: We command you, that of the goods and chattels of *A. B.* in your bailiwick, you cause to be made — *l.* which *C. D.* lately in our court before us at *Westminster*, recovered against him, for the value of certain cattle (or, goods and chattels), distrained by the said *C. D.* for certain arrearage of rent, &c. (as in the last).

(§ 64.)
The like, for
the value of
the cattle or
goods distrain-
ed, &c.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. as it was said: And the said *A. B.* afterwards in our same court before us made default; wherefore it was considered in our same court, that he and his pledges to prosecute should be in mercy, &c.

(§ 65.)
Retorno habendo, on a non-
pros for want
of a declar-
ation.

CHAP.
XLV.

&c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. Therefore we command you, that without delay you cause the said cattle goods and chattels to be returned to the said *C. D.* and that you do not deliver them, on the complaint of the said *A. B.* without our writ, which shall make express mention of the judgment aforesaid; and in what manner you shall execute this our writ, make appear to us, on — wheresoever we shall then be in *England*; and have there this writ. Witness, (&c.)

(§ 56.)
Entry thereof.

— to wit. *C. D.* by his attorney offered himself on the fourth day against *A. B.* of a plea wherefore he the said *C. D.* took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *A. B.* being solemnly called, came not; and was the plaintiff, &c.: Therefore it is considered, that he and his pledges to prosecute be thereupon in mercy, &c. and that the said *C. D.* do go thereof without day, &c. and that he have a return of the said cattle goods and chattels, &c. and let the names of the pledges be inquired, &c. and in what manner, &c. let the sheriff make appear to the lord the king, on — wheresoever, &c.

(§ 57.)
Retorno habendo, for want of a plea in bar.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore the said *C. D.* on the — day of — in the year of our lord 18—, at the parish of — in your county, in a certain place there called —, took the cattle goods and chattels of him the said

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CHAP.
XLIV.

A. B. to wit, &c. (here set out the cattle and goods, as in the declaration,) and unjustly detained them against gages and pledges, until, &c. as it was said: And the said *C. D.* appearing in our said court before us, for a certain reason by him alledged in our same court, as bailiff of *E. F.* well acknowledged the taking of the said cattle goods and chattels, in the said place in which, &c. and justly, &c. for damage there done (or, "for certain arrears of rent, to wit, for the sum of — *l. duc.* and in arrear from the said *A. B.* to the said *C. D.* for the said place in which, &c. with the appurtenances, held and enjoyed under and by virtue of a certain demise thereof, made by the said *C. D.* for the space of — next before and ending on the — day of — in the year of our Lord 18—"): Whereupon the said *A. B.* being afterwards solemnly called in our said court before us, came not, nor did he further prosecute his writ aforesaid; wherefore it was considered in our said court before us at *Westminster*, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. Therefore we command you, that without delay you cause the said cattle goods and chattels to be returned to the said *C. D.* and that you do not deliver them, on the complaint of the said *A. B.* without our writ, which makes express mention of the judgment aforesaid; and in what manner you shall have executed this our writ, make appear to us, on — wheresoever, (&c.) and have there this writ. Witness, (&c.)

George

A. B.

CHAP.
XLIV.

(§ 68.)

The like, on
demurrer to a
plea in bar,
and writ of in-
quiry of da-
mages.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, &c. (as in the last:) And the said *C. D.* appearing in our said court before us, well avowed, (or, “as bailiff of *E. F.* well acknowledged,”) &c. (reciting the avowry or cognizance, plea in bar, demurrer and joinder:) And such proceedings were thereupon had in our said court before us, that it was afterwards considered by the same court, that the plea aforesaid, by him the said *A. B.* above pleaded in bar of the said avowry (or cognizance), and the matters therein contained, were not sufficient in law, &c. (as before, p. 608.) It was also considered by the same court, that the said *A. B.* should take nothing by his said writ, &c. (as before, p. 608.) Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him irrevocable, in form aforesaid; and in what manner you shall execute this our writ, make appear to us, on — wheresoever, &c. We likewise command you, that by the oath of twelve good and lawful men of your bailiwick, you diligently inquire, according to the form of the statute in such case made and provided, what damages the said *C. D.* hath sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf; and the inquisition which you shall thereupon take, make appear to us, on the aforesaid day, wheresoever, (&c.) under your seal, and the seals of those by whose oath you shall take that inquisition; and have there the names of them by whose oath you shall take that inquisition, and this writ. Witness, (&c.)

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George the Third, (&c.) To the sheriff of —
greeting: Whereas *C. D.* was summoned to be in our
court before us, &c. (as before, p. 622, 3). And the
said *C. D.* appearing in our said court before us, al-
leged and said, that he as bailiff of *E. F.* took the
cattle goods and chattels aforesaid, in the said place
in which, &c. being the soil and freehold of the said
E. F. doing damage there; and the said *C. D.*
prayed a return of the said cattle goods and chattels
to be adjudged to him, &c. And afterwards, by a
certain jury of the country, upon which as well the
said *C. D.* as the said *A. B.* had put themselves in
that behalf, taken on the — day of — in the
— year of our reign, at — in your county, be-
fore *Edward Lord Ellenborough*, our chief-justice,
(&c.) by virtue of our writ of *nisi prius*, it was found,
that the said place in which, &c. at the said time
when, &c. was the soil and freehold of the said *E. F.*
as the said *C. D.* had alleged; and the jurors of
the said jury, according to the form of the statute in
such case made and provided, assessed the damages
of the said *C. D.* on occasion of the premises, be-
sides his costs and charges by him laid out about his
defence in this behalf, to — *l.* and for those costs
and charges to — *l.* Whereupon it was afterwards
considered, in our said court before us, that the said
A. B. should take nothing by his writ aforesaid, &c.
(reciting the judgment, *ante*, p. 608, 9:) Therefore we
command you, that without delay you cause the cattle
goods and chattels aforesaid to be returned to the
said *C. D.* to hold to him irreplevisable, in form
aforesaid; and in what manner you shall execute
this our writ, make appear to us, on — whereso-
ever, (&c.): We also command you, that of the

CHAP.
XLIV.

(§ 69.)

The like, after
verdict, and
fi. fa. for the
damages and
costs.

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goods,

George

CHAP.
XLIV.

goods and chattels of the said *A. B.* in your bailliwick, you cause to be made the said — *l.* for the damages costs and charges aforesaid; and have that money before us, at the aforesaid time, to render to the said *C. D.* for his damages costs and charges aforesaid; and have there this writ. Witness, (&c.)

(§ 70.)
Return of *elonygata*, to a writ of *retorno habendo*.

Before the coming of this writ to me, the cattle goods and chattels within-mentioned were eloynd and removed by the within-named *A. B.* to places to me unknown: Therefore I cannot cause the same to be returned to the within-named *C. D.* as I am within commanded.

The answer of — sheriff.

(§ 71.)
Capias in writheorem, thereon, after judgment of *non-pros* for want of a declaration.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *A. B.* afterwards in our same court before us, made default; wherefore it was considered, that the said *A. B.* should take nothing by his writ aforesaid, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels aforesaid, &c. whereupon by our writ we commanded you, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* and that you should not deliver them, on the complaint of the said *A. B.* without our writ, which should make express mention of the judgment aforesaid;

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said; and in what manner you should have executed that our writ, you should make appear to us, on — wheresoever, (&c.) And you at that day returned to us, that before the coming of the writ aforesaid, the cattle goods and chattels aforesaid were eloigned and removed by the said *A. B.* to places to you unknown, so that you could not cause them to be returned to the said *C. D.* as by the said writ you were commanded: Therefore we command you, that you take in *withernum*, the cattle goods and chattels of the said *A. B.* to the value of the cattle goods and chattels aforesaid, by the said *C. D.* before taken, and cause them to be delivered to the said *C. D.* to be kept by him, until you can cause to be returned the said cattle goods and chattels, by the said *C. D.* before taken: And put by gages and safe pledges the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, to answer as well to us for his contempt, as to the said *C. D.* for the damages and injury to him in that behalf done: And in what manner you shall have executed this our writ, make appear to us, at the aforesaid time; and have there the names of the pledges, and this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, &c. (as before, p. 622, 3.) And the said *C. D.* appearing in our same court before us, for a certain reason by him alledged in the same court, well avowed the taking of the said cattle goods and chattels, in the said place in which, &c. and justly, &c. for damage there done: And the said *A. B.* af-

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terwards

CHAP.
XLIV.

(§ 72.)

The like, for want of a plea in bar, and *ca. sa.* for the damages and costs.

CHAP.
XLIV.

terwards in our same court, made default; wherefore it was considered by the same court, that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the said cattle goods and chattels, &c. Therefore we lately commanded you, that without delay you should cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* and that you should not deliver them, on the complaint of the said *A. B.* without our writ, which should make express mention of the judgment aforesaid; and in what manner you should have executed that our writ, you should make appear to us, on — wheresoever, (&c.) We also lately commanded you, that according to the form of the statute in such case made and provided, you should diligently inquire, by the oath of good and lawful men of your bailiwick, what damages the said *C. D.* had sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf; and that the inquisition which you should thereupon take, you should send to us, at the time aforesaid, wheresoever, (&c.) under your seal, (&c.) together with the writ aforesaid: And you at that day returned to us, that the cattle goods and chattels aforesaid were eloigned and removed by the said *A. B.* to places to you unknown, so that you could not cause the same to be returned to the said *C. D.* and you also returned to us, a certain inquisition taken before you, at — in your county, on the — day of — in the — year, (&c.) by which it was found, that the said *C. D.* had sustained damages, on occasion of the premises, besides his costs and

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and charges, (&c.) to — *l.* and for those costs and charges to — *l.* Therefore it was considered, that the said *C. D.* should recover against the said *A. B.* his damages aforesaid, by the said inquisition in form aforesaid found, and also — *l.* by our court before us adjudged of increase to the said *C. D.* and with his assent, for his costs and charges aforesaid; which said damages costs and charges in the whole amount to — *l.* and that the said *A. B.* should be in mercy, &c. Therefore we command you, that you take in *withernam*, the cattle goods and chattels of the said *A. B.* in your bailiwick, to the value of the cattle goods and chattels before taken, and cause them to be delivered without delay to the said *C. D.* to hold to him irrevocable, until the said *A. B.* shall make return to the said *C. D.* of the cattle goods and chattels aforesaid, before taken; and in what manner you shall execute this our writ, make appear to us, on — wheresoever, (&c.) We also command you, that you take the said *A. B.* if he be found in your bailiwick, and him safely keep, so that you may have his body before us, at the aforesaid time, wheresoever, (&c.) to satisfy the said *C. D.* of his damages costs and charges aforesaid; and have there this writ. Witness, (&c.)

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* was summoned to be in our court before us, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* and unjustly detained them against gages and pledges, &c.: And afterwards, the said *A. B.* in our

(§ 73.)

Scire facias against the pledges for a return, after judgment of *non-pros* for want of a declaration.

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same

ing to the form of the statute in such case made and provided; we command you, that by honest and lawful men of your bailiwick, you make known to the said *W. G.* and *T. S.* that they be before us, on — wheresoever we shall then be in *England*, to shew if they have or know of any thing to say for themselves, why the price of the cattle goods and chattels aforesaid should not be made of their lands and chattels in your bailiwick, and rendered to the said *C. D.* according to the form of the statute aforesaid, if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 436.)

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George the Third, (&c.) To the sheriffs of *London* greeting: Whereas at a court holden on the — day of — in the — year of our reign, before — esquire, then one of the sheriffs of the city of *London* aforesaid, in his Compter situate in the parish of *St. Mildred the Virgin* in the *Poultry* of the said city, came *A. B.* and then and there, according to the custom of the said city, levied against *C. D.* his certain plaint, for his cattle goods and chattels, to wit, (&c.) taken and unjustly detained; and then and there found pledges to prosecute his said plaint, and to make a return of his said cattle goods and chattels, if a return thereof should be adjudged, to wit, *V. H.* and *E. L.* citizens of the city aforesaid; and thereupon, at the prayer of the said *A. B.* to the court aforesaid, according to the custom of the said city, the cattle goods and chattels aforesaid were replevied and delivered to the said *A. B.*: Which said plaint, with all things touching the same, were afterwards sent, and brought by the aforesaid sheriffs of *London*, at the instance of the said *A. B.* to the husting of *Lon-*

(§ 74.)

The like, on a plaint levied in the sheriffs' court of *London*, and removed into *K. B.* by *certiorari*.

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don of common pleas, holden in the *Guildhall London*, on — next after — in the — year of our reign aforesaid, according to the custom of the said city; and afterwards, to wit, in — term in the — year aforesaid, by virtue of our writ, we caused the same to be certified before us, and they now remain before us of record; And whereas the said *A. B.* afterwards declared in our court before us, against the said *C. D.* of a plea wherefore he took the cattle goods and chattels, to wit, (&c.) of the said *A. B.* and unjustly detained them against gages and pledges, &c.; which said taking of the cattle goods and chattels aforesaid, the said *C. D.* acknowledged, as bailiff of one *G. N.* esquire, for certain rent then being in arrear and payable by the said *A. B.* to the said *G. N.* as his tenant for a term of years: And afterwards, in — term in the — year of our reign, it was in such manner proceeded in our said court before us, that the said *A. B.* being solemnly called, did not come, nor prosecute his plea against the said *C. D.*; wherefore it was considered in our same court before us, that the said *C. D.* should go thereof without day, &c. and that the said *A. B.* and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should have a return of the cattle goods and chattels aforesaid, &c. as by the record thereof, now remaining before us, more fully appears: And whereas also by our writ we lately commanded you, that without delay you should cause a return to be made to the said *C. D.* of the cattle goods and chattels aforesaid; and in what manner you should have executed that our writ, you should make appear to us, on — last past, where-soever we should then be in *England*: And you at that

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that day returned to us, that before the coming of our said last-mentioned writ to you, the said *A. B.* had eloigned the aforesaid cattle goods and chattels, to places to you altogether unknown, so that you could not return the same to the said *C. D.*; as by the aforesaid writ, and the return thereof, affiled in our court before us, appears to us of record: And now on behalf of the said *C. D.* in our court before us, we are informed, that although judgment be thereupon given, yet execution for a return of the cattle goods and chattels aforesaid, still remains to be made: Whereupon the said *C. D.* hath humbly besought us to provide him a proper remedy in this behalf; and we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *V. H.* and *E. L.* that they be before us, on — wheresoever we shall then be in *England*, to shew if they have or know of any thing to say for themselves, wherefore the cattle goods and chattels of them the said *V. H.* and *E. L.* to the value of the cattle goods and chattels aforesaid, so replevied and delivered to the said *A. B.* should not be delivered to the said *C. D.* if it shall seem expedient for him so to do; and further to do and receive, &c. (as before, p. 436.)

(After the judgment for a return, &c. proceed as follows:)

(§ 73.)

Award of writ
of second de-
liverance.

Afterwards, to wit, on — then next following, before the lord the king at *Westminster*, comes the said *A. B.* by *E. F.* his attorney; and according to the form of the statute in such case made and provided,

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XLIV.

vided, prays the writ of the said lord the king of second deliverance of the cattle goods and chattels aforesaid; and it is granted to him, returnable on — wheresoever the said lord the king shall then be in *England*: The same day is given to the said *C. D.* &c.

(§ 76.)
Writ of second deliverance.

George the Third, (&c.) To the sheriff of — greeting: If *A. B.* shall make you secure of prosecuting his claim, and also of returning the cattle goods and chattels, which were lately adjudged to *C. D.* in our court before us, on account of the default of the said *A. B.* if a return thereof shall be adjudged, then cause the said cattle goods and chattels to be delivered without delay to the said *A. B.*; and put by gages and safe pledges the said *C. D.* that he be before us, on — wheresoever we shall then be in *England*, to answer to the said *A. B.* of the taking and unjustly detaining of the cattle goods and chattels aforesaid; and have there the names of the pledges, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

(§ 77.)
The like, another way.

George the Third, (&c.) To the sheriff of — greeting: If *A. B.* shall make you secure of prosecuting his claim, and also of returning the cattle goods and chattels, which were lately adjudged to *C. D.* in our court before us, on account of the default of the said *A. B.* if a return thereof shall be adjudged, we command you, that if by virtue of our writ of *retorno habendo*, to you thereupon before directed, you have caused the said cattle goods and chattels to be returned to the said *C. D.* then that
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you cause them to be re-delivered to the said *A. B.*; and put by gages and safe pledges, &c. (as in the last, to the end.)

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XLIV.

By virtue of this writ to me directed, I have caused to be delivered to the within-named *A. B.* his cattle goods and chattels within-mentioned, as I am within commanded. The pledges within-mentioned are *John Den* and *Richard Fen*.

(§ 78.)

Return to writ of second deliverance.

The answer of — sheriff,

— to wit. *C. D.* was attached, by the writ of our lord the king of second deliverance, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels of the said *A. B.* &c. (as in a declaration in replevin.)

(§ 79.)

Declaration, on writ of second deliverance.

The subsequent proceedings, on the writ of second deliverance, to trial and judgment, are the same as in replevin, only that the judgment is always for a return irreplevisable.

George the Third, (&c.) To the sheriff of — greeting: Whereas *C. D.* lately in our court before us at *Westminster*, was attached, by our writ of second deliverance, to answer *A. B.* of a plea wherefore he took the cattle goods and chattels, to wit, (&c.) of the said *A. B.* and unjustly detained them against gages and pledges, &c.; and afterwards the said *A. B.* in our same court, made default; wherefore it was considered in our same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have

(§ 80.)

Retorno habendo, after judgment of *non-pros* on a writ of second deliverance, and *ca. sa.* for damages and costs.

CHAP.
XLIV.

have a return of the cattle goods and chattels aforesaid, to hold to him irreplevisable for ever: Therefore we command you, that without delay you cause the cattle goods and chattels aforesaid to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid: We likewise command you, that you take the said *A. B.* if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us, on — wheresoever we shall then be in *England*, to satisfy the said *C. D.* of — *l.* which were adjudged to the said *C. D.* in our said court before us, according to the form of the statute in such case made and provided, for his damages which he had sustained, as well on occasion of the premises, as for his costs and charges by him laid out about his defence in this behalf; whereof the said *A. B.* is convicted, as appears to us of record; and have there this writ. Witness, (&c.)

(§ 81.)
Capias in wifthernam, after judgment of *non-pros* on a writ of second deliverance.

George the Third, (&c.) To the sheriff of — greeting: Whereas by our writ we lately commanded you, that whereas *C. D.* had been attached, by our writ of second deliverance, to be in our court before us, to answer *A. B.* in a plea wherefore he took the cattle goods and chattels of him the said *A. B.* and unjustly detained them against gages and pledges, &c. And the said *A. B.* afterwards in our same court made default; wherefore it was considered in our same court, that the said *A. B.* should take nothing by his said writ, but that he and his pledges to prosecute should be in mercy, &c. and that the said *C. D.* should go thereof without day, &c. and that he should have a return of the cattle goods and chattels

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chattels aforesaid, to hold to him irreplevisable for ever; you should without delay cause the said cattle goods and chattels to be returned to the said *C. D.* to hold to him irreplevisable, in form aforesaid; and in what manner you should execute that writ, you should make appear to us, on — wheresoever, (&c.) And you on that day returned to us, that the cattle goods and chattels aforesaid were cloigned by the said *A. B.* to places to you unknown, so that you could not return the same to the said *C. D.* as by the writ aforesaid you were commanded: Therefore we command you, that you take *in withernam*, the cattle goods and chattels of the said *A. B.* to the value of the cattle goods and chattels aforesaid, by the said *C. D.* before taken, and deliver them to the said *C. D.* to hold to him irreplevisable, until you can cause the cattle goods and chattels aforesaid, by the said *C. D.* before taken, to be returned to the said *C. D.* and in what manner, (&c.): And put by gages and safe pledges the said *A. B.* that he be before us, on — wheresoever we shall then be in *England*, to answer as well to us for his contempt, as to the said *C. D.* for his damages and injury in this behalf done; and have there this writ. Witness, (&c.)

The forms in this chapter, though chiefly designed for the Court of King's Bench, may easily be adapted to the Court of Common Pleas, (into which actions of replevin are most commonly removed,) by altering the style of the Court, and the *teste* and return of writs, &c. making the writs returnable "before our justices at *Westminster*," and the entries, &c. to correspond therewith.

CHAP. XLV.

Of EJECTMENT.

THE forms in this chapter are arranged in the following order: first, notices to quit, &c.; secondly, proceedings at common law, in case of a vacant possession; thirdly, proceedings against the casual ejector in other cases, either at common law, or on the statute 4 Geo. II. c. 28. where the tenant or his landlord does not appear, and enter into the common rule to confess lease entry and ouster; and fourthly, proceedings where the tenant or his landlord appears, to final judgment and execution.

Sir,

(§ 1.)
Notice to quit,
by the land-
lord or his a-
gent, to a ten-
ant from year
to year.

I hereby give you notice to quit and deliver up on the — day of — next, the possession of the messuage or dwelling-house, (or, “rooms and apartments, or farm lands and premises,”) with the appurtenances, which you now hold of me, (or, if the notice be given by an agent, “of Mr. A. B. your landlord,”) situate in the parish of — in the county of —. Dated the — day of — 18—.

Yours, &c.

A. B. (the landlord:)

Or, (if the notice be given by an agent,)

E. F. agent for the said A. B.

To Mr. C. D. (the tenant in possession:)

Or, (if it be doubtful who is tenant,)

To Mr. C. D. or whom else it may concern.

Sir

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(§ 2.)

The like, where
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mencement of
the tenancy is
doubtful.

Sir,

I hereby give you notice, &c. (as before, to the date;) provided your tenancy originally commenced at that time of the year; or otherwise, that you quit and deliver up the possession of the said messuage, (&c.) at the end of the year of your tenancy, which shall expire next after the end of half a year from the time of your being served with this notice.
Dated, (&c.)

Yours, &c.

To Mr. C. D.

A. B.

Whereas by a certain indenture of lease, bearing date on or about the — day of — which was in the year of our lord —, and made or mentioned to be made between me A. B. of — of the one part, and you C. D. of — of the other part, I the said A. B. for the considerations therein mentioned, did demise and lease to you the said C. D. your executors administrators and assigns, a certain messuage, (&c.) to hold the same to you the said C. D. your executors administrators and assigns, from thenceforth, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; determinable nevertheless as therein and herein-after is mentioned: And in which said indenture of lease is contained a proviso or condition, that if, &c. (reciting the proviso.) Now I the said A. B. in pursuance of the liberty given me by the aforesaid proviso or condition, do hereby give you notice, that it is my mind and intention to avoid the said recited indenture of lease, at the end of the first seven years of the said term of — years thereby granted. Dated (&c.)

(§ 3.)

Notice by a
landlord, to de-
termine a lease
at the end of
the first seven
years.

Yours, &c.

To Mr. C. D.

A. B.

Sir

Sir

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(§ 4.)

Notice by a
mortgagee, not
to pay rent to
the mortgagor.

Sir,

Take notice, that by indentures of lease and release, bearing date, (&c) the release being of three parts, and made between *A. B.* of — of the first part, *C. D.* of — of the second part, and *E. F.* of — of the third part, the messuage, (&c.) now in your occupation, situate and being in the parish of — in the county of —, were conveyed and assured (amongst other things,) to the said *E. F.* for better securing the payment of the sum of — *l.* and interest by the said *C. D.* to the said *E. F.* at a certain time in the said indenture of release mentioned, and now past; and which said sum of — *l.* with a considerable arrear of interest thereon, is still due and unpaid to the said *E. F.* I do therefore, as the attorney of and for the said *E. F.* hereby give you notice, not to pay any rent now due, or hereafter to become due from you, for the said messuage, (&c.) to the said *C. D.* or to any other person or persons than to the said *E. F.* or to me as his attorney, or to such other person or persons as shall be duly authorized by him to receive the same.
Dated, (&c.)

Yours, &c.

J. K.

To Mr. *G. H.*

Sir,

(§ 5.)

Notice by the
trustee of a
term, for se-
curing an an-
nuity, to pay
him the rent,
for satisfying
the arrears,
&c.

Take notice, that by indenture bearing date, &c. and made between *A. B.* of — of the first part, *E. F.* of the second part, me the under-written *G. H.* of the third part, and *J. K.* of — of the fourth part, the said *A. B.* for the considerations therein mentioned, did give grant and confirm unto the said *E. F.* his executors administrators and assigns, for
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and during the natural life of the said *A. B.* one annuity or clear yearly sum of — *l.* of lawful money of *Great Britain*, to be yearly issuing, going, had received and taken by him the said *E. F.* by and out of a certain manor, and certain messuages, lands, tenements, hereditaments and premises therein particularly mentioned, situate — in the county of —, and comprizing — other things, certain lands and premises in your occupation; the same annuity or yearly sum of — *l.* to be payable quarterly, at the times and in manner therein mentioned, with powers of distress and entry, in case of the non-payment thereof: And for the further better and more effectual securing the payment of the said annuity or yearly sum of — *l.* at the times and in manner aforesaid, the said *A. B.* did thereby grant, bargain, sell and demise the said manor, messuages, (&c.) unto me the said *G. H.* for a term of — years, if the said *A. B.* should so long live: And I do hereby further give you notice, that there is now due and owing to the said *E. F.* the sum of — *l.* for arrears of the said annuity or yearly sum of — *l.* up to the — day of — last: And I do therefore hereby require you, not to pay any rent now due, or hereafter to become due, for the aforesaid lands and premises in your occupation, or any part thereof, to the said *A. B.* or to any other person than me the said *G. H.* or such other person or persons as I shall appoint to receive the same, until the said sum of — *l.* together with the growing and future payments of the said annuity or yearly sum, and all costs charges and expences sustained or occasioned by the non-

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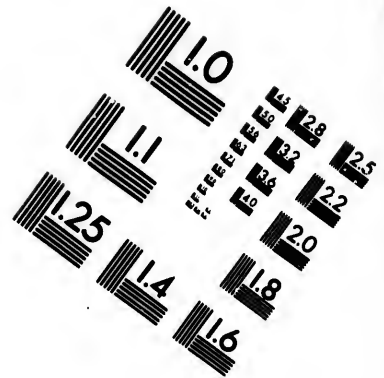
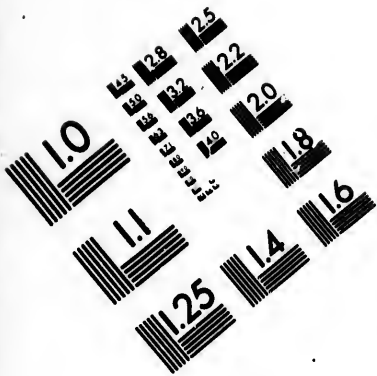
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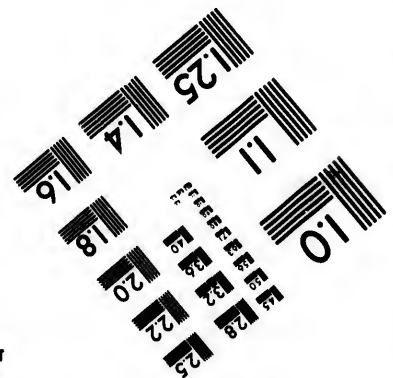
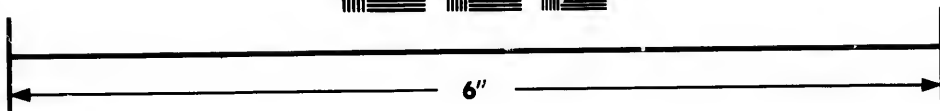
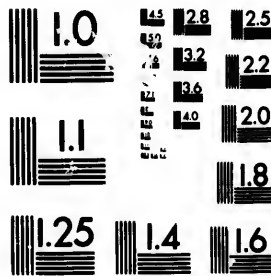
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J. K.

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CHAP. payment thereof, shall be fully paid and satisfied.
XLV. Dated, (&c.)

Yours, &c.
G. H.

To Mr. C. D.

(§ 6.) In the King's Bench.

Attornment.

John Doe, on the demise
of A. B. . . . plaintiff,
and
C. D. (&c.) . defendants.

Between

Be it remembered, that we whose names are hereunder written, being the several tenants in possession of the premises in question in this cause, situate and being in the parish of — in the county of —, do hereby severally attorn tenants to A. B. of — the lessor of the plaintiff in this cause, for such parts of the said premises as are in our respective possessions; and we, and each and every of us, have this day severally paid to the said A. B. the sum of 1s. upon such attornment, on account and in part of the rent due, and to become due from us severally and respectively, for and in respect of the said premises; and we do severally and respectively become tenants thereof to the said A. B. from the — day of — last past. As witness our hands, this — day of — in the year of our Lord 18—.

Witness, (&c.) C. D. (&c.)

(§ 7.)

Letter of attorney, to enter and seal a lease on the premises.

Know all men by these presents, that I A. B. of — have made, ordained, constituted and appointed, and by these presents do make, ordain, constitute and appoint C. D. of — my true and lawful attorney, for me, and in my name, to enter into

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into and take possession of a certain messuage, (&c.) late in the tenure and occupation of —, situate and being in the parish of — in the county of —, but now untenanted; and after the said *C. D.* hath taken possession thereof, for me, and in my name, and as my act and deed, to sign seal and execute a lease of the said premises with the appurtenances, unto *E. F.* of —, to hold the same to him the said *E. F.* his executors administrators and assigns, from the — day of — last past, before the date hereof, for the term of — years, at the yearly rent of a pepper-corn, if lawfully demanded; subject to a proviso, for making void the same, on tendering the sum of six-pence to the said *E. F.* his executors or administrators. In witness, (&c.)

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XLV.

Sealed and delivered, (&c.)

I. K. of — gentleman, maketh oath and saith, that he was present and did see *A. B.* of —, named in the letter of attorney hereunto annexed, duly sign seal and deliver the said letter of attorney. *I. K.* (§ 8. Affidavit of executing same.

Sworn, (&c.)

This Indenture made the — day of —, (&c.) between *A. B.* of — of the one part, and *E. F.* of — of the other part, witnesseth, that the said *A. B.* for and in consideration of the sum of five shillings of lawful money of *Great Britain*, to him in hand paid by the said *E. F.* at or before the sealing and delivery of these presents, the receipt whereof the said *A. B.* doth hereby acknowledge, hath demised granted and to farm let, and by (§ 9. Lease.

CHAP.
XLV.

these presents doth demise grant and to farm let unto the said *E. F.* his executors and administrators, all that messuage, (&c.) situate and being in the parish of — in the county of —, late in the tenure and occupation of —, but now untenanted; to have and to hold the same unto the said *E. F.* his executors and administrators, from the — day of — last past, before the date hereof, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; yielding and paying therefore yearly and every year, during the said term, unto the said *A. B.* or his assigns, the rent of one pepper-corn, if lawfully demanded at the feast of —: Provided always, and these presents are on this condition, that if the said *A. B.* or his assigns shall at any time or times hereafter, tender or cause to be tendered unto the said *E. F.* his executors or administrators, the sum of six-pence, that then and in such case, and from thenceforth, this present indenture, and every thing herein contained, shall cease determine and be absolutely void, any thing herein contained to the contrary thereof in anywise notwithstanding. In witness whereof, the parties hereto have interchangeably set their hands and seals, the day and year first above-written.

Sealed and delivered, as the act and deed of the above-named *A. B.* by *C. D.* of —, by virtue of a letter of attorney to him for that purpose made by the said *A. B.* bearing date, (&c.) being first duly stamped, in the presence of,

A. B.

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The declaration in ejectment on a vacant possession, is the same as in other cases, for which *vide post*, p. 647, &c. only that the plaintiff and defendant, as well as the lessor of the plaintiff, are in this case the real parties; as for instance, *E. F.* the lessee of the premises should be plaintiff, *G. H.* (a real ejector) defendant, and *A. B.* lessor of the plaintiff; and instead of the common notice, at the end of the declaration, substitute the following one:

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XLV.
(10.)
Declaration.

Take notice, that unless you appear in his Majesty's court of *King's Bench* at *Westminster*, in — term, (or, if a town cause, "the first day of next — term,") at the suit of the above-named plaintiff *E. F.* and plead to this declaration in ejectment, judgment will be thereon entered against you by default.

(§ 11.)
Notice to appear, &c.

Yours, &c.

I. K. plaintiff's attorney.

To Mr. *G. H.*

In the King's Bench.

E. F. on the demise of

(§ 12.)

A. B. . . . plaintiff,

Affidavit to move for judgment.

Between

and

G. H. defendant.

I. K. of — gentleman, maketh oath and saith, that on the — day of — last, he this deponent did see *C. D.* in the letter of attorney hereto annexed named, for and in the name of *A. B.* the lessor of the plaintiff, enter upon and take possession of the messuage in the lease hereto also annexed mentioned, by entering on the threshold of the outer-door thereof, and putting his finger into the key-hole of the said door, the said messuage

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being

A. B.

E. F.

The

CHAP.
XLV.

being then locked up and uninhabited, so that no other entry thereon could be made, nor any possession thereof taken, without force: And this deponent further saith, that he did, on the same day, see the above-named *C. D.* after such entry made, and whilst he stood on the threshold of the said door, duly sign and seal the lease hereunto annexed, in the name of the said *A. B.* and as his act and deed deliver the same unto the said *E. F.* the plaintiff above-named; and that after the said lease was so executed, this deponent did see the said *E. F.* take possession of the said messuage, by virtue of the said lease, by entering upon the threshold of the said outer-door, and putting his finger into the key-hole of the said door, the said messuage being then locked up and uninhabited, so that no other entry could be made thereon, save as aforesaid; and that immediately afterwards, the said *G. H.* the defendant, came and removed the said *E. F.* from the said door, and put his foot on the threshold thereof; whereupon this deponent did, on the day and year aforesaid, deliver to the said defendant *G. H.* who still continued upon the said threshold, a true copy of the declaration of ejectment, and notice thereunder written, hereto annexed.

Sworn, (*&c.*)

In the Common Pleas, this affidavit is unnecessary; but on the first day of the term, the plaintiff gives a rule to plead, as in common cases, and at the expiration of the time for pleading, if there be no appearance and plea, signs judgment as a matter of course.

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George the Third, (&c) To the sheriff of — greeting: If *John Doe* shall give you security of prosecuting his claim, then put by gages and safe pledges *Richard Roe* late of — yeoman, that he be before us, on — wheresoever we shall then be in *England*, to shew wherefore, with force and arms, he entered into — messuages, (&c.) with the appurtenances, in —, which *A. B.* hath demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm; and other wrongs to the said *John Doe* there did, to the great damage of the said *John Doe*, and against our peace: And have you there the names of the pledges, and this writ. Witness ourself at *Westminster*, the — day of — in the — year of our reign.

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(§ 13.)

Original writ, in K.B.

Pledges to prosecute, } *John Den,*
Richard Fen.

(§ 14.)

Sheriff's return thereto,

The within-named *Richard Roe* is } *John Smith,*
 attached by pledges, } *William Stiles.*

In the King's Bench (or, Common Pleas).

— term, in the — year of the reign of king *George* the Third.

(§ 15.)

Declaration by original, in K. B. or C. P. on a single deuiise; with notice to appear thereto.

— (to wit). *Richard Roe* late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into — messuages, — barns, — stables, — out-houses, — yards, — gardens,

CHAP.
XLV.

gárdens, — orchards, — acres of arable land, — acres of meadow land, and — acres of pasture land, with the appurtenances, situate and being in the parish of — in the county of —, which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm; and other wrongs to the said *John Doe* there did, to the great damage of the said *John Doe*, and against the peace of our lord the now king, &c.: And thereupon the said *John Doe*, by — his attorney complains; that whereas the said *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, had demised the said tenements with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended: By virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm; and other wrongs to the said *John Doe* then and there did, to the great damage of the said *John Doe*, and
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against the peace of our said lord the now king :
Wherefore the said *John Doe* saith that he is injured, and hath sustained damage to the value of
— *l.* and therefore he brings his suit, &c.

CHAP.
XLV.

Mr. C. D.

I am informed that you are in possession of, or claim title to, the premises in this declaration of ejectment mentioned, or to some part thereof ; and I, being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear in next — term, (or, in *London* or *Middlesex*, “ on the first day of next — term,”) in his majesty’s court of King’s Bench, wheresoever his said majesty shall then be in *England*, (or, in the Common Pleas, “ in his majesty’s court of Common Bench at *Westminster*,”) by some attorney of that court ; and then and there, by rule of the same court, to cause yourself to be made defendant in my stead ; otherwise I shall suffer judgment therein to be entered against me by default, and you will be turned out of possession.

Your, &c.

Richard Roe.

In the King’s Bench
(or, Common Pleas).

— term, (&c.)
— (to wit). *Richard Roe* late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into the manor of — in the county of —, with the rights members and appurtenances thereunto belonging, and also into the rec-
tory

(§ 16.)
The like, for a
manor, rectory
and tithes.

DECLARATION.

tory of the parish church of — in the county aforesaid, and into — messuages, (&c.) and also into all and singular the tithes of corn, grain, hay, wood, grass, wool, lambs and calves, arising, growing, renewing, increasing and happening within the said parish of —, and within the bounds limits and titleable places of the said rectory, which *A. B.* had demised and granted to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm; and other wrongs, &c. (as in the last declaration :) And thereupon, (&c.) that whereas the said *A. B.*, on the — day of — in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, by a certain indenture then and there made, and sealed with the seal of the said *A. B.* and which the said *John Doe* now brings here into court, the date whereof is the same day and year aforesaid, had demised and granted the said manor, rectory, tenements and tithes with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended: By virtue of which said demise and grant, the said *John Doe* entered into the said manor, rectory, tenements and tithes with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said manor, rectory, tenements and tithes with

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with the appurtenances, which the said *A. B.* had demised and granted to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm; and other wrongs, &c. (as in the last, with the like notice to appear.)

CHAP.
XLV.

In the King's Bench
(or, Common Pleas).

— term, (&c.)
— (to wit). *Richard Roe* late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into — messuages, (&c.) with the appurtenances, situate and being in the parish of — in the county of —, which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired: And also wherefore the said *Richard Roe*, with force and arms, &c. entered into — other messuages, (&c.) with the appurtenances, situate and being in the parish aforesaid in the county aforesaid, which *E. F.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said several farms; and other wrongs, (&c.): And thereupon, (&c.) that whereas the said *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, had demised the said tenements first above-mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully

(§ 17.)
The like, on
double demise,
with one
ouster.

to

CHAP.
XLV.

to be compleat and ended: And also that whereas the said *E. F.* on the said — day of — in the — year aforesaid, at the parish aforesaid in the county aforesaid, had demised the said tenements secondly above-mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the said — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended: By virtue of which said several demises, the said *John Doe* entered into the said several tenements first and secondly above-mentioned with the appurtenances, and became and was thereof possessed, for the said several terms, so to him thereof respectively granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said several tenements first and secondly above-mentioned with the appurtenances, which the said *A. B.* and *E. F.* had respectively demised to the said *John Doe*, in manner and for the several terms aforesaid, which are not yet expired, and ejected the said *John Doe* from his said several farms; and other wrongs, &c. (as before, p. 648, 9. with the like notice to appear.)

(§ 18.)
The like, with
two ousters.

In the King's Bench
(or, Common Pleas).

— term, (&c.)
— (to wit.) *Richard Roe* late of — yeoman, was attached to answer *John Doe*, of a plea wherefore the said *Richard Roe*, with force and arms, &c. entered into — messuages, (&c.) with the appurtenances,

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tenances, situate and being in the parish of — in the county of —, which *A. B.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said farm: And also wherefore the said *Richard Roe*, with force and arms, &c. entered into — other messuages, (&c.) with the appurtenances, situate and being in the parish aforesaid in the county aforesaid, which *E. F.* had demised to the said *John Doe*, for a term which is not yet expired, and ejected him from his said last-mentioned farm; and other wrongs, &c. (as before, p. 648.) And thereupon, (&c.) that whereas the said *A. B.* on the — day of — in the — year of the reign of our said lord the king, at the parish aforesaid in the county aforesaid, had demised the said tenements first above-mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be compleat and ended: By virtue of which said demise, the said *John Doe* entered into the said tenements first above-mentioned with the appurtenances, and became and was thereof possessed, for the said term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements first above-mentioned with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm: And also

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CHAP.
XLV.

also that whereas the said *E. F.* on the said — day of — in the — year aforesaid, at the parish aforesaid in the county aforesaid, had demised the said tenements secondly above-mentioned with the appurtenances, to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the said — day of — then last past, for and during and unto the full end and term of — years from the next ensuing, and fully to be compleat and ended: By virtue of which said last-mentioned demise, the said *John Doe* entered into the said tenements secondly above-mentioned with the appurtenances, and became and was thereof possessed, for the said last-mentioned term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the said — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements secondly above-mentioned with the appurtenances, which the said *E. F.* had demised to the said *John Doe*, in manner and for the term last aforesaid, which is not yet expired, and ejected the said *John Doe* from his said last-mentioned farm; and other wrongs, &c. (as before p. 648, 9. with the like notice to appear.)

Way.

— term, in the — year of the reign of king *George the Third.*

— (to wit.) *John Doe* complains of *Richard Roe*, being in the custody of the marshal of the marshalsea of our Lord the now king, before the king himself; for that whereas *A. B.* on the — day of — in the — year of the reign of our said lord the

(§ 19.)
Declaration
by bill, in
K. B.

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the king, at the parish of — in the county of —, had demised to the said *John Doe*, — mesuages, (&c.) with the appurtenances, situate and being in the parish aforesaid in the county aforesaid; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing; and fully to be compleat and ended: By virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and became and was possessed thereof, for the said term so to him thereof granted: And the said *John Doe* being so thereof possessed, the said *Richard Roe* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm; and other wrongs to the said *John Doe* then and there did, against the peace of our said lord the king, and to the damage of the said *John Doe* of — l. and therefore he brings his suit, &c.

Pledges to prosecute, { *John Den,*
and
Richard Fen.

(Notice to appear “ in his majesty’s court of King’s Bench at *Westminster*.”)

In the Exchequer.

— term, (&c.) (§ 20.)

— (to wit). *John Doe*, a debtor to our sovereign lord the now king, comes before the barons of

The like, in the Exchequer.

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of his majesty's Exchequer at *Westminster*, on the — day of — (last day of the term, preceding the time of service,) in this same term, by — his attorney, and complains by bill against *Richard Roe*, present here in court the same day, of a plea of trespass and ejection of farm; for that whereas, &c. (as in the last, concluding as follows:) to the damage of the said *John Doe* of — l. whereby he is the less able to satisfy our said lord the king, the debts which he owes to his majesty at his said Exchequer, and therefore he brings his suit, &c.

Pledges, (&c.)

(Notice to appear "in the Office of Pleas of his majesty's court of Exchequer at *Westminster*.")

(§ 21.)

Affidavit of
service of de-
claration in
ejection.

In the King's Bench.

John Doe, on the demise
of *A. B.* plaintiff,

Between and

Richard Roe, defendant.

J. K. of — gentleman, maketh oath, that he did on the — day of — last (or instant), personally serve *C. D.* tenant of the premises in the declaration of ejection hereunto annexed mentioned, or (if he be not tenant of the whole,) some part thereof, with a true copy of the said declaration, and of the notice thereunder written, hereto annexed; and this deponent at the same time read over the said notice to the said *C. D.* and explained to him the intent and meaning of such service (Or generally thus: "and this deponent at the same time acquainted the said *C. D.* of the intent and meaning of the said declaration and notice").

Sworn, (&c.)

J. K.

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In the King's Bench.

John Doe, on the demise
of *A. B.* plaintiff,
and
Richard Roe, defendant.

CHAP.
XLV.

(§ 22.)

The like,
where there
are several
tenants.

I. K. of — gentleman, maketh oath and saith,
that he did on the — day of — last; (or, in-
stant,) personally serve *C. D.* (§c.) tenants in
possession, &c. (as in the last,) with the said decla-
ration, and the notice thereunder written, by deli-
vering a true copy of the said declaration and no-
tice to each of them the said *C. D.* (§c.) (and if
the notice was not directed to all the tenants, say,
“except that the said notice was directed to each
of them the said *C. D.* (§c.) separately;”) and this
deponent at the same time read over the said no-
tice to each of them the said *C. D.* (§c.) and ex-
plained to them respectively the intent and mean-
ing of such service: (or generally, that “this de-
ponent at the same time acquainted each of them
the said *C. D.* (§c.) of the intent and meaning of
the said declaration and notice.”)

I. K.

Sworn, (§c.)

In the King's Bench.

John Doe, on the demise of
A. B. . . . plaintiff,
and
Richard Roe, defendant.

(§ 23.)

The like,
where the de-
claration was
served on one
tenant, and the
wife of ano-
ther.

I. K. of — in the county of — gentleman,
maketh oath and saith, that he did, on the — day
of — instant, personally serve *C. D.* tenant in
possession

U u

J. K.

In

CHAP.
XLV.

possession of part of the premises in the declaration of ejectment hereunto annexed mentioned, with a true copy of the said declaration, and of the notice thereunder written; and this deponent at the same time read over the notice thereunder written to the said *C. D.* and explained to him the intent and meaning of such service: And this deponent further saith, that he did, on the same day, also serve *G. H.* tenant in possession of other part (or residue) of the premises in the said declaration mentioned, with another true copy of the said declaration and notice thereunder written, by delivering the same to, and leaving it with *M. H.* the wife of the said *G. H.* at the dwelling-house of the said *G. H.* being parcel of the premises in the said declaration mentioned; and this deponent at the same time read over the notice thereunder written to the said *M. H.* and explained to her the intent and meaning of such service.

I. K.

Sworn, (&c.)

(§ 24.)

The like, on stat. 4 Geo. II. c. 28. where the premises are untenanted.

In the King's Bench.

John Doe, on the demise of

A. B. plaintiff,

and

Richard Roe, defendant.

Between

A. B. of — the lessor of the plaintiff in this cause, and *I. K.* of — gentleman, severally make oath and say; and first, this deponent *I. K.* for himself saith, that he did on the — day of — last, affix a copy of the declaration in ejectment hereto annexed, and the notice thereunder written, upon the door of the messuage in the said declaration

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Sworn

A. B.
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declaration mentioned, (or, in case the ejectment is not for the recovery of a messuage, "upon —, being a notorious place of the lands, tenements or hereditaments, comprized in the said declaration in ejectment,") there being no tenant then in the actual possession thereof: And this deponent *A. B.* for himself saith, that before such copy of the said declaration in ejectment was affixed as aforesaid, there was due to him this deponent, as landlord of the said messuage, (or, "lands, tenements or hereditaments,") with the appurtenances, from *C. D.* the tenant thereof, the sum of —*l.* for half a year's rent, upon and by virtue of a certain indenture of lease, bearing date the — day of — 18—, and made between this deponent of the one part, and the said *C. D.* of the other part; and that no sufficient distress was then to be found upon the said messuage, (or, "lands, tenements or hereditaments,") with the appurtenances, countervailing the arrears of rent then due to this deponent: And this deponent further saith, that at the time of affixing the copy of the said declaration in ejectment as aforesaid, he had power to re-enter the said messuage, (or, "lands, tenements or hereditaments,") with the appurtenances, by virtue of the said lease, for the non-payment of the rent so in arrear as aforesaid.

A. B.

I. K.

Sworn, (&c.)

A. B. of — the lessor of the plaintiff in this cause, and *I. K.* of — gentleman, severally make oath and say; and first, this deponent *I. K.* for himself

(§ 25.)

The like, and other way.

CHAP.
XLV.

himself saith, that this ejectment is brought for the recovery of the possession of a messuage with the appurtenances, situate in the parish of — in the county of —, held by *C. D.* as tenant thereof to the said *A. B.* at the yearly rent of — *l.*; and that he this deponent did on the — day of — instant, affix a true copy of the declaration in ejectment hereto annexed, and the notice thereunder written, upon the door of the said messuage, there being no tenant then in the actual possession thereof: And this deponent *A. B.* for himself saith, that before the copy of the said declaration in ejectment was so affixed as aforesaid, there was due for rent to him this deponent, as landlord of the said messuage with the appurtenances, from the said *C. D.* the tenant thereof, the sum of — *l.* and upwards, for — then elapsed; and that no sufficient distress was then to be found upon the said messuage with the appurtenances, countervailing the arrears of rent then due to this deponent: And this deponent further saith, that at the time of affixing the copy of the said declaration in ejectment as aforesaid, he had power to re-enter the said messuage with the appurtenances, for the non-payment of the rent so in arrear as aforesaid.

A. B.
I. K.

Sworn, (&c.)

(§ 26.)

Rule for judgment, for the whole premises.

— next after —, in the — year of king *George* the Third.

Doe, on the demise of *A. B.* } Unless the tenant
Roe. } in possession of (or, if the premises are untenanted, "Unless some person claiming title to") the premises in question, shall appear

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appear and plead to issue, on — next after —, let judgment be entered for the plaintiff, against the now defendant *Roe*, by default. Upon the motion of Mr. —.

CHAP. XLV.

By the Court.

Doe, on the demise of *A. B.* } Unless *C. D.* te-
Roe } nant in possession
of part of the premises in question; shall appear and plead to issue, on — next after —, let judgment be entered for the plaintiff, against the now defendant *Roe*, by default: But execution shall issue for such part of the premises only as is in his possession. Upon the motion of Mr. —.

(§ 27.)
The like, for part.

By the Court.

Doe, on the demise of *A. B.* } Unless *C. D.* (*Sc.*)
Roe } tenants in possession
of part of the premises in question, and unless — or some other person claiming title to such parts of the said premises as are untenanted, shall appear and plead to issue, on — next after —, let judgment be entered for the plaintiff against the now defendant *Roe*, by default: But execution shall issue for such part of the premises only as is in the possession of the said tenants, and such other parts as are untenanted.

(§ 28.)
The like, where part of the premises are untenanted, and part untenanted.

By the Court.

Doe, on the demise of *A. B.* } Upon reading the
Roe } affidavit of *I. K.*, and the declaration in ejectment and notice thereto annexed; it is ordered, that *C. D.* the tenant in possession

(§ 29.)
Rule to show cause, why service on the tenant's niece should not be good service.

CHAP.
XLV.

sion of the premises in question, upon notice of this rule to be given to him, shall upon, (&c.) shew cause, why the service of the said declaration and notice upon *M. H.* his niece, should not be deemed as good service of the same, as if served upon him the said *C. D.*: And it is further ordered, that leaving a copy of this rule at the house of the said *C. D.* with some person there, or, in case no person can be met with, affixing a true copy thereof on the outer door of the said house, shall be deemed good service of the said rule upon the said *C. D.* Upon the motion of Mr.

By the Court.

(§ 30.)
The like, why service on the landlord, and a tenant of part of the premises, being his steward, &c. should not be good service.

Doe, on the demise of *A. B.* } Upon reading the
Roe. } affidavit of *I. K.* and another, and the declaration in ejectment and notice thereto annexed; it is ordered, that *C. D.* tenant of part, and landlord of all the premises in question in this cause, upon notice of this rule to be given to him, or left for him at his dwelling-house at — in the county of —, and *E. F.* another tenant of part of the said premises, and who acts as steward or bailiff to the said *C. D.* in the management and receipt of the rents of the premises in question, upon notice of this rule to be also given to him, shall upon, (&c.) shew cause, why the declarations and notices, the one nailed upon the door of a barn, being part of the premises in question, in the possession of the said *C. D.* and another copy nailed on the front door of the rectory-house late in the possession of *G. H.* other part of the said premises,—which rectory-house was shut and fastened up, and is more particularly

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cularly described in the above affidavit,—and another copy of the said declaration and notice delivered to *A. D.* sister of the said *C. D.* should not be deemed as good service thereof, as if they had been personally served upon the said *C. D.* : And it is further ordered, that leaving a copy of this rule at the house of the said *C. D.* with some person living there, and delivering another copy of this rule to the said *E. F.* above-mentioned, shall be deemed as good service thereof, as if personally served on the said *C. D.* Upon the motion of Mr. ———.

By the Court.

As yet of ——— term, in the ——— year of (§ 31.)
the reign of king *George* the Third.

Witness *Edward* Lord *Ellenborough*.

Judgment for
the plaintiff by
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nu.

—— to wit. *John Doe*, on the demise of *A. B.* puts in his place *I. K.* his attorney, against *Richard Roe*, in a plea of trespass and ejectment of farm.

—— to wit. The said *Richard Roe* in person, at the suit of the said *John Doe*, in the plea aforesaid.

—— to wit. *Richard Roe* was attached to answer *John Doe*, &c. (copy the declaration to the end, omitting the notice, and proceed on a new line as follows :)

And the said *Richard Roe*, in his proper person, comes and defends the force and injury when, &c. and says nothing in bar or preclusion of the said action of the said *John Doe*; whereby the said *John Doe* remains therein undefended against the said *Richard Roe* : Therefore it is considered, that the said *John Doe* recover against the said *Richard Roe*, his said term

CHAR.
XLV.

yet to come of and in the tenements aforesaid with the appurtenances, and also his damages sustained by reason of the trespass and ejectment aforesaid : And hereupon the said *John Doe* freely here in court renits to the said *Richard Roe*, all such damages costs and charges as might or ought to be adjudged to him the said *John Doe*, by reason of the trespass and ejectment aforesaid ; therefore let the said *Richard Roe* be acquitted of those damages costs and charges, &c. And hereupon the said *John Doe* prays the writ of the said lord the king, to be directed to the sheriff of the county aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid with the appurtenances ; and it is granted to him, returnable before the said lord the king, on — wheresoever, (&c.)

(§ 32.)

The like, by
bill.

(Entry of warrants of attorney, as in the last.)
— to wit. *Be it remembered*, that in — term last past, before our lord the king at *Westminster*, came *John Doe*, by *I. K.* his attorney, and brought into the court of our said lord the king before the king himself then there, his certain bill against *Richard Roe*, being in the custody of the marshal of the marshalsea of our said lord the king before the king himself, of a plea of trespass and ejectment ; and there are pledges for the prosecution thereof, to wit, *John Den* and *Richard Fen* ; which said bill follows in these words, that is to say :
— to wit. *John Doe* complains of *Richard Roe*, being in the custody, &c. (here copy the declaration to the end, omitting the pledges and notice, and then proceed on a new line as follows :)

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And now at this day, that is to say, on — next after — in this same term, until which day the said *Richard Roe* had leave to imparl to the said bill, and then to answer the same, &c. before our said lord the king at *Westminster*, come as well the said *John Doe*, by his attorney aforesaid, as the said *Richard Roe* in his proper person; and the said *Richard Roe* defends the force and injury when, &c. and says nothing in bar or preclusion, &c. (as before, making the writ of possession returnable on a day certain.)

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XLV.

In the King's Bench.

— term, in the — year of the reign of king *George* the Third.

(§ 23.)

Consent of attorneys, for the tenant to be admitted to defend, &c.

— to wit. *Doe*, on the demise of *A. B.* against *Roe*, for — messuages, (&c.) in the parish of — in the said county: (or if there be several demises, say, "*Doe*, on the demise of *A. B.* for — messuages (&c.) in the parish of — in the said county, and also on the demise of *E. F.* for — other messuages, (&c.) in the parish of — in the said county, against *Roe*." and if the tenant appear for part only, add "being part of the premises mentioned in the declaration.")

It is ordered, by the consent of the attorneys for both parties, that *C. D.* be made defendant in the stead of the

now defendant *Roe*, and do forthwith appear, at the suit of the plaintiff, and (if the ejection be by *bill*;) file common bail, and receive a declaration in an action of trespass and ejection, for the premises in question, and forthwith plead thereto not guilty; and upon the trial of the issue, confess lease entry and ouster, and

insist

And

CHAP.
XLV.

insist upon the title only; otherwise let judgment be entered for the plaintiff against the now defendant *Roe*, by default: And if upon the trial of the said issue, the said *C. D.* shall not confess lease entry and ouster, whereby the plaintiff shall not be able further to prosecute his writ (or, "bill") against the said *C. D.* then no costs shall be allowed for not further prosecuting the same, but the said *C. D.* shall pay costs to the plaintiff, in that case to be taxed: And it is further ordered, that if upon the trial of the said issue, a verdict shall be given for the said *C. D.* or it shall happen that the plaintiff shall not further prosecute his said writ (or "bill"), for any other cause than for not confessing lease entry and ouster, then the lessor of the plaintiff shall pay to the said *C. D.* costs in that case to be adjudged.

I. K. attorney for the plaintiff.

L. M. attorney for the defendant.

(§ 34.)
Consent-rule
thereon.

In drawing up the rule on this consent, the Clerk of the rules prefixes the day of making it; omits the premises in the margin; and instead of the attornies names at the end, adds "By the Court."

(§ 35.)
The like, in the
Common
Pleas.

In the Common Pleas.

— term, in the — year of the reign
of king *George* the Third.

— to wit, *Abc.* on the demand of } It is ordered,
A. B. against *Roe*, for — messuages, &c. } by consent of
(as in the last.) } *I. K.* attorney
for the plaintiff, and *L. M.* attorney for *C. D.*
who claims title to the tenements in question,
that the said *C. D.* shall be admitted defend-
ant; and that the said *C. D.* shall immediately ap-
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CHAP.
XLV.

pear by his said attorney, who shall receive a declaration, and plead thereto the general issue, this term; and that at the trial to be had thereon, the said *C. D.* shall appear in his proper person, or by his counsel or attorney, and confess lease entry and ouster, of so much of the tenements specified in the plaintiff's declaration, as are in the possession of the said defendant or his tenant, or any person claiming by or under his title; or that in default thereof, judgment shall be thereupon entered against the defendant *Richard Roe*, the casual ejector; but proceedings shall be stayed against him, until default shall be made in any of the premises: And by the like consent, it is further ordered, that if by reason of any such default, the plaintiff shall happen to be nonsuited upon the trial, the said *C. D.* shall take no advantage thereof, but shall thereupon pay to the plaintiff costs, to be taxed by the prothonotaries: And it is further ordered, that the lessor of the plaintiff shall be liable to the payment of costs to the said *C. D.* by the court here to be in any manner allowed or adjudged.

By the Court.

Doe, on the demise of *A. B.* } Upon reading the
Roe } rule made yesterday.
and upon hearing Mr. — (&c.) for the lessor of
the plaintiff, and Mr. — (&c.) for the tenant ;
it is ordered, that the defendant enter into a rule
for confessing lease and entry, and also for confessing
ouster of the nominal plaintiff, in case an actual
ouster of the plaintiff's lessor by the defendant
shall be proved at the trial, but not otherwise.

(§ 36.)
Rule in *K. B.*
to authorize
the tenant to
confess lease
and entry
only.

By the Court.

Doe,

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(§ 37.)
Consent-rule
thereon.

Doe, } It is ordered, by the consent of the attor-
Roe, } nies for both parties, that *C. D.* be made
defendant, &c. (as before p. 665. to "not guilty;")
and upon the trial of the issue, confess lease and
entry, and also ouster of the nominal plaintiff, in
case an actual ouster of the plaintiff's lessor by the
defendant shall be proved at the trial, but not
otherwise, and insist upon the title and such actual
ouster only; otherwise let judgment be entered,
(&c.) and if upon the trial of the said issue, the said
C. D. shall not confess lease and entry, and also
ouster upon the condition aforesaid, whereby,
(&c.): And it is further ordered, that if upon the
trial of the said issue, a verdict shall be given for
the said *C. D.* or it shall happen that the plaintiff
shall not further prosecute his said writ (or "bill"),
for any other cause than for not confessing lease
and entry, and also ouster subject to the condition
aforesaid, then the lessor of the plaintiff shall pay
to the said *C. D.* costs in that case to be adjudged.

By the Court.

(§ 38.)
Rule in *K. B.*
for admitting
the landlord to
defend, &c.

Doe, on the demise of *A. B.* } It is ordered, that
Roe } *E. F.* landlord of
the tenant in possession of the premises in question
in this cause, shall be joined and made defendant
with the said tenant, if he shall appear: And the
said *E. F.* desiring, if the said tenant shall not ap-
pear, that he may appear by himself, and consent-
ing that in such case he will enter into the common
rule to confess lease entry and ouster, in such man-
ner as the said tenant ought, in case he had appear-
ed; (or if the rule be special, to confess lease and
entry only, say "to confess lease and entry only,

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without ouster, unless an actual ouster of the lessor of the plaintiff by the said *C. D.* or those claiming under him, be proved at the trial;") leave is given to the said *E. F.* pursuant to the late act of parliament, if the said tenant shall not appear, to appear by himself, and upon his entering into such common rule, to become defendant in the stead of the casual ejector, and to defend his title to the said premises without the said tenant: The plaintiff nevertheless is at liberty to sign judgment against the casual ejector; but execution thereon is stayed, until the court shall further order. Upon the motion of Mr. ———.

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XLV.

By the Court.

It is ordered, that *E. F.* landlord of the premises in question, be joined and made defendant, together with *C. D.* tenant in possession of the premises in question, in the common rule by consent in ejectment, instead of the casual ejector, in case the said *C. D.* shall appear: And it is further ordered, that in case the said *C. D.* shall neglect to appear, the said *E. F.* may appear by himself, and defend his title to the premises in question, pursuant to the late act of parliament; he hereby consenting to enter into the like rule that the said *C. D.* by the course of the court, in case he had appeared, ought to have done: Nevertheless, the plaintiff shall be at liberty to sign judgment against the casual ejector; but execution is hereby stayed, until this court shall make further order therein: And by consent of counsel for the said *E. F.* it is further ordered, that the said *E. F.* upon the trial to be had, shall admit himself to be in the actual possession

(§ 39.)
The like, in
the Common
Pleas.

CHAP. sion of the said premises. On the motion of Mr.
XLV. Serjeant *Shepherd*, for the said *E. F.*

By the Court.

(§ 40.) — to wit. Appearance for *C. D.* at the suit
Præcipe for ap- of *John Doe*, on the demise of *A. B.*
pearance, by
original.

(§ 41.) *C. D.* } And the said *C. D.*
Plea of not ats. } by *L. M.* his attor-
guilty. *Doe*, on the demise of *A. B.* } ney, comes and de-
fends the force and injury when, &c. and says
that he is not guilty of the supposed trespass
and ejection above laid to his charge, in man-
ner and form as the said *John Doe* hath above
thereof complained against him: And of this he
the said *C. D.* puts himself upon the country, &c.

(§ 42.) *C. D.* } Upon hearing the
Judge's order ats. } attorney or agents on
for particulars. *Doc*, on the demise of *A. B.* } both sides, and by
consent, I do order that the plaintiff do deliver to
the defendant's attorney, the particulars of the pre-
mises for which this ejection is brought; and in
the mean-time, all further proceedings in this cause
be stayed. Dated the — day of — 18—.

(§ 43.) I do hereby give you notice, that this ejection
Particulars of is brought for the recovery of — messuages, (&c.)
premises, for with the appurtenances, situate in the parish of —
which the ejection is brought. in the county of —. Dated, (&c.)

Yours, &c.

I. K. plaintiff's attorney.

To Mr. *L. M.*
defendant's attorney.

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To Mr.
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I do hereby give you notice, that this ejectment is defended for — messuages, (&c.) with the appurtenances, situate in the parish of — in the county of —, now in the possession of the above-named *C. D.* or his under-tenant. Dated, (&c.)

CHAP. XLV. (§ 44.)

The like, for which it is defended.

Yours, &c.

L. M. defendant's attorney.

To Mr. *I. K.* plaintiff's attorney.

Doe, on the demise of *A. B.* } Upon reading the affidavit of *L. M.* (&c.) it is ordered, that the lessor of the plaintiff, upon notice, (&c.) shew cause, why further proceedings in this action should not be stayed, until a sufficient guardian be appointed for the lessor of the plaintiff, who will undertake to pay to the defendant, such costs as may happen to be adjudged to him; and that in the mean-time, further proceedings be stayed. Upon the motion of Mr. —.

(§ 45.)

Rule in *K. B.* for staying proceedings, till a guardian be appointed for an infant lessor, to answer costs.

By the Court.

Doe, on the demise of *A. B.* } Upon reading the affidavit of *L. M.* and another, it is ordered, that the lessor of the plaintiff, upon notice, (&c.) shew cause, why further proceedings in this cause should not be stayed, until sufficient security be given to answer the defendant his costs, in case the plaintiff shall be non-suited, or a verdict shall be given for the said defendant; and that in the mean-time, further proceedings be stayed. Upon the motion of Mr. —.

(§ 46.)

The like, till security be given for costs.

By the Court.

Doe,

I do

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XLV.

(§ 47.)

The like, on
payment of
rent, &c.

Doe, on the demise of *A. B.* } Upon reading the
Roe } affidavit of the de-
fendant, it is ordered, upon the said defendant's
forthwith bringing into court, the whole rent due
and in arrear, and such sum to answer the costs
as the master shall direct, that further proceedings
in this cause be stayed: And it is referred to the
master, to compute the said arrears of rent, and
to tax the said costs; and upon the said defen-
dant's paying the said lessor of the plaintiff, what
the said master shall find due and allow for the
said rent and costs, that all further proceedings
therein, as to the non-payment of the said rent,
be stayed: But it is further ordered, if the said les-
sor of the plaintiff has any other title to the premises
in question, than for the non-payment of the said
rent, he is at liberty to proceed. Upon the mo-
tion of Mr. —.

By the Court.

(§ 48.)

Issue, by ori-
ginal.

— term, (the term of the appearance and plea,)
in the — year of the reign of king *George*
the Third.

— (to wit). *C. D.* was attached to answer *John*
Doe, &c. (as in the declaration to the end, substitut-
ing the name of the real defendant for that of the
casual ejector, and omitting the notice; after which
proceed on a new line as follows:)

And the said *C. D.* by *L. M.* his attorney, comes
and defends the force and injury when &c. and
says that he is not guilty of the supposed trespass
and ejectment above laid to his charge, in manner
and form as the said *John Doe* hath above thereof
complained against him: And of this he the said *C. D.*

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puts himself upon the country ; and the said *John Doe* doth so likewise : Therefore the sheriff is commanded, that he cause to come before our lord the king, on — wheresoever our said lord the king shall then be in *England*, twelve, &c. by whom, &c. and who neither, &c. to recognize, &c. because as well, &c. ; the same day is given to the parties aforesaid, &c.

The issue by *bill*, jury-process, and record of *nisi prius* in ejectment, are the same as in other cases, except that the plea or action is described as “ a plea of trespass and ejectment of farm.”

— next after —, in the — year of king *George* the Third.

(§ 49.)

Rule for costs, for not proceeding to trial according to notice.

Doe, on the demise of *A. B.* } Upon reading the affidavit of *L. M. Roe*. } gent. it is ordered, that the attornies on both sides shall attend the master, and he shall examine the matter, and tax the defendant his costs, for that the lessor of the plaintiff has not proceeded to trial pursuant to his notice ; which costs, when taxed, shall be paid by the said lessor of the plaintiff, if it shall appear to the master that costs ought to be paid. Upon the motion of Mr. ———.

By the Court.

Afterwards, &c. (as before, p. 238. to the words “ tried and sworn,” and then as follows :) say upon their oath, that the said *C. D.* is guilty of the trespass and ejectment within laid to his charge, in manner and form as the said *John Doe* hath within

(§ 50.)

Postea for the plaintiff, on not guilty.

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e the said *C. D.*
puts

CHAP. XLV. complained against him; and they assess the damages, &c. (as before, p. 247).

(§ 51.)

The like, for defendant.

Say upon their oath, that the said *C. D.* is not guilty of the trespass and ejectment within laid to his charge, in manner and form as the said *John Doe* hath within complained against him: Therefore, &c.

(§ 52.)

The like, where part is found for the plaintiff, and part for the defendant.

— as to —, parcel of the tenements within-mentioned, say upon their oath, that the said *C. D.* is guilty of the trespass and ejectment within laid to his charge, in manner and form as the said *A. B.* hath within thereof complained against him; and they assess the damages, (&c.) And as to the residue of the tenements within-mentioned, the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* is not guilty of the trespass and ejectment within laid to his charge, in manner and form, (&c.): Therefore, &c.

(§ 53.)

The like, on a nonsuit, for not confessing lease entry and ouster.

Afterwards, that is to say, on — at —, before, (&c.) comes the within-named *John Doe*, by his attorney within-mentioned, and the within-named *C. D.* although solemnly required, comes not, but makes default; therefore let the jurors of the jury, whereof mention is within made, be taken against him by his default; and the jurors of that jury being summoned also come, and to speak the truth of the matters within contained, being chosen tried and sworn, the said *C. D.* although solemnly called to appear, by himself or his counsel or attorney, to confess lease entry and ouster, doth not come, by himself or his counsel or attorney; nor doth

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doth he confess lease entry and ouster, but therein makes default; wherefore the said *John Doe* doth not further prosecute his writ (or, bill) against the said *C. D.* Therefore, &c.

CHAP.
XLV.

Afterwards, that is to say, on the day and at the place within contained, &c. (as in a common *postea*, to the finding of the jury, which varies according to the facts of the case, and conclude as follows :) But whether or not upon the whole matter aforesaid, by the jurors aforesaid in form aforesaid found, the said *C. D.* is guilty of the trespass and ejectment within specified, the jurors aforesaid are altogether ignorant; and thereupon they pray the advice of the court of our said lord the king, before the king himself: And if upon the whole matter aforesaid, it shall seem to the said court, that the said *C. D.* is guilty of the trespass and ejectment aforesaid, then the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* is guilty thereof, in manner and form as the said *John Doe* hath within thereof complained against him; and in that case, they assess the damages of the said *John Doe*, on occasion of the trespass and ejectment aforesaid, besides his costs and charges by him about his suit in that behalf expended, to — *l.* and for those costs and charges to — *s.* But if upon the whole matter aforesaid, it shall seem to the said court, that the said *C. D.* is not guilty of the trespass and ejectment aforesaid, then the jurors aforesaid upon their oath aforesaid say, that the said *C. D.* is not guilty thereof, in manner and form as he hath within pleading alledged. And because, (&c.)

(§ 54.)
Special ver-
dict.

CHAP.

XLV.

(§ 55.)

Judgment for the plaintiff, by *coznavit actionem, relicta verificatione*, after issue joined, with a *remittitur damna*, by original.

Judgment signed, (&c.)

As yet of — term, (&c.)
 (Entry of warrants of attorney, as before, p. 663.)
 — to wit. *C. D.* was attached to answer *John Doe*,
 &c. (copy the issue, to the end of the award of the *ver-
 nire facias*, and proceed as follows :) At which day,
 before our said lord the king at *Westminster*, come the
 parties aforesaid, by their attorneyes aforesaid; and
 hereupon the said *C. D.* relinquishing his said plea by
 him above pleaded, says that he cannot deny the ac-
 tion of the said *John Doe*, nor but that he the said *C. D.*
 is guilty of the trespass and ejectment above laid to
 his charge, in manner and form as the said *John Doe*
 hath above thereof complained against him; and
 he confesses and admits that the said *John Doe* hath
 sustained damages, by reason of the said trespass
 and ejectment, to the sum of —, besides his
 costs and charges by him about his suit in this
 behalf expended: And hereupon the said *John Doe*
 freely here in court remits to the said *C. D.* the re-
 sidue of the damages in the said declaration men-
 tioned; and he prays judgment, and his term yet to
 come of and in the tenements aforesaid with the ap-
 purtenances, together with his said damages so con-
 fessed, and his costs and charges aforesaid, to be
 adjudged to him, &c. Therefore it is considered, that
 the said *John Doe* do recover against the said *C. D.*
 his said term yet to come of and in the tenements
 aforesaid with the appurtenances, together with the
 damages aforesaid, to the said sum of —, in form
 aforesaid confessed, and also — *l.* for his said
 costs and charges, by the court of our said lord
 the king now here adjudged to the said *John Doe*,
 and with his assent; which said damages costs and
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charges in the whole amount — *l.* And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of — aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid with the appurtenances; and it is granted to him, returnable before our said lord the king, on — wheresoever, &c.

CHAP.
XLV.

(To the end of the issue, and then as follows :)
At which day, before our said lord the king at *Westminster*, come the parties aforesaid, by their attorneys aforesaid; and hereupon, the said *C. D.* as to —, parcel of the tenements in the said declaration mentioned, relinquishing his said plea by him above pleaded, says that he cannot deny the action of the said *John Doe*, nor but that he the said *C. D.* is guilty of the trespass and ejection above laid to his charge, in manner and form as the said *John Doe* hath above thereof complained against him: And upon this the said *John Doe* says that he will not further prosecute his suit against the said *C. D.* for the trespass and ejection in the residue of the tenements aforesaid; and he prays judgment, and his term yet to come of and in the said — with the appurtenances, parcel, &c. together with his damages costs and charges by him in this behalf sustained: Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said — with the appurtenances, parcel, &c. and also — *l.* for his said damages costs and charges, by the court of our said lord the king now here adjudged to the said *John Doe*, and with his assent, and also with the as-

(§ 56.)
The like, for the plaintiff, as to part of the premises, and for the defendant, on a *nolle prosequi*, as to the residue.

Judgment
signed, (&c.)

CHAP.
XLV.

sent of the said *C. D.* And let the said *C. D.* be acquitted of the said trespass and ejection in the residue of the tenements aforesaid, and go thereof without day, &c. And the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of — aforesaid, to cause him to have possession of his said term yet to come of and in the said — with the appurtenances, parcel, &c. and it is granted to him, returnable before our said lord the king, on — wheresoever, &c.

(§ 57.)
The like, on
verdict for the
plaintiff.

(To the end of the *postea* as in other cases, *mutatis mutandis*, and then as follows:) Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the tenements aforesaid with the appurtenances, and his said damages to — *l.* by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to — *l.*: and let the said *C. D.* be taken, &c. And hereupon the said *John Doe* prays the writ of our said lord the king, to be directed to the sheriff of the county of — aforesaid, to cause him to have possession of his said term yet to come of and in the tenements aforesaid with the appurtenances; and it is granted to him, returnable before our said lord the king, on — wheresoever, &c.

Capiatur.

(§ 58.)
The like, for
the plaintiff, as

Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet

to

to come of and in the said — parcel, &c. with the appurtenances, and the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs and charges, by the court of our said lord the king now here adjudged of increase to the said *John Doe*, and with his assent; which said damages costs and charges in the whole amount to — *l.* And let the said *John Doe* be amerced for his false claim against the said *C. D.* as to the residue of the tenements in the said declaration mentioned, whereof the said *C. D.* is acquitted in form aforesaid; and the said *C. D.* go thereof without day, &c. And hereupon the said *John Doe* prays the writ, &c. (as in the last.)

CH.
XL.
to part of the premises, and for the defendant as to the residue.

(To the end of the *postea*, and then as follows :)

(§ 59.)

And thereupon the said *John Doe* freely here in court confesses, that he will not further prosecute his suit against the said *C. D.* as to the remaining three-fifths of the tenements in the said declaration mentioned; therefore, as to the said three-fifths of the tenements aforesaid, let the said *C. D.* be acquitted, and go thereof without day, &c.: And the said *John Doe* prays judgment, and his term yet to come of and in the said two-fifths of the tenements aforesaid, whereof the said *C. D.* is convicted, together with his damages costs and charges aforesaid: Therefore it is considered, that the said *John Doe* do recover against the said *C. D.* his said term yet to come of and in the said two-fifths of the tenements aforesaid with the appurtenances, and the damages costs and charges aforesaid, by the jurors aforesaid in form aforesaid assessed, and also — *l.* for his said costs

The like, for the plaintiff, as to part of the premises, and *nolle prosequi* as to the residue, for which there was no finding by the jury; with award of *habere facias possessionem*, and return.

Judgment signed, (&c.)

against the casual ejector, pursuant to the first-mentioned rule. Upon the motion of Mr. —,

CHAP.
XLV.

By the Court.

George the Third, (&c.) To the sheriff of — greeting: Whereas *John Doe* lately in our court before us at *Westminster*, by our writ, (or if by bill, say “by bill without our writ,”) and by the judgment of the same court, recovered against *C. D.** his term then and yet to come of and in — dwelling-houses, &c. (as in the declaration in ejectment,) with the appurtenances, situate and being in the parish of — in your county, which *A. B.* on the — day of — in the — year of our reign, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise, the said *John Doe* entered into the said tenements with the appurtenances, and was possessed thereof, until the said *C. D.* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said tenements with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which was not then nor is yet expired, and ejected the said *John Doe* from his said farm; whereof the said *C. D.* is convicted, as appears to us of record: Therefore we command you, that without delay you

(§ 61.)

Habere facias possessionem.

* If the judgment was by default, the execution is against *Richard Roe*, the casual ejector.

cause

CHAP. XLV. cause the said *John Doe* to have the possession of his said term yet to come of and in the tenements aforesaid with the appurtenances; and in what manner you shall have executed this our writ, make appear to us, on — wheresoever we shall then be in *England*; and have there this writ. Witness, (&c.)

(§ 62.) *George the Third, (&c.)* To the sheriff of — greeting: Whereas *John Doe* lately in our court before us at *Westminster*, by our writ, (or if by bill, say “by bill without our writ,”) and by the judgment of the same court, recovered against *C. D.* his term then and yet to come of and in — dwelling-houses, &c. (as in the declaration in ejectment) with the appurtenances, situate and being in the parish of — in your county, which *A. B.* on the — day of — in the — year of our reign, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — in the — year aforesaid, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; and also his term then and yet to come of and in — other dwelling-houses, (&c.) with the appurtenances, which *E. F.* on the — day of — in the — year aforesaid, had demised to the said *John Doe*, to hold the same to the said *John Doe* and his assigns, from the — day of — in the — year aforesaid, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; by virtue of which said several demises, the said *John Doe* entered into the said several tenements with the appurtenances,

The like, on a double demise.

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purtenances, and was possessed thereof, until the said *C. D.* afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the said several tenements with the appurtenances, which the said *A. B.* and *E. F.* had respectively demised to the said *John Doe*, in manner and for the several terms aforesaid, which were not then nor are yet expired, and ejected the said *John Doe* from his said several farms; whereof the said *C. D.* is convicted, as appears to us of record: Therefore we command you, that without delay you cause the said *John Doe* to have the possession of his said several terms, yet to come of and in the said several tenements with the appurtenances; and in what manner you shall have executed this our writ, make appear to us, on — wheresoever, (&c.); and have there this writ. Witness, (&c.)

George the Third, (&c.) To our chancellor of our county-palatine of *Lancaster*, or to his deputy there, greeting: Whereas, &c. (as in the last writ, to the words “as appears to us of record,” and then as follows:) Therefore we command you, that by our writ, under the seal of our said county-palatine to be duly made, and directed to the sheriff of the same county, you command the said sheriff, that without delay he cause the said *John Doe* to have the possession of his several terms aforesaid, yet to come of and in the several tenements aforesaid with the appurtenances; and in what manner the said sheriff shall execute our said writ, let him certify to you, so that you may make the same known to us,

CHAP.
XLV.

(§ 63.)
The like, to a
county-palati-
ne.

CHAP. us, on — wheresoever, (&c.); and have there
XLV. this writ. Witness, (&c.)

(§ 64.)

The like, and
feri facias for
costs.

George the Third, (&c.) To the sheriff of —
greeting: Whereas, &c. (as in the *habere facias*, to
the return-day, and then as follows:) We also
command you, that of the goods and chattels of the
said *C. D.* in your bailiwick, you cause to be made
— *l.* which the said *John Doe* lately in our said
court before us at *Westminster* aforesaid, recovered
against the said *C. D.* for his damages which he had
sustained, as well on occasion of the trespass and
ejectment aforesaid, as for his costs and charges by
him about his suit in that behalf expended; where-
of the said *C. D.* is also convicted, as appears to us
of record: And have you the said monies before us,
on the return-day aforesaid, wheresoever, (&c.) to
render to the said *John Doe*, for his damages afore-
said; and have there this writ. Witness, (&c.)

(§ 65.)

The like, and
capias ad satis-
faciendum for
costs.

George the Third, (&c.) To the sheriff of —
greeting: Whereas, &c. (as in the *habere facias pos-*
sessionem, to the return-day, and then as follows:)
We also command you, that you take the said *C. D.*
if he shall be found in your bailiwick, and him safely
keep, so that you may have his body before us, on
the return-day aforesaid, wheresoever, (&c.) to sa-
tisfy the said *John Doe* — *l.* which in our said
court before us at *Westminster* aforesaid, were ad-
judged to the said *John Doe*, for his damages which
he had sustained, as well on occasion of the trespass
and ejectment aforesaid, as for his costs and charges
by him about his suit in that behalf expended;
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whereof the said *C. D.* is also convicted, as appears to us of record; and have there this writ. Witness, (&c.)

CHAP.
XLV.

In the King's Bench.

John Doe, on the demise of (§ 66.)

A. B. plaintiff,

Affidavit of demand and refusal, &c. to found attachment for non-payment of costs.

Between

and

C. D. defendant.

L. M. of — gent. maketh oath and saith, that he this deponent did on — the — day of — instant (or last), personally serve the above-named *A. B.* with the rule or order for the payment of costs, on account of his not having proceeded to trial pursuant to his notice, and the master's *allocatur* thereon, and also with the consent rule, and writ of *capias ad satisfaciendum* under the seal of this honourable court, herunto annexed, by delivering unto him the said *A. B.* true copies thereof respectively; and at the same time, he this deponent shewed the said original rules, *allocatur* and writ of *capias ad satisfaciendum*, to the said *A. B.* and demanded of him the payment of the sum of — *l.* taxed upon the said first-mentioned rule or order, and also of the further sum of — *l.* being the costs adjudged to him this deponent, on the final judgment obtained in the above action, as appears by the master's *allocatur* on the said first-mentioned rule or order, and by the said writ of *capias ad satisfaciendum*: But the said *A. B.* refused to pay the same, or any part thereof, and the same are still wholly due and unpaid.

Sworn, (&c.)

George

CHAP.
XLV.

(§ 67.)

Scire facias, for
the plaintiff.

George the Third, (&c.) To the sheriff of — greeting: Whereas *John Doe*, lately in our court before us at *Westminster*, by our writ, and by the judgment of the same court, recovered against *C. D.* (or, if against the casual ejector, "*Richard Roe*,") his term then and yet to come of and in one messuage, (&c.) with the appurtenances, in the parish of — in your county, which *A. B.* on the — day of — in the — year of our reign, had demised to the said *John Doe*; to have and to hold the same to the said *John Doe* and his assigns, from the — day of — then last past, for and during and unto the full end and term of — years from thence next ensuing, and fully to be complete and ended; by virtue of which said demise, the said *John Doe* entered into the tenements aforesaid with the appurtenances, and was thereof possessed, until the said *C. D.* (or "*Richard Roe*") afterwards, to wit, on the — day of — in the — year aforesaid, with force and arms, &c. entered into the tenements aforesaid with the appurtenances, which the said *A. B.* had demised to the said *John Doe*, in manner and for the term aforesaid, which is not yet expired, and ejected the said *John Doe* from his said farm; and also — *l.* for the damages which the said *John Doe* had sustained, as well on occasion of the trespass and ejectment aforesaid, as for his costs and charges by him about his suit in that behalf expended; whereof the said *C. D.* (or "*Richard Roe*") is convicted, as appears to us of record: And now, on the behalf of the said *John Doe*, in our said court before us, we have been informed, that although judgment be thereupon given, yet execution of that judgment still remains to be

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CHAP.
XLV.

made to him; wherefore the said *John Doe* hath humbly besought us to provide him a proper remedy in this behalf: And we being willing that what is just in this behalf should be done, command you, that by honest and lawful men of your bailiwick, you make known to the said *C. D.* (or, "*Richard Roe*,") that he be before us, on — wheresoever, (&c.) to shew, if he has or knows of any thing to say for himself, (or, if against the casual ejector, the sheriff should be commanded to "make known to the said *Richard Roe*, and also to — and — the tenants of the tenements aforesaid, that they be before us, on — wheresoever, (&c.) to shew if they have or know, or if either of them hath or knoweth, of any thing to say for themselves or himself,") why the said *John Doe* ought not to have the possession of his said term yet to come of and in the tenements aforesaid, and also execution of the damages costs and charges aforesaid, according to the force and effect of the said recovery, if it shall seem expedient for him so to do; and further to do and receive what our said court before us shall consider of him (or, them) in this behalf: And have there the names of those by whom you shall so make known to him (or, them), and this writ. Witness *Edward Lord Ellenborough*, (&c.)

THE END.

ERRATA.

- Page 4. (§ 2.) in margin, for *rticles* read *articles*.
 18. (§ 3.) line 1. for *b* read *by*.
 24. (§ 24.) in margin, dele *Præcipe for*.
 75. (§ 39.) in margin, for *Return* read *Entry of return*.
 182. (§ 1.) line 8. for *Christian name of C.* read *name of C. D.*
 189. (§ 3.) at the end, add *the same day is given to the parties aforesaid, &c.*
 202. (§ 13.) in margin, for *The like, on demurrer* read *For the defendant to enter it*.
 238. (§ 1.) line 4. for *William Jones* read *Ewan Law*.
 239. (§ 2.) line 4. The like.
Id. (§ 3.) line 4. The like.
 479. (§ 73.) in margin, for *Rule to appear* read *Rule for judgment*.
 507. (§ 25.) in margin, The like.
 613. ——— line 16. for 610, 11. read 611.

N. B. The form of the affidavit, in p. 100. (§ 11.) has become obsolete; and that of the writ of inquiry, in p. 171, 2. is rendered unnecessary, in consequence of the determination of the Court of Common Pleas, in the case of *Moody v. Pheasant*, 2 Bos. & Pul. 446.

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See Affid

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ABATEMENT

Plea of misnomer in. 182

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See *Replevin*, 19, 20.

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