



*Officium Vicecomitum.*

THE  
OFFICE AND AV-  
thoritie of SHERIFS.

WRITTEN FOR THE  
better incouragement of the Gentic  
(vpon whom the burthen of this Office  
lyeth) to keepe their Office, and Vndersherife,  
in their houes; That so by their continual care of  
the businesse, and eye over their Officers,  
they may the better discharge their dutie to  
God, their Prince, and Countrey, in the  
execution of this their Office.

GATHERED OVT OF THE STA-  
tutes, and Bookes of the Common  
Lawes of this Kingdome.

By MICHAEL DALTON of  
Lincolnes Inne Esquire.

*Our Countrey is the common Mother of vs all.*

LONDON,  
Printed for the Companie of  
STATIONERS.

1623.

*Cum Privilegio.*





TO THE RIGHT HO-  
NORABLE AND RIGHT  
REVEREND FATHER IN GOD  
IOHN, LORD BISHOP OF LIN-  
colne, Lord Keeper of the Great Seale of Eng-  
land, and one of his Maiesties most honou-  
rable priue Councell.

*Right Honourable,*



And my especiall good Lord;  
The saying of the wise man,  
*That much reading is a weari-  
nesse to the flesh,* I haue found  
by experience to be true. Ne-  
uerthelesse a Man should neuer be wearie  
of well doing, and therefore this Labour of  
mine, howsoever weakely done, yet ten-  
ding to the weale publicke, and common  
good of my Countrie, I haue once againe  
thought meete to offer to the publicke view,  
partly in duetie to the Kings most excellent  
Maiestie, and partly in zeale to the benefit  
of my Countrie. For the scope of this booke

is

## THE EPISTLE

is principally the preferuation of his Maie<sup>x</sup>sties peace, the Execution of Iustise, and the keeping of his Maie<sup>x</sup>sties rights : The first whereof, is the safetie of his Maie<sup>x</sup>stie, his royall issue, and of all his subiects : The second, is the life of his lawes : And the last, the maintenance of his Honour, and Regall estate ; wherein I haue done his Maie<sup>x</sup>stie the best seruice I can . The second thing aimed at in the composing of this Booke, is the good of my Countrie ; for it setteth forth the Office, Authoritie, and Duetie of the Sherife, who is his Maie<sup>x</sup>sties deputie in his countie, and hath committed vnto him (*Custodiam Comitatus*) the charge of the whole countie ; the execution of whose charge in euerie of the three former particulars tendeth not onely to the good of the Prince, but also of all his people. And for the gentrie of this land, vpon whom the burthen of this office lyeth, they (by a kind of custome) haue vsed to transferre and turne ouer this their authoritie and charge, to their Vndersherifes and Officers (men for the most part of meane estate, who looking onely after their priuate profit, neglect the publicke, regarding little or nothing, either the preferuation of the Kings rights, or the common good of the Countrie ;



## DEDICATORIE.

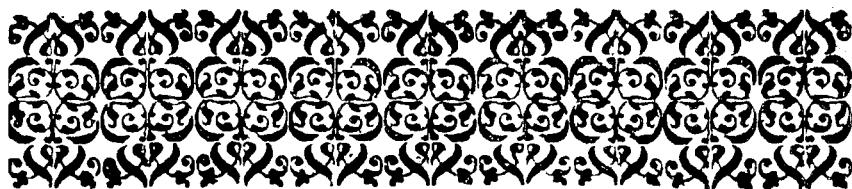
Countrie; but contrariwise vse much deceit, to the King in concealing his rights and dueties, and much oppression to his subiects) wherein they neither well foresee the hazard which may come to themselues, by the breach of their oathes to God, and by the indamaging of their estates and credit in their Countrie; nor yet the dayly and manifold oppressions and extortions which be vsed by these vnder officers in diuers parts of this Realme, to the intollerable grieuances of the subiects. All these in some measure I haue herein discovered; And a principall meanes to prevent these things hereafter, I conceiue to be, the plaine setting downe of this Authoritie, and Office of the Sherife, and the discoverie of these abuses; that such as hereafter shall vndergoe the place, may more fully vnderstand themselues, and these things; and so may the better endeuour to execute their said Office, according to their Oathes; whereby they shall the better performe their duties to GOD, their PRINCE, and their Countrey. I haue presumed to craue your Honours Patronage of this my labour, both because your Lordship, in regard of your high place, hath a principall charge vnder his Maiestie, for the appointing and chosing  
of

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of these great Officers of Iustice; and also to testifie my vnfaigned thankfulness to your Lordship for your especiall fauour, which you haue many wayes vouchsafed vnto me, wherein crauing your Honours acceptance of my well meaning towards your Honour, and the seruice of my Countrey, I humbly take my leaue, praying to God for the continuance of your Lordship, in all Honor and prosperitie in this life, and euerlasting happinesse in the life to come.

*Your Lordships in all  
dutie euer bounden,*

MICHAEL DALTON.



THE OFFICE AND AV-  
thoritie of Sherifes gathered out of the  
*Law. bookes and Statutes of this*

R E A L M E :

Co. p. 49. &  
97.



The most eminent & supreme dignitie from the *Cambden.*  
Conquest vntill the 11. yeare of King Edward  
the third, was the Earle or Countee, being  
aunciently of the bloud Royall, and taking  
their names Comites à Comitatu, or, Comi-  
tes nomen acceperunt à comitando, quia princi-  
pem comitarentur ad bella publica que negotia, ejus lateri sem-  
per hærentes: And these were of auncient time Præfecti seu  
Præpositi comitatus, the Rulers or Gouvernours of the coun-  
ties or shires vnder the King, for so imports the Saxon  
words, scz. Shire Reue, id est, *le Reue del Shire*, which is  
as much as Præpositus comitatus. And these Earles had an-  
ciently committed to them from the King the charge and  
custodie of the countie, which the shirife now hath.

Cambden  
265.

For the two honourable names, titles, and dignities of  
Dukes and Marqueses came in long after the Conquest:  
the name or title of Duke being no name of dignitie in Eng-  
land, vntill the time of King Edward the third, who first cre-  
ated his eldest sonne Prince Edward (called the Blacke  
Prince) Duke of Cornwal, and after also created his other  
sonnes Dukes.

And Marqueses, their title or name was not before the  
time of King Richard the second; Robert Earle of Orford  
being then made the first Marques, as appeareth by Ma-  
ster Cambden in his *Britania*.

B

The

## The Office of Sherifes.

*Vicecomes.*

The Sherife, Vicecomes, est vicem gerens, seu Vicarius Comitatus, following and executing all matters of justice, as the Earle should do. And auncient Kings ordeined in euerie countie these Sherifes, to keepe the peace &c. when the Earles were absent from their charges, Co.9. Preface.

It seemeth that Earles, by reason of their high employments, being not able to follow also the businesse of the countie, were deliuered of all that burden, and onely enioyed the honour as now they do: and the Sherife though he be still called Vicecomes, yet all he doth, and all his authoritie is immediatly from and vnder the King, and not from or vnder the Earle. So then at this day the Sherife hath all the authoritie, for the administration and the execution of justice, which the Countee or Earle had, the King by his Letters Patents now committing to the Sherife Custodiam Comitatus. Co.9.49. See the patent of his office hic postea.

*Subvicecomes.*

And although the King by his Letters Patents graunteth to the Sherife Custodiam Comitatus without any expresse words to make a deputie, yet the Sherife (qui gerit vicem Comitatus) who commeth now in place of the Countee, may make his deputie, his Subvicecomes, or Undersherife, who in auncient time was called Seneschallus Vicecomitis, and in the Statute of Westminster 2. cap. 39. (made ann 13. Ed. 1. & ann Dom. 1285.) he is called Sub vicecomes, and in the Statute made 11. Hen. 7. cap. 15. he is called the Shire Clerke. Co.9.49.

*The Antiquitie.*

Sherifes were great officers, and ministers of justice (as now they are) long time befoze the Conquest, Co. lib. 3. preface, & 4. fol. 33.

Master Cambden sheweth out of Ingulphus that Sherifes were first ordained of King Ælfred (or Alfred, otherwise called Alured in our English Chronicles) who raigned about Anno domini 872. And that he first diuided England into counties, and after caused the counties (or shires) to be parted into hundreds or tythings, and that euerie Englishman liuing vnder law as a liege subiect, should be within one hundred and tithing or another; and if a man were accused of any transgression, he should bring in straightwaies some one out of the same hundred and tything, that would be

Cambden  
158.

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be bound for his apparance to answer the law; but he that could not find such a suretie, should abide the seueritie of the lawes: and in case any man standing thus accused (either before, or after suretiship) fled, then all that hundred and tything incurred a mulct or fine to be imposed by the king. He also diuided the Gouvernozs of the prouinces (which before were called Vice Domini, that is Vice Lords) into two offices, to wit, Judges, now Justices, and Vicecomites, that is Sherifes, which still retain the same name: hæc Cambden, out of Ingulphus, and Malmesburie.

Facta etiam Ministrorum suorum diligentèr inuestigauit, adeo vt quos ex auaritia, aut imperitia errare cognosceret, ab officio remouebat. This king Alfred did also diligently search out the doings of his officers, so that if he knew any of them to erre, either thzough couetousnesse, or vnskillfulnesse, then he remoued from their office. FOX. 129.

This word Sherife, or Shireue, is deriued of two Saxon words, viz. of *Scyre*, that is the Shire or Countie, and *Reue*, that is Keeper or Gardian, and so *Scyre Reue* is the Keeper or Gardian of the Shire.

But albeit the Saxons in their time gaue this Officer the vulgar name vled to this day, yet it is manifest that the office was of auncient time, and before the Saxons set any foot in England. Co. 9. Preface. So also before the time of the Saxons comming into England, and long before the time of king Alfred, this kingdome was diuided into shires or counties, but king Alfred in his time made the most certaine diuision of them; for where during the time of the Heptarchie, there were many incrochments one vpon another, and many auncient bounds obscured, all that he reformed by his exact partition. Co. 9. Preface.

The Sherife then, as his name propozts him to be the keeper or gouernour of the countie, so to this day his patent is, *Commiffimus tibi custodiam comitatus.*

12.H.7. fol.  
17.

At the first all administration of justice was in one hand, scz. in the Crowne, but afterwards by reason of the multitude of people, the administration of justice was diuided into counties, and the power was committed to one deputie within euerie countie, scz. first to the Earle, as is before said,

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and after (in his absence) to the Sherife, who was, and now is appointed to be the Kings Deputy to keepe the peace; and also that all the people should be obedient to him, and readie at his commaund in defence of the realme, when any of the Kings enemies should come, & so he was appointed to be a conseruator of the peace, and to punish malefactorz, and to defend the realme when enemies should come, and to be attendant vpon the King in time of war, and to cause all the people within his countie to go with the King for to defend the land against the Kings enemies &c.

So then the high Sherife ( Vicecomes ) is an officer of great antiquitie, and of great trust and authoritie, hauing from the King the custodie, keeping, and command, of the whole Countie committed to his charge and care. Co.4.332

*What maner  
of persons.*

And for that this Office is of so great trust, it is meete that such persons as shall be chosen thereunto, be men of good sufficiencie, and such as may attend it, least otherwise the King be much indammaged, and his people be disinherited, and oppressed; and to this purpose the Statutes made 9.Edw.2.2. Edw.3.ca.4.4. Edw.3.cap.9.& 5.Edw.3.cap.4. haue ordained, that no man shall be Sherife in any Countie, except he haue sufficient lands within the same Countie (or Shire) where he shall be Sherife, whereof to answer the King, and his people, in case that any man shall complaine against them.

Neither shall any Steward, or bailife to any great Lord, be made Sherife (except he be put forth of seruice.) but such persons onely shall be appointed as may wholly attend to serue the King, and his people Statute 9.Ed.2.

*Their election.*

The High Sherife is to be appointed yearely by the Lord Chancellor or Keeper of the great Seale, the Lord Treasurer of England, the President of the Kings Council, the Keeper of the Kings priuie Seale, and the chiefe Baron of the Exchequer, taking to them the chiefe Justices of the one Bench and of the other, as appeareth by the Statutes of 14.Edw.3.cap.7. & 21.H.8.cap.20. whereas in former times they were chosen by the countrie as it appeareth by the Statute made 28.Ed.1.cap.8.& 13.

The election of the Sherife shall be done yearely in the  
moztow

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morofo after All foules, at the Elchequer by the Statutes  
9. Edw. 2. & 14. Edw. 3. cap. 7.

12. Ed. 4. c. 1 And the Kings letters Patents whereby the new Sherifes are made, doe commonly beare date the first day of Nouember.

Co. 4. 33. The office of a Sherife cannot be appoztioned or deuided, and therefore when the King maketh or appointeth one to be Sherife durante bene placito, although the King may determine this his Office at his pleasure, yet he cannot determine it in part, as for one Towne, or one Hundred, or any other part, neither can he abridge the Sherife of any thing incident or belonging to his office, for the Office is intier, and so it must continue in that intiertie without any fraction or diminution (except it be by act of Parliament, or that the King shall make some Towne &c. a Countie of it selfe, and shall appoint there a Sherife, and all things belonging to a Sherife within the same Towne &c.) Neither can the office of a Sherife be determined, nor any part thereof, without and vntill a new Sherife be made for the execution and administration of Justice, Co. 4. 33. See here postea tit. Countie Court.

*Cannot be deuided.*

2. & 3. Ed. 6. cap. 34. Now the first thing that euery new elected Sherife must doe at the enterance into his Office, is that forthwith before he receiues his patent and before he doth exercise any part of the said Office, he must put in sufficient sureties by himselfe, or by his sufficient deputie or deputies, into the Kings Elchequer (sc. in the Kings remembrancers office there) and there must enter into recognisance in such summe, & vpon such conditions (as it seemeth) as the lord Treasurer, and Barons of the Elchequer shall thinke meete, vpon paine of euerie Sherife making default therein, to forfeit to the King an hundzeth pounds to be leuied of his lands and goods wheresoeuer &c. by proceffe to be made out by the said Barons, see the statute of 2. & 3. Ed. 6. c. 34.

*He must enter Recognisance.*

The high Sherife (or some other for him) hauing entered into Recognisance with sureties in the Elchequer as  
• aforesaid, his Atturney there will write him a note, thereby signifying that he is Sherife of such a Countie, and that he hath entred Recognisance as aforesaid, The which note must be deliuered to one of the Sixe clerkes in the Chaun-

*He must procure his Patents.*

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terie for his warrant to make the Sherifes Patents by (sc. the Patent of his Office, with his wozit of assistance :) And besides, a wozit of discharge, to be deliuered to his predecessor, to discharge him out of his office ; the which would be deliuered with all speede, for his owne benefit or his Undersherifes ; for vntill it be deliuered to his predecessor, the precedent Sherife may doe execution of all procelle.

The high Sherife hath his authoritie giuen him by two Patents ; by the one the King commits to him the custodie of the Countie ; by the other the King commaundes all other his subiects to be aiding and assisting to the Sherife, in all things belonging to his said Office.

The formes of the said Patents are as followeth.

### *The first Patent of his Office*

**I**acobus dei gratia Rex Angliæ, Scotiæ, Franciæ, & Hiberniæ, fidei defensor &c. Omnibus ad quos præsentis literæ peruenierint salutem : sciatis quod Commissimus dilecto nobis *A. B.* Militi Comitatus nostri Cantebrię. cum pertinent' custodiend' quam diu nobis placuerit, Ita quod firmas debitas nobis reddat annuatim, ac de debitis nostris, & omnibus alijs ad officium vic' commit' nostri prædict' spectant' nobis respondeat ad Scaccar' nostrum, in cuius rei Testimonium has literas nostras fieri fecimus patentes, Teste me ipso apud Westm' die anno Regni nostri &c.

### *The Patent of Assistance.*

**I**acobus dei grac' Rex Angliæ, Scotiæ, Franciæ, & Hiberniæ fidei defensor &c. Archiepiscopis, Episcopis, Ducibus, Comitibus, Baronibus, Militibus, liberis Hominibus, & omnibus alijs de com' Cantebri, salutem. Cum concesserimus dilecto nobis *A. B.* Militi officium vic' com' nostri prædict' cum pertinent', habend' quam diu nobis placuerit prout in literis nostris patentibus ei inde confectis plenius continetur, vobis mandam' quod eidem *A. B.* tanquam vicecom' nostro com' prædict' in omnibus quæ ad officium illud pertineñ intendent' sitis auxiliantes & respondent'. In cuius rei testimonium has literas nostras fieri fecimus patentes,



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patentes, teste meipso apud Westm̄ die Anno  
regni nostri &c.

*The forme of the writ of discharge directed to the old Sherife.*

Dyer 355. **I**acobus &c. dilecto sibi R.S. armig. nuper vicecom̄ Canteb̄ salutem. Cum concesserimus dilecto &c. nobis A.B. militi com̄ nostrum prædict' custodiend' quam diu nobis placuerit, prout in literis nostris patentibus ei inde concess. plenius continetur, tibi præcipimus quod eidem A.B. com̄ nostr' prædict' cum pertinentijs, vna cum rotulis, breuibus, memorand', & omnibus alijs ad officium vicecom̄ prædict' spectant', quæ in custodia tua existunt, per Indenturas inde inter te, & præfatum A.B. debite conficiend' liberes. Teste me ipso apud Westmonaster' quinto die &c.

Co.3.72. **And yet it seemeth by the Register fol. 295. that there be (or haue beene) two Writs or Commissions to this purpose, The first a Writ of discharge in these words,**

Rex omnibus ad quos &c. salutem. Sciatis quod commissimus dilecto nobis A.B. &c. (who is the new Sherife) com̄ nostrum Canteb̄ cum pertinen' custodiend' quam diu nobis placuerit &c. In cuius rei &c.

**And then another writ is directed also to the old sherife, and the effect thereof is thus.**

Et mandatum est R.S. armige' nuper vic' com̄ prædict' quod eidem A.B. milit', com̄ prædict' cum pertinentijs, vna cum rotulis, breuibus, memorand', & omnibus alijs officiũ illud tangent', quæ in custodia sua existunt, per Indenturas inde, modo debito conficiend' liberet custodiend' in forma præd'. Teste &c.

**Also euerie Sherife befoze he shall take vpon him to vse or exercise his said office, must take and pronounce two corporall oathes vpon the holie Euangelists, the one to the kings supzernacie, the other concerning the due execution of the office of a Sherife.**

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He must take  
his Oathes.

- **The oath to the supzernacie the Sherife is to take by force of the statutes made 1. Eliz. cap. 1. & 5. Eliz. cap. 1.**

The

# The Office of Sherifes.

*The forme of which Oath followeth.*

*To the Su-  
premacie.*

I *A. B.* doe vtterly testifie and declare in my conscience that the Kings Highnesse is the onely supreme Governour of this Realme, and of all other his Highnesse Dominions and Countries aswell in all spirituall things or causes as temporall, and that no forraine Prince, Person, Prelate, State, or Potentate, hath or ought to haue any Iurisdiction, Power, Superioritie, Preheminance, or Authoritie, ecclesiasticall, or spirituall, within this Realme, and therefore I doe vtterly renounce and forsake all forraine iurisdctions, powers, superiorities, and authorities, and doe promise that from henceforth I shall beare faith and true allegiance to the Kings Highnesse his heires and lawfull successors, and to my power shall assist and defend all iurisdctions, priuiledges, preheminences, and authorities granted or belonging to the Kings Highnesse, his heires and successors, or vnited or annexed to the imperiall Crowne of this Realme, so helpe me God, and by the contents of this booke.

**The oath concerning the Office of the Sherife, seemeth to be by the auncient Common Law of this Land, see Dyer folio 168.**

*The forme whereof is as followeth.*

*Concerning  
the Office.*

**YE** shall sweare, that well and truely ye shall serue the Kings Maiestie in the Office of the Sherife of the Countie of Cambridge, and doe the Kings profit in all things that belongeth to you to doe by way of your Office, as farre forth as you can or may, you shall truely keepe the Kings rights, and all that belongeth to the Crowne, ye shall not assent to decrease, to lessing, ne concealement of the Kings rights, or of his Franchises, and whensoever you shall haue knowledge that the Kings right, or the rights of his Crowne beene concealed or withdrawne, (be it in Lands, Rents, Franchises, or Suits, or any other things) ye shall doe your true power to make them to be restored to the King againe, and if you may not doe it ye shall certifie the King, or some of the Councill thereof, such as you hold for certaine will say it to the King, ye shall not respite the Kings debts for any gift or fauour, where you may raise them without great griuance of the debtors; ye shall truely and rightfully treat the people of your Sherifewicke, and doe right aswell to poore as to rich, in all that belongeth

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geth to your Office ; ye shall doe no wrong to any man for any gift or other behest, or promise of goods, for fauour, nor hate, ye shall disturbe no mans right ; ye shall truely acquite at the Eschequer all those of whom ye shall any thing receiue of the Kings debts, ye shall nothing take wherby the King may leefe, or whereby the right may be lettred or disturbed, or the King delayed, ye shall truely returne and truely serue all the Kings writs as farre forth as shalbe to your cunning, ye shall not haue to be your Vndersherife any of the Sherifes clerkes of the last yeare passed ; ye shall take no Bailife into your seruice, but such as you will answere for ; ye shall make each of your Bailifes to make such oath as you make your selfe in that that belongeth to their occupation ; ye shall receiue no writ by you or any of yours vnsealed, or any sealed vnder the seale of any Iustice, saue of Iustices in oyer or Iustices assigned in the same Shire where ye be Sherife in, or other Iustices hauing power and authoritie to make any writs vnto you by the Law of the Land, or of the Iustices of Newgate ; ye shall make your Bailifes of true and sufficient men in the countie. \* Also ye shall doe all your power and diligence to destroy and make to cease all manner of heresies and errors commonly called Lollaries within your Bailiwicke from time to time to all your power, and assist and to be helping to all Ordinaries and Commissioners of the holy Church, and fauour and maintaine them as oftentimes as ye shall be required by the Ordinaries Commissioners : ye shall be dwelling in your owne proper person within your Bailiwicke for the time ye shall be in the same Office, (except you be otherwise licenced by the King,) ye shall not let your Sherifewicke, nor any Bailiwicke thereof, to any man ; ye shall truely set and returne reasonable and due issues of them that be within your Bailiwicke, after their estate and behauour ; and make your pannells your selfe of such persons as be most next, most sufficient, and not suspect, nor procured as it is ordained by the statutes ; and ouer this in eschewing and restraint of the manslaughter robberies and other manifold grieuous offences that be done daily, (namely by such as name themselues souldiers and by other vagrants the which increafe in number and multiplie, so that the Kings subiects may not sure ride nor goe to doe such things as they haue to doe, to their intollerable hurt and hinderance,) ye shall truely and effectually with all diligence possible to your power execute the statutes, as the

• statutes of Winchester and Vagabonds : All these things ye shall truely obserue and keepe, as God helpe you, and by the contents of this booke.

\* *Le residue del serement, que hic sequitur, fuit insert de puisne temps, come appiere per le Regi-ster fol. 30x*

# The Office of Sherifes.

The parts of this last Oath are shortly these.

- The Kings Right.* 1 **T**ruely to keepe the Kings rights of his Crowne (sc. his Lands, Rents, Franchises, Suits, or any other things) without lessening or concealment of them; or else to certifie the King, or some of his Councill thereof.
- The Kings debts.* 2 **T**hat he shall not respite the Kings debts, where they may be raised without great grievance of the debtoz.
- Right to all.* 3 **T**o doe Right to all, as well pooze, as rich, in all things belonging to his Office.
- The Kings debtors.* 4 **T**ruely to acquit at the Eschequer (upon his account) all those of whom he shall receiue any of the Kings debts.
- Writs.* 5 **T**ruely to serue and returne all the Kings writs.
- Undersherif.* 6 **N**ot to haue to his Undersherife, any of the Sherifes clerkes of the yeare last past.
- Bailifes.* 7 **T**o take no Bailife but such as he will answere for; and such as be true and sufficient men in the Countie.
- 8 **T**o make each of his Bailifes to take an oath, for the true exercise of his Office.
- Writs.* 9 **T**o receiue no writ vnsealed; Nor any sealed, except by Iustices hauing authoritie to make writs vnto him, by the Law of the Land.
- Heresies.* 10 **T**o suppress Heresies, and therein to assist the Ordinarie, being required.
- To be resident.* 11 **T**o bee dwelling in person within his Bailwicke (or Countie) for the time he shall be in this Office, except he be otherwise licenced by the King.
- Not to farme* 12 **T**hat he shall not let to farme his Sherifewicke, nor any Bailwicke thereof.
- Issues.* 13 **T**ruely to set and returne reasonable and due issues, after

Nota, & dre how Sherifs performe this part of their Oath.

See the stat 4.H.4.ca. 5.

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after the estate of the persons.

Juries.

14 to make the pannells \* himselte ; and of such persons as be next neighbours, most sufficient, and not suspect, nor procured.

*Quære how  
this is per-  
formed.*

St. Winch.

15 Cruely and effectually, with all diligence to execute the statutes of Winchester and of Vagabonds.

Concerning this last part of this oath, the statute of Winchester (made 13. Edw. 1.) commandeth that fresh suit be made, from Towne to Towne, and from Countie to Countie, after Felons (sc. vpon robberies murders, burning of houses and other felonies committed) : And that Night-watches be duely kept, for the arresting of suspected persons, (who are to be deliuered to the Sherife;) and that high waies be enlarged, that felons and euill doers may not lurke therein to doe hurt &c. and of all these things the Sherife is to Enquire in his Torne: see hic postea titul<sup>p</sup> Torne.

Now what else the Sherife may or ought to doe in these cases? It seemeth by the said statute of Winchester ca. 1. 2. & 4. and by the statute made 5. Ed. 3. cap. 14. That if any person suspected for felonie shall bee apprehended by the Countie, vpon such fresh suit or Hue and Cry, or that any suspected person shall bee arrested by the Constables or Townsmen vpon their watches by day or by night, and that such persons shall bee deliuered to the Sherife, the Sherife may receiue them without damage, and shall keepe them safely (and may commit them to the Gaole) vntill they shalbe acquitted in due manner, sc. vntill the comming downe of the Iustices assigned to deliuer the Gaole; and in the meane time the Sherife shall enquire of such arrests, and at the comming of the Iustices they must returne such Enquests befoze the Judges of gaole deliuerie, which they haue found, and the cause of the taking, with the bodie of such offendors; but Quære whether the Sherifes shall enquire of such arrests &c. in their Torne, or where else, for if it be in their Torne then by the statute 1. Ed. 4. cap. 2. they must deliuer their Indictments to the Iustices of peace at their Sessions: see hic tit<sup>r</sup> Torne.

Also

## The Office of Sherifes.

Also by the statute of Winchester cap. 6. Sherifes are commanded to follow the Hue and Cry with the Countie, and to keepe Hozles, and Armour so to doe, quod nota.

Also (by the statute made 7. R. 2. cap. 6. ) euerie Sherife ought in person foure times in the yeare, to proclaime the statute of Winchester in euery Hundred of his Countie, and in euerie Market Towne, by his Bailifes ; see stat' 28. Ed. 1. cap. 17.

But what more the Sherifes stand bound to do by this last Article of their Oath, concerning the Statutes of Winchester, and of Vagabonds, Quære.

Before whom the Sherife shall take his Oathes.

*Before whom* **T**he high Sherife ought to take these Oaths (to the su-  
premacie, and for the due execution of his Office) before  
one of the Judges of the Assises of that Shire whereof  
he is Sherife, or before one of the Masters of the Chan-  
cerie, and this would be done (sc. these Oaths would bee  
taken by the Sherife) so soone as his Patents be made  
(if the Sherife be then in London,) for untill he be chozne  
he may not intermeddle nor take vpon him to vse or exercise  
his said Office; or else the Lord Chancelloz or Lord Kee-  
per of the great Seale of England may make and direct a  
speciall Commission (viz. a writ of Dedimus potestatem) vnder  
the great Seale of England to any two Iustices of  
Peace of the same Countie, whereof one must bee of the  
Quorum, giuing them authoritie thereby to tender and  
minister the said Oaths to the new Sherif in the Country,  
and this now is vsuall.

And yet it seemeth such a Dedimus potestaté may be dire-  
cted to any other person or persons: see Dy. 168. Bronkers  
case, where a Dedim<sup>o</sup> (for this purpose) was directed to one  
Hide ouely; and so it is vled in all the Shires of Wales,  
as may appeare by the statute made Anno 34. Hen. 8. cap.  
26.

This Dedimus potestaté they may haue from the Clerke  
of the Chancerie which made the Patents.

But

## The Office of Sherifes.

7

But such Commissioners to whom such a *Dedimus potestatem* shall be directed, to take these Oathes, must certify the same into the Chauncerie, at such day as the writ commaundeth them.

And the certificate or Returne of such *Dedimus potestatem* may be in this sort following.

*The returne of a Dedimus potestatem, to take  
the Oath of a Sherife*

**V**irtute istius breuis nobis directi (tali die, & Anno &c. infra script') recepimus Sacrament' infranominat' *A. B.* vicecom' Canteb' de officio illo bene & fideliter faciend', iuxta formam cuiusdam scedulæ, præsentibus annex' prout interius nobis precipitur ac prout breue istud in se exigit & requirit.

F. B. }  
    & } *Commission'*  
M. D. }

Executio istius breuis (or Commissionis) patet in quadam scedula huic breui annexa.

Nos *F. B.* & *M. D.* in Cancellariam domini regis certificamus, nos virtute breuis domini Regis, huic scedulæ, annexat' quarto die mensis Decemb' Anno regni dicti domini nostri *Jacobi* dei gratia Regis Angliæ, &c. vicefimo & Scotiæ quinquagesimo apud C. in comitat' Canteb', recepisse Sacrament' *A. B.* militis (in breue prædict' nominat') tam de officio vicecom' in dicto com' Canteb' bene & fideliter faciend', iuxta formam scedulæ, breui prædict' annexæ, quam Sacramentum specificat' in actu parlamenti An' regni domin' *Elizabethæ*, hujus Regiæ, Angliæ &c. primo fact' secundum tenorem breuis & scedulæ breui prædict' similit' annex', et in omnibus prout in prædict' breui precipitur.

*F. B.*  
    &  
*M. D.*

## The Office of Sherifes.

And if such Commissioners, shall returne the Commission (or writ) and the Oathes to be taken, when they were not taken this is finable in the Starre Chamber Dyer 168.

Anno 1. Eliz. Bronker Sherife of Wilt. was sued of per-<sup>Dyer 167.</sup>jurie in the Star Chamber (by information at the Queenes suit) for a false returne by him made of Sir Iohn Thinne to be knight of the Parliament for the said Countie, whereas in trueth one Penruddoke was cholen by the greater number of freeholders in the said Countie (in deceit of the Countie, and whole Realme) and it did appeare vpon examinations taken that (the Sherife) Bronker was neuer sworn to execute his Office, although there were a *Dedimus potestatem* directed to one Hide to giue Bronker his oath, but Hide had disuaded him from taking his oath in regard of the difficultie of the Articles or matters therein contained; and this matter by graue resolution and in the honorable and great assembly of the Starre Chamber was decreed against Bronker in manner following, that is to say, first for the contempt of the auncient Law (sc. that euerie Sherife was to take such an oath, in incepto officij, in the beginning of his office, or before he should execute his office) Bronker was adiudged to pay for his fine to the Queene an hundred pounds, besides the imprisonment of five weekes, and also he was adiudged to pay another hundred pounds to the Queene according to the statute for his false returne and to be imprisoned for one yeare without baile, and Hide was fined at twentie Markes besides imprisonment: And also Bronker and Penruddoke were bound by Recognisance, to stand to the Arbitrement of fouer of the Noble men for the hundred pounds due to Penruddoke.

So if the Sherife shall exercise, vse, supply, or occupie, his said Office, before he hath taken both these oathes (sc. to the Supremacie, and concerning his Office) he is finable in the Starre Chamber Dyer 168.

Also if the Sherife shall not performe his Oath concerning his Office, hee shall not onely be in danger of perjurie, but also to bee fined &c. in the Starre Chamber, see Dyer 61. & 168.

¶ Pet see Co. 11. 98. That a man shall not be charged in any Court Iudiciall, for the breach of a generall Oathe, which



which he taketh when he is made an Officer or minister.

There is a third Oath tending to the declaration of that dutie, loyaltie and obedience, which euerie well affected subiect, by the Law of God, and bond of allegiance, ought to beare to his soueraigne, which Oath is by force of the statute 3. Iacobi Regis cap. 4. And is to be taken by all Sherifes (and other Officers and Ministers of Justice) whensoever it shall be lawfully tendered to them; and this is to be taken (by the Sherife) before one of the chiefe Iustices (of the Kings Bench, or Common pleas) or before one of the Iustices of Assise of the same Countie, whereof he is Sherife, or before such other person as the Lord Chancelor or Keeper of the great Seale shall thereto authorize, by Commission or writ of *Dedimus potestatem*.

*The oath of Allegiance.*

7.Iac.cap.6.

The forme of the Oath of Allegiance you may see at large, in the stat. 3. Iac. cap. 4.

After that the Sherife hath taken the said oath to the supremacie, and for the due execution of his Office, then vpon the writ of discharge deliuered to (his predecessor) the old Sherife (or at or before the first Countie Court to be kept by the new Sherife) the new Sherife must take ouer from the old Sherife, all his prisoners (which are in the Gaole by their names,) and all his writs, precisely by view and by Indenture to be made betweene the old Sherife and the new Sherife, in which Indenture all the causes which the old Sherife hath against euerie prisoner, must be set forth and deliuered, at the perill of the old Sherife, or else the new Sherife needes not to take any notice of any thing that is omitted and left out of the Indenture; for he is not chargeable with it, but the old Sherife, as it appeareth in Westbies case (Co. 3. fol. 72.) against the Sherifes of London where the case was this: one Buston was seuerally in execution vnder custodie of (Skinner and Catcher) the Sherifes of London, aswell at the suit of one Dighton, as at the suit of Westbie the plaintife, and the said Skinner and Catcher the defendants, at the end of their yeare, deliuered ouer the bodie of Buston (amongst other prisoners) to the new Sherifes by Indenture, in which Indenture the execution at the suit of Dighton was mentioned, but the execution at the suit of Westbie the plaintife was omitted, and after Buston escaped, and it was adiudged that the old Sherifes

<sup>4</sup>*He must take by Indenture the prisoners, and writs.*

Crom. 203.  
Co. 4. 72. a.  
Co. 3. 72.

B 2

## The Office of Sherifes.

*Escape.*

rikes ( Skinner, and Catcher ) should be charged with this escape ; for when the bodie of Buston was deliuered to the new Sherifes as in execution at the suit of Dighton only, Buston was thereby out of custodie of the new Sherifes for the execution of Westbie ; for that the prisoner was not deliuered to the new Sherifes ( nor they charged with him ) for the execution of Westbie the plaintife ; and although Buston were still within the Gaole ( at the suit of Dighton ) yet this was adiudged an escape , in Law , as to Westbie , for that Westbie ( in whom there was no default ) ought not to be without remedie in this case.

Also in this former case of Westbies , it was resolved, Co. 3. 72. Vide Dyer 335. that vntill the prisoners be deliuered to the new Sherife, they remaine in the custodie of the old Sherife , notwithstanding the new Letters patents made to the new Sherife and the writ of discharge and the writ of deliuerie directed to the old Sherife.

*Notice.*

Also it was there resolved that the old Sherife ought to giue notice to the new Sherife of all and euerie the executions , which are against any prisoner in their custodie , although the executions bee of Record ; and that the new Sherife is not to take notice of them at his perill , but shall bee charged onely with such whereof the old Sherife giues to the new Sherife notice.

If the old Sherife shall giue notice to the new Sherife , of the executions which are against any prisoner by word onely , or by some note in writing vnder the old Sherifes hand , or vnder the hand of his vnder Sherife , and not by Indenture , and the new Sherife bee content to accept of such notice , it seemeth sufficient , for *volenti non fit injuria* ; Co. 3. 72. Register 295. And yet the new Sherife may compell the old Sherife to make such deliuerie by Indenture , and so runne all the writs, *de breuibus & Rotulis liberandis* , in the Register . see hic fol.

Also the new Sherife is not bound to receiue the prisoners from the old Sherife but onely at the Gaole , and in no other place , as *Hast. Crompton reporteth* : Crompt. 214.

But

But it was in Westbies case resolved, that if a Sherife hath in his custodie diuers persons in execution, and dyeth in the time of his office, and after a new Sherife is made, here the new Sherife at his perillought to take notice of all the executions which are against any person which hee findes in the gaole; but this is by reason of the necessitie, for that there is no person to make deliuerie to him of them, or to giue him notice, and besides the new Sherife may take notice himselfe of all executions, they being vpon record.

Also in the afoze recited case, it was resolved, that if a Sherife die in the time of his office, and befoze that another is made Sherife, there if a prisoner who is in execution shall breake the gaole and escape and go his way, yet this is no escape, for that by the death of the Sherife, all his prisoners were in the custodie of the law, vntill a new Sherife bee made; and the prisoner may be taken againe in execution at any time after wheresoeuer he shall be found. *Escape.*

*The forme of an Indenture for setting ouer of prisoners, and writs betweene two Sherifes.*

**T**His Indenture made &c. Betweene *R.S.* Esquire late Sherife of the countie of Cambridge of the one part, and *A. B.* Knight, now Sherife of the said countie on the other part witnesseth, that the said *R.S.* by vertue of his Maiesties writ of discharge (of his late office) to him directed, hath deliuered and set ouer vnto the said *A. B.* these writs following, that is to say, *A Capias versus W. F. retorn. Octab. Hillarij ad sectam Iohannis Smith &c.* Together with the bodies of *Io. N.* in execution at the suit of *G. H.* for a debt of twentie and two pounds, and *I. H.* at the suit of *C. D.* in execution for ten pound, and *R. G.* in execution as well at the suit of *Io. Dighton* for a debt of one hundred pound, as also at the suit of *N. West* for a debt of fortie pound &c. In witnesse whereof &c.

All the writs which are set ouer in the Indenture betweene the Sherifes, if they haue beene executed by the old Sherife, then they must be returned by him, and indorsed vnder by the new Sherife thus:

Istud Breue prout indorsatur mihi deliberatum fuit per

## The Office of Sherifes.

per R.S. Armiger nuper vic' prox' prædecessor' meum in exit' ab officio suo.

A.B. miles vicecom̄

If the writ of discharge of the old Sherife be brought into the Countie and deliuered to the Clerke of the Countie sitting in the Countie court in the absence of the high Sherife, Quære whether the old Sherife be thereby discharged of his Office ipso facto, or not: it seemed to Manwood and Dyer, that the high Sherifes authoritie ceased by such publike deliuerie of the writ of discharge in the Countie court, where euery man is bound by law to take notice; but yet if by such deliuerie of the writ the old Sherife bee discharged, then there shall be an escape in the old Sherife of his prisoners, against his will, for the old Sherife by indentment, was readie to deliuer them &c. Ideo quære Crompt. 203. Dyer 355.

Also by the words of the statute of 12.Edw.4. cap.1. it seemeth that the old Sherife may execute his office, vntill his writ of discharge be deliuered to him, see also the statute of 17.Edw.4.6.& hic postea.

*Après son  
discharge son  
est void.*

But if the old Sherife after he is discharged &c. shall make his warrant or precept to any of his (late) Bailifes or Officers to arrest another, and the Officer by force thereof shall arrest the partie, an action of false imprisonment will lie against both the Sherife and Officer for such an Arrest.

The old Sherife returned the Proclamation vpon an Exigent, after that he was discharged of his Office, and by the Judgement of the Court the vltarie was void and the partie was discharged. Dyer 43.

- 5 The Sherife is to read his Patents and to name his Officers.

*5  
He must  
reade his  
Patents,*

The high Sherife at the first Countie court which shall happen to bee after his election and the discharge of the old Sherife, must read (or cause to bee read) his Patent and his writ of assistance; and must also nominate his vnder-Sherife

# The Office of Sherifes.

10

Sherife, the Countie Clerke, and foure deputies (at the least) to make repleuings, for the ease of the Countrie, which deputies ought to dwell twelue miles distant one from another, in euerie quarter of the Countie one, to grant repleuings in the Sherifes name, and to make deliuerance of distresses when neede shall require. Vide stat' 1. & 2. Phil. & Mar' cap. 12.

*And name his Officers.*

1. & 2. P. & M.

And the Sherife for euerie moneth that hee shall lacke such deputies shall forfeit siue pounds &c.

And yet rather than the high Sherifes (being gentlemen of worth) should hazard their oathes, or credit in their Countrie, they had better (in regard thereof, and for their better discharge of their duties both to God, and to their Prince in the execution of their Office) to keepe their Office, and their Undersherife in their houses, so as they may take a continuall suruey themselues, as well of their Office as of their Undersherife, and other Officers, rather than to trust their Officers, especially their Undersherife, being a stranger, with the whole execution of their Office, and upon bond and couenants which by the statute of 23. \* Hen. 6. cap. 10. are thought by many opinions to be boide, or voidable at least, (but see moze concerning such bonds &c. hic postea fol. ) And if those bonds proue not good, then a lewde, or an ignorant Undersherife may hazard the undoing his high Sherife.

*Good advise to keepe his Office in his house.*

\* See also the Stat 5. & 6. Ed 6. cap. 16.

And therefore if the high Sherife will sleepe quietly and take his repose in safetie (whether he shall keepe his Office and his Undersherife in his house, or no) he shall doe well and wisely to looke for, and to take good securitie from his Undersherife, before hee doe trust him with his Office; which security is commonly by bonds and couenants taken by the high Sherife, of the Undersherife and his friends; the forme of such bonds and couenants; see hic postea fol.

6 The Sherife ought to haue a Deputie or Atturney in euerie of the Courts at Westm &c.

23. H. 6. cap. 10.

Also the new Sherife before he shall retorne any writ in- to the Chancerie, the Kings Bench, the Court of common pleas, or the Exchequer, ought to haue an Atturney, or Deputie

6  
*He must haue deputies at Westm.*

## The Office of Sherifes.

Deputie of Record, in euerie one of those Courts of Record, there to receiue all manner of Writs and Warrants to be deliuered to them, viz. all such Writs and Warrants as shall be directed to the Sherife for whom such Deputie is appointed; and if any Sherife shall doe to the contrarie, he shall forfeit fortie pound (to the King and Informer) for euerie such default, and treble damages to the partie grieued or endamaged.

And it seemeth such Deputies must be made by Warrant of Atturney from the high Sherife: And yet the Sherife may make his Deputie without writing, by the opinion of Brudnell 2 I. H. 7. Fol. 37. a. see Hic.

*Wales and  
Counties  
Palatine.*

Also euerie Sherife of euerie of the twelue Counties of Wales, and of the Counties Palatine of Lancaster Chester, and of the Citie of Chester, shall haue in euerie of the Courts of the Kings Bench, and Common Pleas, one sufficient Deputie at the least, to receiue all Writs directed to such Sherife, for whom the same Deputie or Deputies shall be appointed, in like manner and forme, and vpon like paines as by the Lawes and Statutes of this Realme other Sherifes of other Shires within this Realme of England be bound to haue in either of the same Courts: And all Writs of Proclamation shall be deliuered vnto euerie such Deputie of Record in the same Courts: And also like fees shall be paid for making euerie such Writ of Proclamation, and for the inrolling of the same of Record, as is limited in the Statutes of 6. Hen. 8. 1. E. 6. 10. 5. E. 6. 26. 23. Hen. 6. 10. P. Exigt. 7.

For that in former times the Sherifes in diuers Counties of England, hauing their Offices, some for terme of yeares of the Kings graunt, and others trusting of longer continuance in their said Offices, were greatly encouraged, and did take vpon them to doe many and diuers oppressions to the Kings people, and euill seruice to the King: Therefore it was ordained and established by diuers Acts of Parliament as followeth.

*Not aboue  
one yeare.*

First, that no Sherife, <sup>b</sup> Undersherife, nor Sherifes clerke, shall tarrie or abide in his office (or shall occupie the said office) aboue one yeare, vpon paine to forfeit a hundreth pounds yearely as long as hee occupieth the office: And euerie 14. E. 3. c. 7.  
28. E. 3. 7.  
42. E. 3. 9.  
23. H. 6. 2.

## The Office of Sherifes.

\*Pardon to  
such offen-  
ders, gran-  
ted 28. Hen.  
6. cap. 3.  
& 8. E. 4. c. 4.  
by Act of  
Parlement.

euerie \* pardon made for such offence or forfeiture shall be void; and all Letters Patents made to occupie such office aboute one yeare shall be void, any wordes or clause of non obstante put into such patent notwithstanding. And whoso- euer shall presume or take vpon him to occupie the office of a Sherife aboute one yeare, by force of such letters patents, shall be disabled for euer after to be Sherife within any Countie of England: And euerie man which will may sue for the said summe of two hundred pounds so forfeited against such Sherife, Undersherife, or Sherifes clerke, in any action of debt in his owne name, and the King shall haue the moitie of all that which is recovered, and hee that sueth shall haue the other moitie, 23. H. 6. cap. 8.

And yet the King by his prerogative may dispence with these statutes, and may grant the office of a Sherife for yeares, life, or in fee, See 2. H. 7. fol. 6. Br. patents, 109. Co. 7. 14. & Co. 9. 97. Br. prerog. 37. & Fitz. Gft. 33. & Plo. 502. b.

Also persons inheritable to the office of Sherife and vndersherife, and other officers in London and Bristow, are excepted out of these statutes, See Hic postea Fol.

12. E. 4. c. 1.  
17. E. 4. c. 6.  
Cromp.  
208. b.

But for that the high sherifes being chosen yearely the morrow after All Soules, diuers of them sometimes haue not their patents, nor take their oathes a long time after. Therefore it was enacted by other later statutes (made in the time of Edw. 4.) that euerie old Sherife of euerie countie shall haue full power, and may occupie his office (scz. may execute and returne any writ, precept, or warrant, from or out of any the Kings courts of Record at West- minster deliuered to him; as also to doe and execute euerie other thing to his office of a Sherife appertaining, du- ring the Termes of Saint Michaell, and Hillarie, (af- ter the yeare that their office is ended) vnlesse before the same time hee bee lawfully discharged, scz. hath a writ of discharge deliuered him of his office of Sherife- wicke: And they shall not be thereof dammified by force of the aforesaid statute of 23. H. 6. cap. 8.

1. R. 2. c. 11.  
23. H. 6. c. 8.

Also it is ordained that no man which hath benee Sherife (or vndersherife) of any Countie by one whole yeare, shall *Not within three yeares.* he

## The Office of Sherifes.

be chosen Sherife (oz Underherife) of that countie againe within thre yeares next ensuing, (except there beene none other sufficient of possessions and goods to answer the King and his people within the said countie,) vpon paine of forfeiture of two hundred pounds by him that shall occupie his office contrarie to the effect and intent of any of the statutes afoze recited.

But the Sherifes and Underherifes within the citie of London, and of such counties in which they be inheritable to the office of Sherife, beene excepted out of these former statutes. 23.H.6.c.8.

*Must be  
resident.*

Euery Sherife shall dwell and continue in his owne person within his bailwicke oz countie, for and during the time he shall be Sherife, (except he be otherwise licenced by the King) and this the Sherife is bound to do as well by his oath, as by the statute of 4.H.4.cap.5.

Yet if the Sherife being out of his countie shall make a pannell, oz make any returne &c. it is good, See 9.Henr 4. fol. 1.

But if the Sherife be beyond the sea (scz. at Calice, oz elsewhere) and maketh a pannell, oz any returne there, and sends it into England, that is not good, for that hee is no officer but only in England. 9.H.4.1.  
Br. Officers

Note, that a Sherife of one countie hath no authoritie oz power within another countie; neither may any other authoritie, within this realm, exceed their limits and bounds: And yet if the Sherife by force of the Kings writ, shall be commanded to carie his prisoner out of his countie &c. and thereupon shall carrie oz send by baston, his prisoner to the place appointed him, although he shall conuey him through diuers other counties, yet the prisoner shall be said to be in the custodie of the first Sherife, in euerie of those counties, and so to such a speciall intent, the Sherife shal haue authoritie in another countie. Flo. 37.

So if a prisoner of his owne wrong shall make an escape and flie into another countie, the Sherife oz his officers vpon fresh suit may take him againe &c. See hic postea fol. Ibid.



**No Sherif shall let to ferme his office in any maner, nor** *Must not let his office.*  
**his countie, nor any of his bailiwicks, hundzeds, nor** *\* wa-*  
*\* Hundreds and wapentakes be all one.*  
**pentakes; And this the Sherife is restrained to do as wel**  
**by his oath, as by statut, vpon paine to forfeit fortie pound,**  
*See the statutes 9. Ed. 2. Lincolne. 2. E. 3. ca. 12. 4. E. 3. ca. 15. 14. E. 3. ca. 9. 4. H. 4. ca. 5. & 23. H. 6. ca. 10. & 6. Ed. 6. cap. 16.*  
**And yet the Sherife may make and appoint vnder him**  
**his Undersherife, and his bailifes and deputies, for all these**  
**do vse their place in the right of the Sherife, but a lessee or**  
**fermer occupieth the place, or things demised, in his owne**  
**right, See Fineux 20. H. 7. fol. 12. b. And quære of the forme**  
**of the Indentures made at this day betweene the High**  
**Sherife and his Undersherife, and how they are warrant-**  
**able by these statutes.**

*Br. Grants 39.*  
**By the Booke 21. Hen. 7. fol. 36. the countie is but the**  
**profits of the countie, and the issues comming thereby, so**  
**that for the Sherife to let the profits of his countie, or of**  
**any of his bailwicks, or any part thereof, seemeth forbid-**  
**den by the former statutes, See Br. Grants 59. & 20. H. 7.**  
*20. H. 7. 12. b. 13. a.*  
**fol. 12. a b. 21. H. 7. 37. & Pl. 87. a.**

*20. H. 7. 12. a*  
**How the reuenues or issues and profits of the countie**  
**pertaining to the office of a Sherif, seeme to be the fees, an-**  
**nuities, rents, fermes, issues, fines, amerciaments, escheats,**  
**estraies, &c. But quære whether the Sherife be but to ga-**  
**ther by these, and is to bee accountable for these profits to**  
**the King, or that he fermeth these of the King vnder the**  
**name of vicontiels, and payeth a rent for them,**

**Also whether a lease made by the Sherife of his office**  
**or countie &c. only by *parol*, be good, or contrarie to these sta-**  
**tutes or no, see the booke 20. Hen. 7. fol. 12. & 21. H. 7. fo. 36.**  
**pro & contra.**

**Also for that this statute of 23. Hen. 6. is penall, and eue-**  
**rie penall statute shall be taken strictly, therefore by some**  
**opinions, where the Sherife shall let parcell of his countie,**  
**or parcell of the profits thereof, and shall reserue part of the**  
**profits to himselfe, there he is not within the danger of the**  
**statute, except he let the whole: but others hold the contra-**  
**rie, for that otherwise he might let parcell to one, and parcel**  
**to**

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to another, and so the statute should bee of little or no effect.

*Penall statutes* And accordingly it is obserued by the right honourable and late reuerend Judge sir Edward Coke, in his eleventh booke fol. 34. That it is frequent in our Law Bookes, that penall statutes haue beene taken by intendment, to the end that they should not be illuzorie, but should take effect according to the expresse intention of the makers of the act, for the advancement of justice, and in suppression of crimes and hainous offences.

The authoritie and power of the high Sherife.

The authoritie and power of the Sherife is in some cases Absolute or Judiciall, and in some other cases Ministeriall.

And first concerning their Absolute power.

*Absolute or Judiciall.* No Sherife shall hold pleas of any thing pertaining to the kings crowne (by the statute of Magna charta cap. 17.) scz. they shall not hold plee of land, felonie, or trespass &c. See hic fol. *Magna charta.*

And yet by the same statute ca. 35. the Sherifes of every countie may hold their Torne (or Court Leete) in which court they may enquire of treasons, homicides, and other felonies, whereof See hic postea tit. Sherifes Torne, & stat. 52. H. 3. cap. 24. But they shall take no Indictments (by commission procured at their owne suit, but only in their toznes Stat. 28. Ed. 3. cap. 9.

Also the Sherife in his countie court may take a recognisance, &c. See hic tit. Countie courts.

*To keepe the peace.* Again euerie Sherife is by the common lawes a principall and speciall conseruator of the peace within his countie, and hath committed vnto him the custodie of his countie for the time that he is Sherife, and is to see the peace thereof kept and maintained, And vpon request to him made he may commaund and cause another to find sureties for the peace, and may take the same suretie by Recognisance,

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sance, and that ex officio, Fitz. 81.d. *Pea* all obligations that he takes for the preserving of the peace, or to that end, are as recognisances in Law, *Termes del ley*, tit. Vic'.

12.H.7.17. Also if one shall threaten me of life, or member, and that I shall complaine to the Sherife thereof, the Sherife may cause him to find sureties of the peace, and may set him in the stocks, quousque &c. 44.E.3. F.Barr.202.

So if the Sherife shall see one assault another &c.

So if any man shall make an assault upon the Sherife himselfe. See 5.H.7.6.

Also when any of the Kings enemies shall come into the land, the Sherife in defence of the realme, may commaund all the people of his countie to attend him; and he and they are to attend the King to defend the land.

Also when any rebellion, insurrection, or riotous assemblie of people shall bee within the land, the Sherife may raise the power of his countie to apprehend such malefactorz. See hic postea.

10.E.3.c.3. Also the Sherife and Coroners are to take suretie (by recognisance) for the good behauiour of such as haue obtained their pardon for any felonie &c. scz. they are to take six sufficient mainpernoz (for whom they will answer) that the parties pardoned from thenceforth shall beare themselves well and lawfully; And the mainprises (or Recog.) shall be sealed with their seales and returned into the Chancerie.

1.M.ca.8. And yet a Sherife ought not to execute the office of a Justice of Peace in the same countie where hee is Sherife during the terme that hee is Sherife: and all and euery acts to be done by any Sherife by authoritie of any commission of the peace during the time of his Sherifwicke shall be void and of none effect; but and if he be put into the commission of the peace before he be Sherife, and then he is chosen Sherife, and that commission of the peace continueth after that he is discharged of his office of a Sherife, *Quere* if he may not sit or execute the office of a Justice of Peace by force of that commission; it seemeth

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meth

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meth he may; for first by the statute of 1.Ed.6.7. it was ordained and enacted in these words following, scz. That albeit any person or persons being Ju. of P. &c. shall fortune to be made sherife, that yet notwithstanding he and they should remaine Justice and Commissioner, and haue full power and authoritie to execute the same in like manner and forme as he or they might and ought to haue done before the same statute. 1.Ed.6.

After the making of which act, diuers persons being in the commission of the peace were also made Sherifes of the same countie, and did exercise either of the said offices, which seemed not to be conuenient, and therefore it was after enacted by the statute made 1.Mar.ca.8. That no manner of person hauing, vsing, or exercising the office of the sherife of any countie shall vse or exercise the office of the Ju. of peace by force of any commission, or otherwise, in any countie where he or they shall be Sherife during the time only that he or they shall vse or exercise the said office of sherifewicke, any thing in the said former act (made 1.Ed.6.) notwithstanding. 1.Mar.

Now the making of a Justice of peace to be Sherife of the same countie doth not determine the commission of the peace, for then the authoritie of all other the Justices of the peace of the same countie should be thereby determined, but this seemeth onely to disable the person so being Sherife to meddle as a Justice of peace during such time only that he shall be Sherife of the same countie, and that the commission of the peace need neither to be renewed, nor the late sherife newly swozne for the execution of the office of a Justice of peace, but may againe as before execute that office by vertue of the former commission of the peace.

*Arrest for  
lons &c.*

But euery Sherife (by the common lawes of this realme, and by vertue of such his office) may do, and is bound to do his best indeuor, for the conseruation of the Kings peace, and may and ought to pursue, appzehend, arrest, and imprison all Traitors, Murderers, Robbers, and other Felons, and all such other as doe breake, or goe about to breake or disturbe the Kings peace within his countie, and to that purpose the Sherife may take (of that countie where hee is Sherife) any number that hee shall thinke meet to ayde and assist him: and euery man being required

required ought to be ayding therein to him ; and if any man (being required ) shall refuse to aide the sherife therein, they shall be fined to the king : Br. fines 37.

3.E.1.c.9.

And by the stat. of 3. Ed. 1. cap. 9. vpon any felony committed, all men generally shal be ready at the commandement of the sherife ( & at the cry of the countrey ) to pursue and arrest all felons (when any need is) as well within franchises, as without ; and they which make default & thereof be attained, shall make a grieuous fine to the king : and it seemeth the sherife may attache all persons making such default, to appeare befoze the Justices of Gaole deliuerie, there to answer their said default : Officium Coronat' 3. Ed. 1.

Also the sherife may and ought to arrest and attach such felons so apprehended or taken, and ought to imprizon them in the Gaole (as it seemeth) till the comming of the Judges : 3. E. 1. cap. 9. & 4. E. 1. Officium Coronat'.

See more in my Countrey Iustice tit. Forcible Entric & tit. Arrest.

Also sherifes (ex officio) may arrest within their Countie, all persons by them suspected which shal walke by night or day, and which are of euill name or fame ; and they shall commit such offenders to the Gaole, there to remaine untill the comming downe of the Justices assigned to deliuer the Gaole : 5. E. 3. cap. 14. Crompt. 263. *Suspected persons.*

Quære, If the Sherife may not put such suspected persons vnder common mainprise, binding them with two sufficient sureties by recognizance to appeare before the Justices at their next Sessions or Gaole deliuerie, and to certifie the same recognizance before the said Justices accordingly : euerie sherife in Wales may doe this by the statute 34. H. 8. cap. 26.

5. E. 3. c. 14.

Also if any other person shall haue any suspicion of such night walkers, or other persons of euill fame, they may arrest them, or cause the Constable to arrest them, who shall deliuer them to the Sherife, and the Sherife ought to receiue them, and shall enquire of such offenders, and shall returne their enquests before the said Justices of Gaole deliuerie, with that which they haue found, and the cause of their

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said

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saide arrests, together with their bodies : and in case that the saide sherife hath not enquired of such arrests , they shall be amerced : See Hic antea fol.

*Persons in  
Armour.*

Also euerie sherife ( within his Countie ) may and ought to arrest all such persons as goe or ride armed offensively, either in the presence of the sherife, or in faires or Markets or else where in affray of the Kings people, and may commit them to prison, there to remaine at the Kings pleasure ( scz. vntill the Kings Maiestie hath signified his pleasure of them : Or that the Kings Iustices, befoze whom such offendours shall be conuict shall deliuer them : ) and also the Sherife may seise and take away their armour to the Kings vse, and prise the same by the oathes of some present: See my Countrey Iustice, tit. Armour & Baylement.

2.E. 3.c. 3.  
Northampton. Crom.  
203.

And yet they themselues ( scz. the Sherife and his officers ) may lawfully beare armour and weapons : See Hic posse comitatus.

The Sherifes in Wales may put euerie misruled and suspect person within their sherifewicke, vnder common maineprise and suretie of their personall appearance, and that by recognisance with two sufficient sureties, to appeare befoze the Iustices within the limits of their authoritie, at the next generall Sessions to be holden next after the taking of such bonds: & shall certifie the names of them that be bound befoze the Iustices at the saide sessions, without concealment thereof. See the stat. of. 27. H. 8. c. 26. & 34. H. 8. c. 26.

*Weapons from  
seruants.*

Sherifes may and ought to take from seruants ( to husbandrie, & from seruants to any artificer ) as also from labourers & victuallers, their swords, daggers, & other weapons, if they shall find them bearing any: except it be in time of war for the defence of the Realme, or when they bee traueling with their master, or in their masters message: and the sherife may and ought to arrest such offendours, & it seemeth he may commit them to prison there to remaine vntill the next Sessions of the peace or Gaole deliuerie : See before the stat. 2. E. 3. cap. 3.

12. R. 2. c. 6

Also the Sherife shall keepe their saide weapons vntill the next Sessions of the Iustices of the peace, and shall then and there present the saide weapons, together with the names

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names of those persons which did so beare the same weapons.

23.H.6.c.14 If any Noble mans, or other subiects Catoz shall (by *Purueyer del subiect.* way of purueyance) take any mans goods, or any carriage, against the owners will, vpon notice thereof, and request made to the Sherife (or other officer) they shall presently arrest all such Catoz and buyers so offending, and shall send them to the Kings next prison, there to remaine without baile, vntill they haue redeliuered the said goods, carriages, and things so taken, or the verie value of the same: And if the said Sherife (or other officer) shall doe the contrarie (scz. shall not assist the partie oppressed in such case) they shall forfeit twentie pounds, the one halfe to the King, and the other halfe to the partie from whom such things be so taken (if he will sue for the same, and if he wil not sue, any other may sue for the King and himselke, &c.) And besides if any such Catoz or buyers bee duely conuict of such vnlawfull taking, they shall yeeld to the partie grieved the treble value of the things so taken, and double costs of suit, and withall shall make fine and ransome to the King.

17.R. 2. c.8. By the statute made 17. R. 2. cap. 8. Sherifes (and all *Riotors.* other the Kings officers) when they haue notice of any vnlawfull assembly or riot, ought to raise the power of the countie (if need be) and with all their power to appzehend such malefactorz, and to commit them to prison, there to remaine vntill due execution of the Law be done vpon them: And all Lords (of signozies) and all other the Kings leige people, ought to be attendant to the Sherife and other officers with all their power and force herein.

13.H. 4. 7. And by a later statute made 13. Hen. 4. If any riot or vnlawfull assembly shall bee made in any part of the Realme, the Iustices of peace (or two of them at the least) and the Sherife or Undersherife (of the countie where such riot or assembly shall be made) shall come with the power of the countie (if need be) and shall arrest all such offendozs, as *Arrest.* they shal find there present (z all such as come in the companie with such riotozs:) And shall take away their weapons and armour, and shall cause the same to be prised, and to be answered to the King as forfeited, See the stat. of Northampton, made Añ. 2.E.3.cap.3.

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And in the execution of this arrest of riotors, the Sherife, &c. may iustifie the beating, wounding, or killing of any of the riotors, if they shall resist, or will not yeeld themselves.

*Record.*

After the arrest made of such riotors, the said Justices and Sherife or Undersherife shall make a Record in writing of the said riot, scz. of all that which they shall find or see done in their presence against the said Law (without any enquirie therof by a Jurie) and such a Record shall be a sufficient conviction of the offendors. 13.H.4.c.7.

*Imprison.*

After such Record made of the riot, the said Justices and Sherife or Undersherife shall presently commit the offendors to prison: And also may asseſſe their fines (or else they may leaue that to the Assises or Sessions, &c.) And the power of the countie ought to bee ayding to the Sherife or Undersherife for the conueying of the offendors to the Gaole. Crom.61.b.

And if this statute of 13 Hen. 4. be not executed fully in all and euerie part thereof by the Justices of peace, and by the Sherife or Undersherife, scz. If they shall not arrest all such offendors as they shall find there present: Or if they shall not make a Record in writing of all that which they shall see done in their presence against the Law; Or if they shall not commit the offendors to the Gaole (presently:) Then as well the two next Justices of peace, as also the Sherife or Undersherife shall forfeit each of them one hundred pounds, Cromp. 61. b.

*Inquirie.*

If the riotors be gone before the comming of the Justices and Sherife, then the same Justices, or two of them, ought diligently to enquire thereof (by a Jurie to be returned by the Sherife) within one moneth after such riot or vnlawfull assembly made: and if the truth cannot be found out, then within one moneth next ensuing after the enquirie, the same Justices (or two of them) and the Sherife or Undersherife shall certifie the King and his Councell thereof, which Certificate shall bee made into the Star-Chamber, or to the bodie and board of the priuie councel, or into the Kings Bench of the whole fact, and all the circumstances thereof, with the certaintie of the names of the principall offendors. 13.H.4.7.  
Lamb 316.  
Cromp. 62.

*Certificate.*



offendours) which certificate shall bee of the force of an Indictment of twelve men against the offendours: See 13. H. 4. cap. 7.

13. H. 4. c. 7.  
Dyer 210. And for default of the Justices of Peace and Sherife or Undersherife in not making such certificat, as well the two next Justices of Peace, as also the Sherife or Undersherife shall forfeit each of them one hundred poundes to the King.

19. H. 7. c. 13. And if the said Ryot or unlawfull assemblie be not found by reason of any imbracery or maintenances of the Jurie, then the said Justices of Peace, and the Sherife or Undersherife (ouer and besides such certificat which they must make, according to the aforesaid statute of 13. H. 4.) shall in the same certificat also certifie the names of such maintainours and imbraceours, with their misdemeaours that they know, vpon paine of euery of the said Justices and Sherife or Undersherife to forfeit twentie poundes, if they haue not reasonable excuse for their not certifying of the same.

Lamb. 320. If after the enquirie, and befoze the certificat made, the Sherife happen to die, or one of the Justices be put out of the commission, then no certificat can be made by the opinion of master Marrow.

But quære therof in regard of the penalties inflicted by the statute aforesaid. See more in my Countrie Iustice titulo Ryots.

3. E. 1. c. 32.  
Poulton. No Sherife shall suffer any Barrettozs, or maintainours of quarrels in their shires: This statute seemeth to be heere fallly translated, scz. the last word ( Shires ) for Countie Courts; for the old French statute booke, is in these words, *Puruieu est que nul Viscounte ne soeffre Barrettor mainteiner parols en Countes*: And the title ouer the statute is thus, *Queux devient fere les Iudgements en Countes ou Court de Baron*: And therefore this Statute seemeth to bee onely a prohibition to the Sherife not to suffer any Barrettozs to maintaine any actions, suits or quarrels in their Countie Courts; scz. that sherifes in their countie courts shal not suffer any person by fraud or malice to maintaine multiplicite of vniust and fained suits there, nor to stir by others thereunto. See Hic postea titulo County Courts.

Barretors.

Co. 3. 36.

If

## The Office of Sherifes.

*Disturbers  
of the sherife*

If the Sherifes bailife shall returne a disturbance of the execution of the Kings proces, the Sherife shall forthwith go in person (taking with him the power of the shire) to doe execution; and if he findes his bailifes false he shall impzison them, and if he findes them true, he shall punish the resistors by impzisonment, from whence they shall not be deliuered without the Kings speciall commaundement: And if the Sherife doe find such resistance when he cometh, he shal certifie to the court the names of the resistors, their aiders, consenters, commaunders, and fauourers, and they shall be attached by a writ out of the court to appeare there &c. But it may seeme by the wordes of the statute, that the Sherife shall not punish such resistors (as he findeth) himselfe: for the wordes of the statute are further thus, Neither shall any officer of the Kings meddle in assigning the punishment, for our Lord the King hath specially reserued it to himselfe, because that resistors beeme reputed disturbers of his peace, and of this realme. And yet quere if the Sherife may not arrest and impzison such offenders or resistors (as he shall find himselfe) as breakers of the Kings peace, and so to haue their bodie forth coming and readie to appeare in the Kings court when proces shall come out against them; or that these wordes of the statute shall be only intended of such consenters, commaunders and fauourers as were absent, that they shall be attached by writ &c. Or that the meaning of the statute be, that the Sherife may arrest and impzison such offenders, as he himselfe shall find, but may not inflict any fine, or assigne any other punishment vpon them; for the wordes of the statute are further, that if the Sherife shall returne (into the court) that he could not execute the Kings proces for resistance, he shall be amerced, for he should haue taken the power of the countie to haue aided him therein, and that such returnes of the Sherife redounds much to the dishonour of the King.

13.E.1.C.39

*Amerced.*

*Posse comitatus.*

And note wheresoever the sherife (or any other of the Kings officers) may take posse comitat<sup>us</sup>, either to execute the Kings proces, or to apprehend felons, riotors, or other breakers of the Kings peace, if the Sherife or other officers, shall find resistance therein, it seemeth they may arrest and impzison (for a time at the least) all such resistors, and other such offenders, which they shall find there present: See  
my

my Countrie Iustice titulo Arrest and Imprisonment.

2.E.4.f.6.  
21.H.7.39.

Also whersoever the partie against whom any lawfull proces, writ, or warrant is graunted, shall after he is arrested, or other execution of such warrant done, make resistance, or shall make an assault vpon the officer, there the officer may iustifie the beating and hurting of him, and of all other that shall disturbe the officer in the execution of such proces, writ, or warrant, and may also imprison him and them (in the stocks) for the same, See Br. Trespasse 218. & 296.

And if the sherife, or his bailife, or other officer commeth by vertue of the Kings proces, or other lawfull warrant to arrest another for debt, or trespasse &c. who maketh resistance, and thereupon is slaine by such officer, or by any of his companie, this hath been taken to be no felonie, but iustifiable. See Fitz. Coron 261. Doctor & Student 133.b. Crompt. 24.a. 30.b. Tamen quære what the law is at this day, in this last case.

Sherifes also may baile their prisoners in diuers cases, *Baile prisoners.*  
See hic postea tit. Bailement.

13.R.2.c.8.

Sherifes haue the keeping and correction of the assise *Assise of bread &c.* of bread and ale, scz. they may in their Corne inquire of the assise thereof broken, but if they vpon inquirie shall finde any to be defectiue, they shall take no amerciamento or fine for any default touching the assise, for the which such an offender ought to haue bodilie punishment by the law; but (by the statute made anno 13.R.2.cap.8.) they shall adiudge them to that bodily punishment which the offence requirereth, and shall do due execution thereof.

Stat. 51.H.3

And by the old statuts and customes vled in this behalfe, the Baker and Brewer for their first offence in breaking their assise, they shall be amerced, for the second offence likewise amerced (according to the offence,) for the third offence they shall be more grieuously amerced and warned; but if they shall offend in breaking of the assise the fourth time (being therof conuicted by order of law,) then they shall receiue corporal punishment vpon the pillozie, or some other bodily correction, without any redemption either by gold or silver: And if the baker doth exceed (in breaking the assise of his

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his bread) the full weight of two shillings sixe pence (which is one ounce and an halfe) in his farthing white loafe, then he shall suffer the iudgement and punishment of the Pillorie without any fine or admonition giuen to him; vide the statute of the Pillorie and Tumbrell made Anno 51. Hen. 3. and another statute incerti temporis cap. 2. & 6. Poulton Statutes at large page 17. 111. & 112.

But now by the statute made Anno 1. Edw. 4. cap. 2. the <sup>1. E. 4. ca. 2.</sup> sherife (of himselfe, without proces, or estreats, to him deliuered from the Iustices of peace) hath no power to punish any offendour, (as it seemeth) or to leuie any Amerciaments vpon any presentment, or Inditement, taken before him in his Corne, but all such presentments, and Inditements, are first to be deliuered by the sherife, to the Iustices of Peace of the same Countie and the offendours to be proceeded against by the said Iustices, and then the Iustices are to make out processe for the attaching of such offendours, and for the leuying of such amerciaments &c. and to deliuer estreats to the sherife to leuie the same thereby: see hic postea titulo Sherifes Torne.

*To Enquire  
of Waste.*

In a writ to enquire of waste as also in a writ of Redisseisin, the sherife is both a Judge, and an officer of Record, & therefore if he shall make a false Retorne therein, the party cannot contradict it; and if the land lye in a franchise, the sherife cannot make his warrant to the Bailife of the franchise, or retorne mandauit balliuo &c. For he cannot graunt ouer his Iudiciall power, but he must enter the Libertie, and execute the writ himselfe, otherwise it is Error. <sup>11. H. 4.  
7. H. 4. fol. 42.  
Br. Offic'  
4. 3. 34. 37.  
42.</sup>

*Redisseisin*

Upon a writ of Redisseisin directed to the sherife, if the sherife by Inquisition thereof taken before him, shall find the disseisee to be disseised againe &c. then the sherife shall presently take such disseisors, and commit them to prison, there to remaine at the Kings pleasure &c. and not to be deliuered without speciall commaundement: For in case of Redisseisin, the sherife is made and appointed to be a Judge (by this statute of Merton) and all his proceedings by force of the said statute of record &c. Co. 6. fol. 12. <sup>20. H. 3. cap.  
3.</sup>

*Natiuo habendo.*

Also in a Natiuo habendo, if it goeth to the sherife to hold plee of the matter, there he is Judge and Officer, but where, it is directed to the sherife retornable in Banco, there hee is but <sup>Br Offic' 36</sup>

but an officer and not Judge, See hic postea tit. Countie Court.

Note that in a writ to inquire of wast, as also in a writ of Redisseisin, directed to the Sherife, whereby he is made a Judge of the cause, the Sherife must sit and execute the same in proper person as it seemeth and not by his Under-sherife or other deputie; neither ought he to write &c. to the bailife of a franchise, but must do it himselfe.

Thus much concerning the Sherifes absolute authoritie, and now it followeth to treat of his ministeriall duetie &c.

And note that both these his authorities (or dueties) seeme to be implied in the Saxon word *Schire Reeue*, id est, *le Reeue del Shire*, which is as much as *Præpositus comitatus*, the Ruler or Governour of the countie (See Co. 9. 49.) importing his absolute power, Or *Balliuus*, or *Thesaurarius comitatus*, the Kings bailife, or Treasurer of the countie or shire, importing his ministeriall duetie, it being part of his duety to gather by the common moneys and profits &c. of the King within his countie.

The word *Reeve* being a Saxon word signifieth as much as a bailife; And as a bailife is one which hath authoritie to gather by rents, amerciaments, and other dueties &c. and to do other businesse belonging to a manor, so the Sherife hath authoritie to do for the King in his countie as aforesaid, (viz. to gather by the common moneys and profits, and to do and execute other common businesse).

The word *Bailife* came in with the Normans, See the Termes of the Law.

# The Office of Sherifes.

The Ministeriall Authoritie, Dutie, or Office of the Sherife, consisteth principally in these things following.

- 1 **T**ruely to keepe the Kings rights of his Crowne, His Oath: within his Countie: scz. the Kings Lands, Franchises, Suits, Rents, and other things. See his Oath.
- 2 Truely to gather (and bring into the Exchequer) the profits and moneys due to the King within his Countie or Bayliwicke: scz. the Kings Rents, Fermes, Debts, Illues, Amerciements, Fines and forfeitures,
- 3 To seise to the Kings vse the goods of felons attainted, and of fugitiues, and of persons vtlawed. Treasure troue, wayfed goods, &c. Deodands, Estrayes, Wrecke of the Sea, Whales, Elcheats, wards, and Lands of Ideots.
- 4 Truely to accomplish and execute all manner of Writs, Processe, Judgements, Executions, and Wrecepts directed to him from any of the Kings Courts. Duely to Returne all such Writs, &c. To impannell Juries.
- 5 To be attendant vpon the Judges in their circuits, &c. And to execute all their lawfull commandements, &c.
- 6 To assist the Iustices of Peace in his Countie: scz.  
in some Cases } To ioyne with them,  
                          } To attend them,  
                          } To execute their Wrecepts, &c.
- 7 To execute the wrecepts of commissioners of Sewers, and other commissioners.
- 8 To execute the wrecepts of Escheators, and Coroners.
- 9 To assist the Ordinarie, in suppressing Heresies.

10 Duety to keepe his Courts : scz.

his } Courne ; in this the Sherife is a Judge of  
Record, and so hath a Judiciall Power,  
Countie, or Shire Court.

11 To proclaime certaine Statutes, &c.

12 To make Puruepances for the King in some Cases.

Of all these see moze fully hereafter in this Booke.



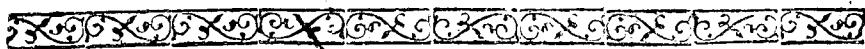
## Lands.

**I**t is parcell of the Sherifes Dath, truely to *Lands.*  
keepe the Kings rights of his Crowne, scz.  
his lands, &c. Now the Kings lands, be ra-  
ther the ancient *Demesne* lands belonging to  
the Crowne : or else such lands wherein the  
King hath right, as descended to him from his Ancestors,  
or of his owne seisin, purchase, or getting.

Fitz. 6. d.

Note that the Booke which is called *Domesday*, was  
made in the time of Saint Edward the Confessor, and all the  
mannors and lands which were in the seisin and hands  
of the said Saint Edward, at the time of the making of the  
said Booke, are auncient *Demesne*, and were aunciently be-  
longing to the Crowne.

But *Quere.* ware what the Sherifes Office or Dutie is in this  
particular, or what the Sherife by vertue of his Dath  
stands bound to doe, moze than to certifie the king, or some  
of his Councel, if he knoweth of any such of the kings lands  
within his Bayliwicke, to be concealed or withholden.



## Franchises.

**A**nd it is partell of the Sherifes Dath to keepe the *Franchises.*  
kings franchises ; and therefore the Sherife is to  
seise for, and to the kings vse these things follow-  
ing, as franchises and Royalties belonging to the king by  
his Prerogatiue.

## Franchises.

The profits of the lands, &c. of Aliens.

The profits of such lands } Attaindor,  
as come to the King by } or  
Escheate.

But it seemeth in the former cases, for the profits of those lands there must bee first an Office found for the King; scz. to inquire and find the certaintie what lands they haue, and the yearely value thereof, &c.

1 He is  
to seise to  
the kings  
vse

The profits of the lands of persons outlawed in personall actions, these the Sherife may seise without any Office, &c. 2 I. H. 7. 7. a.

And so it is concer- } Felons.  
ning the goods of } Fugitiues.  
} Outlawes.  
} Egyptians.  
Wayued goods, and goods confiscate, &c.

See more particularly of these, hic postea.

Note that to lands and hereditaments, the King is intituled onely by matter of Record; but for personall and transitorie things, as Catalla Felonum, & Fugitiuorum, Wrecke of the Sea, Treasure troue, and the profits of the lands of persons outlawed in personall actions, the King shall be intituled thereto without any office, or other matter of Record, 2 I. H. 7. 7. a. Stamf. Perk. 5. 6.

And therefore for seising of lands, the Sherife must bee well aduised that he hath the Kings Writ, or other lawfull Warrant or Commandement from the Kings Courts or Iustices so to doe, least otherwise hee prooue a disseisor: See 17. E. 2. F. ass. 373. 2. ass. pl. 9. & Co. 8. 169. 170. Br. Prerog. 91.

But for goods and chattels, &c. the Sherife may seise them, for they doe best in the King without any Office, &c. 24. E. 3. Br. Prerog. 30. & 38. 2 I. H. 7. 7.

2 Where any franchise shall bee seised into the Kings hands, the King shall bee answered the profits thereof, and the Sherife is to seise such profits to the Kings vse: (Br. quo Warr. 5. 7.)

as



as } The liberties of a citie, or towne corporate, that haue  
 consufance of plees, or other franchise.  
 The office of the warden of the fleet, or of other gaol-  
 er of fee.  
 The liberties of Lords of Manours, which haue  
 Hundreds, or Leets, Faires, or Markets, Waifes  
 or Straies.

3 The King shall haue by his Prerogatiue all such things wherof the owner, or proprietie is not knowne, and that according to the old rule, Quod non capit Christus, capit fiscus,

as } Tythes of a ground which is within no parish (as in  
 great forests &c.) the King ought to haue such tythes,  
 22. aff. p. 75. Fitz. Jurisd. 31. Br. Prærog. 143.  
 Straies, waiued goods, wrecche, treasure troue, &c.  
 Whales, Sturgeons, &c.  
 Swans that be wilde, vnmarked, and abroad at their  
 libertie, the Sherife may seise them &c. Co. 7. 16.  
 And by Gascoine, 8. H. 4. all such goods in England in  
 which no man hath proprietie, shall be adiudged to  
 the King by his Prerogatiue, and the same law is  
 of land, and the like. Br. Prærog. 12.

4 Also in some cases the King shall haue a fine for the misuser of a franchise &c. Br. Franch. 14.

*Nota que franchise allow in quo warranto, ou in Eyre, lyer le Roy. Regule. Br. Franch. 32. 40.*

Co. 9. 27. b. 29. 2. Bona felonum, fugitiuor, & vtlag. et consufance de plees, home ne pait auer ceux per prescription, mes tantum per charter & graunt le Roy: Et vncore si tiel charter soit allow in Eyre, semble que apres poient prescribere in eux per aide de tyel allowance.

Market, Faire, Hundred, Leet, Warren, & Parke, home poet auer ceux per prescription, et sils vient al maines le Roy, vncore ne serra extinct.

• Mes nota que nul poet a ceo iour, faire Parke, Chace, ou Warren sans grant le Roy, Co. 11. 86.

## Franchises. Suit.

*Wrecke, Estray & wayued biens, home poet auer ceux per prescription, & sans charter, ou allowance in Eyre.*

*Nota que bona felonum, fugitiuorum, & vtlag', & bona waiuata, extrahura, & wreccum maris, si ceux vient al maines le Roy, ils serra extimēt, & merge in le Corone, & le Roy auera eux arere, in iure Coronę. Co. 9. 25. Vide Plo. 2 19. a. & 238. b.*

*Ou franchise serra parde, & serra seisie pur default de apparance in quo warranto, Br. quo war. 5. 7. 9. 11.*

*Ou Franchise serra parde, pur non user, ou misuser, vide Co. 9. 50. Br. Franch. 14. 22. & quo warrant' 8. 9.*

*Ou Franchise seisie in maines le Roy, poet estre repleuie: Br. quo warrant' 5. 7. & 11. Mesceo semble deste le grace le roy de granter Repleuin de eux, & nemy del droit, Plo 372. a.*

*Ou franchise ne poet estre graunt ouster. Br. Franch. 38. & quo warr. 6. 8.*

But note where the Lord of any libertie, oz manoz &c. hath by charter and graunt from the King, oz by lawfull prescription, any of the franchises oz profits &c. here aboue mentioned, there the Sherife, noz his officers, are not to seise them, oz meddle therewith.



## Suit.

*Suit.*

**A**lso it is parcell of the Sherifes Dath truely to keepe the Kings suits: and if they been concealed, oz withdraton, the Sherif bpon knowledge thereof, must cause them to bee done, oz restored againe to the King.

This seemeth to be meant of suit done, oz due to be done, to the Kings Courts; and to this purpose there are two sortz of suits, scz. Suit reall, and Suit seruice.

*Royall.*

Suit Reall (oz Royall) is a suit which is due to the Sherifes

rifes **Torne, or Leet** &c. (which are Courts Royals, viz. the Kings Courts,) And to these Courts all men shall be compelled to come, to learne and know the lawes, so that they may not be ignozant of things that shall be there declared and giuen in charge, and whereby they shall be gouerned. And it is called **Reall Suit** because of their allegiance, and this appeareth by common experience, when one is s'wozne (in those courts to the King, and as in those courts all men ought) his oath is, that he shall be a loyall and faithfull subiect to the King. And this suit is not due for their land which they haue or hold, but it is due *ratione del' resiancie del' person*, by reason of their dwelling and aboad within the Hundred or Leet.

*Ibid.* **Suit Service**, is a suit which is also due to the sherifes *Service.* **Torne or Leet** twice a yeare: (or to the Lords Court, from three weekes to three weeks, by the whole yeare:) And this suit service is due by reason of the tenure of a mans land.

*Br. Suit 2.6.* *Pur suit reall, le partie que fait default serra primes amerce, Et apres serra distraine pur le amerciament.*

*Pur suit service le Vicount (ou Seignieur) poit distraine le tenant, mes ne amercera luy. Br. Suit 2.6.16.*

*Ibid.* *Si le terre charge oue suit, veigne in maines de diuers persons, chescun tenant serra charge del' suit aper luy, scz. chescun de eux fera un' suit.*



## Rents.

**T**he Sherife also by his oath is bound not to assent *Rents.* to decrease, to lessing, ne concealment of the Kings rents, and whensoever he shall haue knowledge that any of them beene concealed or withdrawne, he shall do his true power to make them to be restozed to the King againe; and if he cannot do it, he shall certifie the king, or some of his councill thereof &c.

• Note that the Sherife is *Balliuus comitatus* (as I said before)

## Rents.

before) and his countie is also called his bailiwick; and as a bailife of a manor is to gather vp his Lords rents and other dueties, so the Sherife his office is to gather vp not onely the common moneys and profits due to the King within his countie, but also to gather vp the Kings rents within his bailiwick (as it seemeth and for which he may distrain. See Fit. 234.h) But at this day this rather belongeth to the office of the Kings Receiuers &c.

By the word Rents, seemes to be meant not onely Rent seruices and Rent charges &c. (Due to the King) but also fermes or ferme rents due to the King: sc. Rents reserued in fee ferme, or vpon leases.

You shall find by the statute made Anno 51. H. 3. de Scaccario, that Sherifes might let to ferme, the Kings wards, and escheats, and were answerable for the Rent &c. 51.H.3.

Also by the statute made 10. Edw. 1. de Scaccario, it appeareth that Sherifes are accountable yearely in the Exchequer for the fermes of Serieanties and Asserts, the fermes of Cities, Boroughs, and Townes, and other fermes &c. Quare what these be. 10.Ed.1.

The fermes of Asserts, seemes to be rent reserued and payable for woods growing in forests, sc. for such woods as are thickets or couerts of the forest, and plucked or stubbed vp by the rootes. Manwood  
Minib.

Also by the statute of 14. Edw. 3. cap. 9. it appeareth that the Sherifes did ferme of the King the Hundreds and Wapentakes. 14.Ed.3.

Also by the statute of 1. Hen. 4. cap. 11. it appeareth that the Sherifes were charged with the auncient fermes of the Counties and that they fermed the Counties of the King. Quare what these fermes of the Counties and of the Hundreds are. 1.H.4.

See also the statute of 2. & 3. Ed. 6. cap. 4. of fermes, and vicountiels, &c. due to the King and withholden from him.

Note that there be certaine fermes called vicountiels, which the Sherife for his tyme paieth a certaine rent for,  
to

to the king, and maketh what profit hee can of them : see the statute aboue mentioned of 14. E.3.c.9. & 1.H.4. cap.11. and the statutes of 4. Hen. 5. cap.2. & 2.& 3. E. 6. cap.4. and quere what these fermes be.

2.H.7.6.

By Brian and Ratcliffe, the Sherife so soone as he is made Sherife, is accountable to the king, of all fermes, Rents, Issues and Profits of the Countie, which runne in account vnder the name of Vicountiels : But for the Extreats of the greene Ware, and such others, the Sherife is not chargeable as Sherife at the first, noz at any times after, except that the \* summes come to him out of the Exchequer, and then when he hath them, he is chargeable and accountable.

\*sez le  
streats del  
somes.

What the Reuenues, Issues and Profits of the Countie be : see 20. H.7. fol, 12. hic antea fol.

*Nota que si home tient del Roy, & son Rent est arere, le Roy (ou ses Officers) poient distreyne in les auters terres, cybien tenus de auters, come de luy mesme: Et eadem lex pur son fee Ferme. 44. E.3. Br. Prerog. 77. & 13. H.4.6. Plo. 239. a.*

*Et isini cji pur Rent charge, Roy poet distr' pur ceo in tous auters terres. 13. H. 4. Br. Prerog. 68.*



## The Kings Debts.

9.H.3.c.8.

Plo. 440.



By the statute 9. H. 3. cap.8. the king noz his Bay-  
liffe, shall not seise any land oz rent for any debt,  
as long as the present cattells of the Debtoz doe  
suffice to pay the debt, and the debtoz himselte be  
readie to satisfie therfore. Neither shall the pledges of the  
debtoz be distreyned, as long as the principall debtoz is suf-  
ficient for the payment of the debt : and if the principall deb-  
toz faile in the payment of the debt, hauing nothing where-  
with to pay, oz will not pay where hee is able, the pledges  
shall answere for the debt : and then if the pledges will,  
they shall haue the lands and rents of the Debtoz, vntill  
they be satisfied of the debt, which they before payed for him  
(except that the principal debtoz can shew himselte to be ac-  
quited against the said suretie) Fitz. 137.c.

Debts.

Land.

Sureties.

But

# The Kings Debts.

But now by the statute of 33. H.8. ca. 39. not onely the land, but also the heire of the Kings Debtor are chargeable to pay the kings Debt. *Pl. 440.*

*Roy terra pri-  
mer pay.* Also by the same statute of 9. H. 3. cap. 18. *9. H. 3. c. 18.* If any that holdeth of the king any Lay fee doe dye, and the Sherife or Bayliffe doe shew the kings Letters Patents or Summons for Debt which the Dead man did owe unto the King, it shall bee lawfull to the Sherife or Bayliffe to attache and inroll all the goods and cattells of the Dead, being found in or vpon the Lay fee to the value of the same debt by the sight of lawfull men: So that nothing thereof shall bee taken away, vntill the King bee cleere-ly payed of the debt, and the residue shall remaine to the Executors to performe the Testament of the Dead, &c.

*The owner  
may feed his  
cattell im-  
pounded.* Afterwards by the Statute De districtione Scaccarij, *51. H. 3.* made Anno 51. Hen. 3. forasmuch as the comminalltie of the Realme had sustained great Damages by the wrong-ful taking of distresses, which had beene made by Sherifes, and by other the Kings Baylifes for the Kings Debt, or for any other cause: it was therefore provided and ordained, That when a Sherife, or any other man (vpon processe out of the Exchequer) doth take the beasts of other by way of distresse for the Kings Debt, &c. they to whom the beasts do belong may giue them their feeding without disturbance so long as they be impounded without giuing any thing for their keeping.

*No sale with-  
in fiftene  
dayes.* And that the beasts, nor no other distresse taken for *Ibidem.* the Kings Debt, nor for any other cause bee giuen ne sold within fiftene dayes after the taking: See Br. Distress. 32. & 72.

And if any bring the tallie of a paiment made in the *Ibidem.* Exchequer, the distresse shall cease; and if hee bring the tallie of any Sherife or Bailife, of paiment made to them of the thing demaunded, and will find pledges that hee will appeare in the Exchequer vpon the next account to doe as right shall require, then the distresse shall cease, and the Sherife or Bailife shall cause him to bee attached

attached that ought to haue acquitted him, that hee may appeare vpon the same account to doe as right shall require, and there shall haue the names of the pledges.

51. H. 3.  
Sec 28. E. 1.  
c. 12.  
Fitz. 174. b.  
P. distr. 8. 11.

Also it is provided by the same Statute, that no man of Religion nor other, shall bee distrained by his beasts that gayne his land, nor by his sheepe for the Kings debt, nor the debt of any other man, nor for any other cause by the Kings or others Bailifes, but vntill they can find another distresse or cattells sufficient, whereof they may leuie the debt, or that is sufficient for the demaund (except impounding of beasts that a man findeth in his ground, Damage fesaunt, after the vse and custome of the Realme:) and that such distresses bee reasonable after the value of the debt or Dammage according to the value, and by the estimation of neighbours, and not by strangers, and not outragious: Howbeit the king willet and commaundeth that Sherifes, or their Bailifes that haue receiued the kings debt of the summons of the Exchequer, and haue not acquitted the debtors thereof at the next account, shall bee punished.

*Cattell not distrainable.*

*A distresse shall be reasonable.*

*Le vic. acquitera le dettor.*

28. E. 1. c. 12

Also by the Statute of 28. Edw. 1. no distresse shall bee taken of Plovo cattell for the kings debt, &c. And such distresses shall not bee ouer great, nor driuen too farre.

51. H. 3.

By the Statute De Scaccario, made Anno 51. Hen. 3. It was ordained that all the Justicers, Commissioners and others should from thencefoorth deliuer into the Exchequer at the feast of Saint Michael from yeare to yeare the Extreats of fines, and Amerciements made and taxed befoze them, and of all things whereof the Extreats are wont to be deliuered there: and that they of the Exchequer shall make Extreats of the summons through all Shires, &c.

*The Kings debts.*

*Extreats of Fines, &c. shall be deliuered in the Exchequer.*

3. Edw. 1. P.  
Account. 52

Also by the Statute made, 3. Edw. 1. cap. 19. It was ordained that Sherifes, &c. (which haue leuied or receiued the kings debt) should from thencefoorth lawfully acquite and discharge the debtors at the next account after they haue receiued such debts (and then the debt

*Le vic. acquitera le dettor.*

## The Kings Debts.

Debt shall be allowed in the Exchequer, so that it shall no more come in the summons: And if the Sherife otherwise doe, and thereof bee attainted, hee shall pay to the plaintife thrice as much as hee hath received, and shall also make fine at the kings pleasure: and besides the Sherife stands bound thereto by his Oath Article, 4.

*Proces shal be shewed.*

Also by the same statutes, Proces (sc. the summons out of the Exchequer) for the leuying of the Kings Det, shall be shewed to the Debtor that demands the sight therof, without deniall or fee. And the Sherife shall make Tailles to all such as shall pay him (or his Officers) their Debt due to the King. 3.Ed.1.

And if any Clerke of the Exchequer shall make out any proces for a Debt that is payed, hee shall loose his Office, and bee imprisoned untill hee hath made gree with the partie &c. 1.R.2. ca.5.

*Estreats sealed shall be shewed.*

By the statutes of 42. Edw. 3. cap. 9. & 7. Hen. 4. cap. 3. Estreats sealed vnder the seale of the Exchequer, shall be shewed to the party indebted, by the Sherife, or his Officers, when they leuie the Kings Debts; and that which is paid they shall Tot or cause to be Totted (and discharged): And if the Debt which in that sort, is once paid, bee another time demanded of the partie, the said Sherife &c. shall pay to the party grieved his treble damages, and make fine to the King. 42.Ed.3. 7.H.4.

And Sherifes shall Accompt by Estreats Totted, and by none other: And the Coppy of the Estreats, wherein they touch the franchises of Lords, shall be deliuered to the Bailifes of the franchises, vnder the seale of the Sherife, and the same Bailifes shall yeeld their Accompt in the Exchequer, by the same Copies so deliuered.

*Distresse redeliuer.*

If the Kings Debtor can find sufficient sureties, to pay to the Sherife the Kings Debt, befoze the day of the Returne of the writ, the Sherife shall deliuer the distresse (or beasts) taken againe; otherwise the partie may haue an Attachment against the Sherife or Officer &c. 28.Ed.1. cap.12. Fitzharb. 174.b.c.

Debts



*Detts poient estre due al Roy in diuers manners : scz. per atteynder, vtlary, forfeiture, ou done, ou per Iudgement, Recog, ou Specialty.*

*Nota que tous obligations recog. & specialties faits al Roy, serra de Regule force del stat. staple : vide hic stat. staple.*

*Roy auera execution pur ses detts, deuant ascun common person : scz. si son suit soit commence, deuant l'auter ad Iudgement. vide stat. 9. H. 3. c. 18. & 33. H. 8. c. 39. Br. Prerog. 71.*

*Nota que le Roy poet priuiledge son dettor, que nul auera execution vers luy, tanque le Roy soit satisfie. Br. Prerog. 105.*

*Si le vic' (ou ses officers, ou ascun auter) distreine pur dett le Roy, &c. Distresse. les beasts del carne ou barbitts (lou ils poient trone auters); Ou prist excessiue distresse; ou amesne le distres trope longe; le party greine poet auer attachment sur le stat. vers tiel viscounte ou officer, &c. Fitz. 174. b. c. ou le party poet auer action de trespas vers le viscounte, Fitz. 90. b. Vncore vide Fitz. tit. Auowry. 239. que distresse ne serra dit excessiue, ou le Roy est party.*

**The Sherife and his Officers may distraine for the Kings Debt, &c. in the Kings high way, or in the common street. 52. H. 3. cap. 15. Fitz. 173. f.**

**Also they may distraine for the Kings Debt in the possessions of Ecclesiasticall persons (not being the ancient fees of the Church in the time of King Richard the 2.) 9. E. 2. cap. 9.**

**And by the booke 27. aff. p. 66. the Kings Officer may distraine for Issues in the Church or Sanctuarie : scz. If he can find no goods elsewhere to distraine, Br. Distress. 35.**

**They also for the Kings Debt, may carrie or driue the Distresse out of the countie (as it seemes) See Fitz. Barr. 275. & Distress. 16.**

**Also they may sell (after fifteene dayes) a Distresse taken by them for the Kings Debt : See Br. Distress. 32. 40. & 72. & stat. 51. H. 3.**

**And so of a Distresse taken for the taske or xv; or for charges of the knights of the Parlement, 8. R. 2. & 11. H. 4.**  
*Queux*

# The Kings Debts.

Queux persons, & terres, serra chargeable al payment del Debts le Roy.

**L**E heire del Debtor le Roy, (que ad terre per discent, ou done son aunc') serra chargeable, See hic tit' Statute staple.

*Issint le heire in taile est chargeable. See ibid.*

Terres del Debtor le Roy, vient al maines de diuers persons, ils serra tous charge; & tout le terre &c. & chescun parcell del ceo, serra entierment et nemy seueralment charge. 33.H.8.cap. 39. P. Account<sup>o</sup> 9. & Co.7.20.b.

Queux Accountants, ou Officers, lour terres &c. serra liable al payment del Debts le Roy, in tiel manner come s'ils vissent estre lye al roy per obligac' &c. vide statut' 13.Eliz.cap.4.P. Accountants 29. 13.Eliz.4.

Accountants purchase terres in le nosme de auters persons, ou serra liable al payment de debt le roy. P. Accountants 31. Ibid.

Le Statute de Accountants fait. 13.Eliz. cap. 4. ne extend, al terres del Euesques queux ont collection del subsidies ou Tenths, P. Accountants 33. Ibidem.

Ne extendera al ascun Accountant, sinon que son annual receipt, collection, ou charge, excede le somme de 300.li.P. ibidem 34.

Nec extendera al ascun Accountants, queux ne sont de faire present payments &c.P. ibidem 35.

Nec extendera de charger ascun Vicount, Escheator ne Bailife de libertie, ne lour terre &c. pur ascun chose touchant lour Offices; ne pur asc' money per eux receine, per reason de lour Offices, P. ibidem 36.

Vncore chescun de ceux persons, & lour terres, serra liable al payment del debts le roy, in mannor come ils fuer' chargeable deuant.

Mes si Accountant le roy, possesse d'un terme pur ans, vend ceo bona fide, & le vendee enter, adiudge que cest lease ne serra extendable ou liable al debt le roy, car forsque chattell: Ausy Receiuer, ou auter accountant in debt al roy, ne serra in peior ca<sup>se</sup> que un felon ou traitor, queux apres felonie ou treason, et deuant conuictio, poient vend' bona fide pur lour sustenance &c. lour chattels reall ou personall. Co.8.171.

*Sureties*

## The Kings Debts.

25

*Surettes ne ferra charge, lon le principall est sufficient, 9.H.3. cap.8.  
P.Accounts 51. See hic antea.*

*Si Debtor le Roy norust, le Roy ferra primes pay son debt. 9. H. 3.  
cap. 18. see hic antea & Br.Prerog. 71.*

*Le executor & administrator del dettor le Roy, ayant affets, sont char-  
geable, al debt le Roy &c. 33.H.8. cap.39. Et semble que le Common  
ley fuit issint, deuant ceo stat' Br.Prerog. 126.*

40. AEp. 36 *Si un loyntenant soit debtor le roy, le possession de son Compagnion  
ne ferra charge, mes tantum le possession que appartient a luy que est le  
debtor: uncore per Thorpe, si l'un n'ad riens l'auter responder. Quærc.*

Br. Dist. 72. *Roy ne poit distraire pur debt le baron, sur le dower la feme, ne in  
sa Inheritance, ne in le ioynt estate ou purchase que el auet oue son  
baron: mes si le baron fuit indebt al roy deuant le conerture, la le roy po-  
et distraire in le dower del feme.*

*Vide Fitz. 45. 46. Que si le viscont ad proces hors del Exchequer a  
leuier les debts le baron, que il doit al roy, ou si le viscont ad proces hors  
del auter court de leuier certaine debts due per sa baron al auter person,  
uncore le viscont ne doit distraire in le terres que le feme (apres mort  
son baron) issint tient &c.*

*Et sic vide que le roy, ou ses officers (sur proces &c.) poient distraire  
pur det due al roy: Et si home soit indet al roy, quel dettor ad tenants  
que doient rent a luy, le roy poit faire leuy son des sur ceux tenants, & ceo  
ferra bone barre pur eux vers leur seignior, que est dettor al roy, & que  
ils ad ceo pay al roy per leuy &c. 21.H.7. 12. Br.Prerog. 39.*

*Nota dettors le roy ferra gree al roy pur leur det in le Eschequer, &  
nemy in Banco, nec in aucun auter court (come semble) Vide Fitz. De-  
cies tantum 12.*

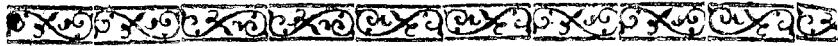
*Deniers baile in banco, ou in auter Courts, poit estre stay & arrestus la,  
pur det le roy ibid.*

*Si deux sont indets al roy, & le roy release al un de eux tous detts, ceo  
ne seruera l'auter. 2.R. 3. fol. 4. Br.Prerog. 124.*

F

Issues.

## Issues.



## Issues.

*Issues.*



The Sherife is accountable to the King, for all manner of Issues and profits of the Countie, which runne vnder the name of Vicountiels, 2. Hen. 7. 8.

And by his Office he is (vpon proces out of the Eschequer &c.) to gather vp, and to bring into the Eschequer such Issues and profits &c.

The word Issues (in our Law) is sometimes vled for the profits growing to the King &c. (out of Lands or Tenements) as an Amerciament, Fine, Forfeiture or punishment, for default of apparance &c. and sometimes for the profits of the Lands or Tenements themselves.

*Issues perde  
per default.*

Issues lost and retorne in respect of none apparance of the defendants, or of Iurozs, shalbe forfeit to the King, and shall bee leuied by the Sherife, See hic postea Retorne of Issues.

What is contained vnder the name of Issues. See hic postea ibidem.

How much the Sherife must retorne in Issues vpon the defendant &c. ibidem.

What Issues he must retorne vpon Iurozs, ibidem.

The Sherife shall leuie no Issues without warrant : ibidem.

Issues forfeited, and vpon whom, and what Lands they shall be leuied &c. ibidem & hic postea tit. Forfeiture.

If the sherife shall retorne a Iuroz, in Issues, which is not sufficient, he is punishable, ibidem.

So if the sherife shall retorne any Issues vpon any Iuroz, or Hundredor, which was not lawfully summoned &c. ibidem.

If the Sherife shall retorne the Issues of any Recogni-  
 for, Pledge, or Mainpernor, which at the time of the re-  
 torne, was not sufficient to answer the said Issues and  
 Amerciament, the Sherife himselte shall answer, and  
 shall bee there with charged in the Eschequer, 27. Edw. I.  
 P. Sherifes 19.

*Après mort del tenant le Roy in Capite, le roy auera primer seison, scz. Issues de  
 les Issues de tous ses terres &c. vide statut' 17. Ed. 2. cap. 3. & Co. terres,  
 8. 172. & 9. 132.*

*De quel temps Roy auera les Issues del terres le heire son tenant, vide  
 Co. 4. 59. 126. & 8. 170.*

*De quel temps Roy auera les Issues del terre son tenant, que alien sans  
 licence &c. vide hic tit' Fines.*

*Cestuy que happa Linerie extra manus Regis, que ne doit auer Li-  
 nerie, il respondera les Issues al Roy arere, vide Fitz. N. B. & Br.  
 Issues 19.*

*Roy serra respond' des Issues, del temps de son tittle primes accrue &c.  
 (sc. apres office trone.) see Fitz. Gard 1. & Iudgment 69. Stamf.  
 84. Co. 8. 171.*

*Issues de terres de felons, fugitives, & wilawes, see hic fol.*

*Tenant le Roy deuy seisie, et estranger abate in part des tenem'ts del  
 heire, le abator serra charge ouc les Issues del ceo, & nemy le heire Br.  
 Issues 20.*

*Ou pardon de intrusion excuser Issues, & ou nemy vide Br. Intru-  
 sion 21.*

Co. 8. 169. **But the sherife (or other officer) ought not, at this day, to  
 seise any lands into the kings hands, untill after office  
 found, &c.**

28. Ed. 3. **By the statute made 28. E. 3. cap. 4. it is ordained that of** *Meano*  
**Hannors, Cities, Boroughs, Townes, Hundreds,** *rates.*  
**franchises, and all other Lands and Tenements**  
**whereof profit doth arise from time to time through the**  
**yeare (as Mills, Herbage, Colle and profits) euerie**  
**Officer which shall seise such Lands and Tenements to**  
**the kings vse, and after shall make liuerie thereof to**  
**the**

## Amerciaments.

the heire (by the Kings commaundent out of the Chancerie) yet they shalbe bound to answer to the king for the rate and portion of the time, according to the old course of the Eschequer.



## Amerciaments.

**T**he Sherife, is also accountable to the king for, and vpon procelle &c. is to gather vp, and to bring into the Kings Eschequer, all Amerciaments, and fines, which shalbe set or assessed (as a penaltie) vpon the heads of offenders, against the king, in any of his Courts.

*Amercia-  
ment.*

This word Amerciament, is called in Latin Misericordia, and in English Mercie; so as by the name and nature of this word, a man is not to be punished so much as he or his offence deserueth, but that the Amerciament ought to be lesse than the offence; for it cannot be properly said, that a man hath Mercie shewed to him, if hee shall pay or be charged at more than his offence deserueth; and this is by the Common Law, which is a Law of mercie, and by the Law of reason, a principall ground of our Common Law.

Co. 8. 59. b.  
Fitz. 75. b. k

And hereupon also it is, where two or moe are to be Amerced, though for one ioynt offence, yet their Amerciaments shall be seuerall, for that one of them shall not be charged or Amerced for the offence or default of the other, but that they shall be all equally Amerced and charged, Fitz. 75. g. h. k.

And if there bee diuers demandants Amerced in a plea Real, for their nonsuit, the course of the Court of Common pleas is to make the Estreats of the Amerciaments, seuerally vpon them, and to deliuer the same Estreats to the Clerkes of the Wises, who deliuers them to the Coroners, and they vse to Assesse the Amerciaments (sc. to aslesse the summes vpon euery one) seuerally, Fitz. k. 76. a.

And so they vse to doe where there are diuers defendants Amerced, Fitz. 75. i.

And

And those **Estreats** doe rehearse and shew the cause of the Amerciaments, &c.

9. H. 3. 14.  
3. E. 1. 18.  
Co. 8. 39. b.

By the statutes of Magna Charta, cap. 14. & Westminster 1. ca. 18. Amerciaments ought to be assesse (taxed, or assessed) *per Pais*, scz. *per Pares*, by the Oathes of good and lawfull men of the same Vicenage or Countie.

Amerciament.

But this is to be understood of Amerciaments vpon the plaintife or demandant, or vpon the tenant or defendant in actions reall or personall. (as if the plaintife or demandant bee *non suit*, or if Judgement bee giuen against the tenant or defendant, or vpon the plaintife, *Quia non est prosecutus, ou pro factio Clamore*, or the like) or vpon the *Mainpernor*s, for that the principall partie doth not appeare, &c. in such cases the Iustices neuer assesse any amer- ciament, but by the former Statutes the Amerciaments ought to be assesse *per Pares*; And the Court in such cases enters, *Ideo in misericordia*, generally, without taxing or ass. ting any summe in certaine.

And then the Clerke of the Warrants in the Common Place doth make **Estreats** of these Amerciaments, and deli- uers them to the Clerke of the Assises within euerie cir- cuit, to deliuer vnto the Coroners in euerie countie to assesse (id est to assesse the Amerciaments, vt supra.

And so for Amerciaments vpon Inditements or Pre- sentments, for not repairing of a bridge, or high way, or the like; such Amerciaments ought to be assesse *per Pares*, &c.

2. H. 7. 7. a.  
Fitz. gre. 33

But Amerciaments of euerie Officer or Minister of Ju- stice, must be assesse by the Iustices of the Court where the cause depends; and this is called an Amerciament Roy- all, as where the Sherife, Coroner, or other Officer of the King is amerced by the Iustices for any his abuse or misde- meaning in his Office; vide Co. 8. 40. Br. Amerce. 25. 33. & 50. *et fines del Ley.*

## Amerciaments.

*Quex  
persons  
seront  
amerce,  
quex  
neny.*

*Peeres del Realme, et Euesques poient estre amerce. Co. 8.  
 40. Br. Amercement 2. 23. 47. & 48.  
 Feme couert serra amerce. Br. 9. Fitz. Amercement 14.  
 Mes Enfant ne serra amerce, pur imbecillity del Age, mes  
 l'ntree est, Ideo in misericordia, sed perdonatur quia  
 Enfans. Co. 8. 61. Br. 43. Fitz. Amercement 10. & 14.  
 Iurors serra amerce, &c. Br. 30. 46. 55. & 60.  
 Playntife ou demandant serra amerce in diuers Cafes, et  
 pur diuers causes: vide Co. 8. 60. 61. & Br. 3. 6. 7.  
 11. 27. & 31.  
 Dest' ou t' ser' am' ce in diu's cafes, Co. 8. 61. Br. am' t. 6. 8  
 Nota que Amercements, & Fines in ascun Cafes serra Co. 11. 43.  
 impose sur diuers ioyntment: scz. ascun foits sur un en-  
 tier County; ascun foits sur un Hundred; et ascun foits  
 sur un ville, &c. cōe pur Escape dun Murderer, &c. mes  
 ceo est par le incertenty des persons, & pur infinitenesse  
 del number. vide Fitz. Cron. 290. 302. 304. 316.  
 Auxi le plaintife in ascun cafes, pot estre diuers foits amer-  
 cie: scz. quant la est forsq' un plaintife ou demandant,  
 & diuers defendants. Co. 8. 61.  
 Mes nul serra Amerce, mes par reasonable cause; Et accor-  
 dant al quantity de son offence. 9. H. 3. c. 14. 3. E. 1.  
 c. 6. P. Amerc' .1.*

*Quel terre serra charg' al Amercement.*

In an Assise the plaintife was ponsuit, when the Ju-  
 rie came to giue vp their verdict, and was amerced, &c. and  
 by the opinion of Newton, the land which the plaintife had  
 the day when hee found pledges, shall be chargeable to the  
 Amerciament, but Wilbie held otherwise: scz. that the  
 land which he then had (when hee was ponsuite, or was  
 amerced) or which the plaintife should afterwards haue,  
 was onely chargeable: Quod Nota, that the land which  
 the plaintife sold in the meane time betweene the Amercia-  
 ment, and the pledges found, should be discharged: 22. aff. p.  
 32. Br. Amercement 37.

Vide hic postea ( *Retourne de Issues sur Iurors* ) sur que tiels  
 Issues serra leuy; et semble que tiels terres que sont chargeable ou liable al  
 Issues, serra auxi chargeable al Amercements. hic postea fol.

Fines.





Fines.



**T**his word fines (à fine) hath diuers significati- Fines.  
 ons: but to the purpose in hand, a fine is most  
 commonly that which is asselred oz set vpon an  
 offendoz in some court of record by the court oz  
 Judge there, and which the offendoz doth  
 giue for and in satisfaction of his offence oz contempt:  
 See Co. 8. 38. 40. 41. & 60.

Also if the kings tenants alien without the kings license,  
 they shall pay a fine: H. 3. 32. & 17. E. 2. 7.

And by the statute made 2. & 3. Ed. 6. cap. 34. it seemeth  
 that Sherifes shall bee accountable for all fines for  
 Alienations and Intrusions made by the kings tenants,  
 &c. within their countie, as well as for fines imposed vpon  
 offendozs for contempts, &c.

Principium finium pro Alienatione, vide Br. Alienat' : 6. &  
 10. & Co. 2. 80.

*Pur queux Alienations sans licence, le tenant fera fine, & pur queux* Fines pur  
Alienation.  
*nemy. vide Br. Alienation per totum.*

*Quantum ferra pay al Roy, pur fine sur Alienation sans li-  
 cence, &c. scz.*

*¶ Fine de auer Licence de Alien, nest forsque le teirce part del value  
 (del terre) per an.  
 Le ¶ Fine pur alienation sans licence, est le value pur un an.  
 ¶ Fine pur intrusion, est le value del terre pur un an. Br. Alie-  
 nation 29.*

*Et si le Alienation sans licence soit troue per office le Roy auera les  
 issues del terre à tempore Inquisitionis captæ, & non ante. Br.  
 Alien. 29. le reason semble, pur ceo que icy le Roy nest intitile forsque  
 nomine Distictionis.*

*Issins*

## Fines.

*Isint est lou le widdow le Roy ( scz. de son tenant ) sa marie sans licence le roy. vide stat. Mag. Charr' cap. 7. & 17. Edw. 2. cap. 4. Fitz. Gard 1. & Prerogat. 27. Fit. 174. e. d.*

*Et lofficer le Roy ( sans briefe a luy direct, poit in ceux cases seiser le terre par le Fine &c. (Fitz. 174. c. 175. a. 225. b. & 226. c.) Et tiel briefe poit estre direct al Escheator ; ou al vic' Fitz. 175. a.*

### *Fines pur Contempts & Offences ;*

*Fines pur  
Contempts.*

*Ceux serra assesse & impose, in Court : Et nul Court que nest de record imposera Fine. Co. 8. 38. 60.*

*A chescun Fine, Imprisonment est incident &c. sc. quousque le Fine soit pay, Co. 8. 59. & 11. 43.*

*Par queux causes Fines serra impose &c. vide Co. 8. 38. 59. 60. & 11. 43. Bñ tit' Fines pur contempts per totum.*

*On le Fine serra fait al value del terre del offender (que serra ceo) Br. Fine pur Cont' 42. Fitz. Paine 2. 3.*

All Fines, and Amerciements, assessed or imposed by the Commissioners of Sewers, upon any offender, shalbe to the vse and behoofe of the king, by the statute 23. Hen. 8. ca. 5. But since the Commission for Dorset, and Suff. are excepted, by the statute made 7. Iac. cap. 20.

And by the statute 13. Eliz. cap. 9. The Clerke appointed for any Commission of Sewers, shall yearely Certre all the Issues, Fines, Penalties, Forfeitures, and Amerciements, that shalbe answerable to the king &c. And the same Certreats shall yearely deliuer into the Exchequer &c. and from thence processe shall goe out to the Sherife for the leuying thereof.

## Forfeitures



Forfeitures.



The Sherife &c. is to seise to the Kings vse the profits of the lands of persons attainted for treason or felonie &c. and also their goods, and is to account for the same in the Exchequer. *Forfeiture.*

Co. 7. 34. b.  
Flo. 237. b.

Now euerie offendor being lawfully convicted of high treason (by verdict, confession, vtlarie, or presentment) shall forfeit to the King all such lands, tenements and hereditaments, and annuities which hee shall haue in his owne right, in vse, or possession, of any estate of inheritance, at the time of such treason committed, or at any time after, 5. E. 6. cap. 1. P. Forf. 2. *Pur treason.*

And yet in diuers cases of high treason, there shall be no corruption of blood, nor any forfeiture of dober.

Also offendorz conuicted of high treason shall forfeit all their goods and chattells (to the King) as well reall as personall, moueable and vnmoueable, their corne growing, and all their debts due to them: scz. all such goods &c. as they shall haue at the time of their attainder, and not those which the offendor had sold or giuen away before.

Stamf. 38.

For misprision of treason the offendor shall forfeit to the King the profits of his lands &c. during his life, and all his goods and chattells for euer. *Misprision.*

In case of Præmunire, the offendor shall forfeit all his fee simple lands, &c. for euer; and the profits of his intapled lands &c. during his life; and all his goods and chattells for euer. See my COUNTRY Iustice. *Præmunire.*

17. E. 2. c. 16  
P. Prærog.  
27.

The King shall haue the profits (by the space of one peare and a day) of the freehold lands &c. of felons which be condemned, and which be fugitiues; and all their goods and chattells for euer wheresoeuer they be found. *Felonie.*

Note that the King is to haue all the profits of their fee-

## Forfeitures.

fee simple lands for the yeare and day next after the attainder of the felon, Fitz. 144.k. & Register 165. and the issues and profits of their other lands during the felons life. And if a stranger shall enter vpon the fee simple lands, within the yeare and a day, that stranger who tooke such profits shall be therefoze answerable to the king, Fitz. 144.k.

For petie treason, oz felonie, if the offendor hath but an estate taile in his lands, the King shall haue the profits of the lands during such offendor's life.

Sometimes he that is attainted of high treason, petie treason, oz felonie, shall also forfeit such lands whereof hee neither hath possession, reuerſion, oz remainder, but only a title oz right, oz cause of action: As if a man be disseised of lands, and the disseisee committeth high treason, after an offence found thereof, the King may seise those lands as forfeited and escheated to him: And if the disseisee be attainted of petie treason oz felonie, the King shall haue the profits thereof by the space of a yeare and a day, and then the Lord of the fee may enter &c. Co. 3. 10.  
Stamf. 188. a

Also things in action, scz. Debts due by obligation, statute, oz recognisance, & such like, are forfeited to the King by attainder oz btlarie, Co. 3. 2. 3. Stamf. 188.

Also debts due vpon a simple contract, oz without specialtie, shall be forfeited to the King, Co. 4. 95. Ibid.

And yet if a distresse bee lawfully taken for rent reserved vpon a lease, oz that goods be pawned &c. if afterwards the owner of such distresses oz goods be attainted of felonie, the king shall not haue the distresse, nor the goods pawned, without paying oz satisfying the partie that distrained, oz him to whom the goods were pawned, 13. R. 2. Br. Pledg. 31.

*Outlawed.*

If a man be outlawed for treason oz felonie, he shall forfeit all his lands &c. and all his goods, Fitz. Forfeiture 3. Br. 6.

*Clerke convicted.*

A Clerke convicted (scz. who hath his Clergie giuen him before that iudgement is giuen vpon him for the felonie) shall forfeit none of his goods, Fitzh. Coron. 91. Br. Forfeiture 5. & 103. (& see Br. Forfeit. 11 & 65. Contra, that he shall

shall forfeit his goods : ) neither shall the King haue the  
yeare and day , and wast of their lands , for that the of-  
fendor is not attainted : Fitz. Coron. 332.

Also the king shall haue the escheats of lands of the free- *Tenants del*  
holders of Arch-bishops and Bishops, when such tenants *Euesques.*  
be attainted for felonie in the time of vacation, whilst their  
tempozalties are in the Kings hands , to giue at his plea-  
sure : 17.E.2.cap.14.

If any murderer or other felon shall escape, the towne *Escape de*  
or countrey shall bee amerced or fined therefoze , by the sta- *felon.*  
tutes, 3.E.1. cap.9. & 3.H.7.cap.1.

But the Sherife (noz any other) are not to take or leuie,  
any thing for the escape of any felon , befoze it bee adiudged  
by the Iustices, &c.

A man arrested for a trespassse, escapeth, or is rescued by a  
stranger, these are finable, &c. Stamf. 31.e.

Staf. 150.e. If a man stands mute in an appeale, or vpon an indite- *Mutes.*  
ment of felonie , hee shall forfeit his goods , Br. forf. 11.  
Plo. 262.

So if a man that is arraigned for felonie shall challenge  
aboue xxxv. without cause.

So if a man be found guiltie of felonie, and then hath his  
Clergie : and in these three former cases the offendor shall  
forfeit his goods , for that they refuse the triall or iudge-  
ment of the Law : See Plo. 262.b.

Staf. 188.g. Si Sacerdos fecerit feloniam , il forfeitera ses biens, & dismes Sacerdos.  
*receives, nisi fuerint in Sanctuario.*

If a man flies to the Church for felonie , his goods are *Priest Sanct.*  
forfeited presently, and the profits of his lands : and if hee  
abiures, he shall forfeit his lands and goods : Br. forf. 116. *Abiure.*  
121. Stamf. 120.a. 123.a.

Doct. & St. fol. 115. If a man abiures for heresie , hee shall not forfeit his *Heresie.*  
goods : but if hee be conuict and deliuered to the lay power  
&c. hee

## Forfeitures.

ꝛ. hee shall forfeit his goods, but he shall forfeit no lands, except he be put to execution.

*Recog.  
Fines.  
Amerci-  
ments.*

Also the King shall haue all amerциaments, fines, issues, and all forfeitures of recognisances lost or forfeited, ꝛ. before any of his Judges, or Justices in any of their Courts or Sessions; but these must be first estreated into the Exchequer, and from thence processe must be awarded to the Sherife to leuie the same to the Kings vse, ꝛ.

Also the Courts of Exchequer, of Wards & of the Duchy haue authoritie to set amerциaments, fines, and penalties vpon parties, officers, and other persons, for their defaults, contempts, negligences, or misdemeanors; as also to take recognisances for the King, ꝛ. All which amerциaments, fines, penalties, and forfeitures of such recognisances shall be to the King, ꝛ. 33. H. 8. c. 39.

Also the King shall haue all amerциaments, fines, forfeitures and issues forfeited in any of the Sherifes Courts, scz. in their Tones, Countie Courts, or Hundreds within the twelue Shires of Wales; and the Sherifes of Wales shall account for the same, 34. H. 8. P. Wales 43.

But otherwise it is of other Sherifes within England: See 6. H. 7. fol. 2. 3. & hic tit. Sherifes Fees.

*Goods attached.*

Goods attached by the Sherife, ꝛ. if the partie so attached (by his goods) appeare not at his day, ꝛ. the goods attached are forfeit to the King, and the Sherife shall be answerable for the value thereof: See hic tit. Attachment. Br. fol. 3. 4

*Issues.*

Issues returned vpon Jurors (they making default of appearance, ꝛ.) shall be lost and forfeited to the King, and leuied by the Sherife to the Kings vse, vpon estreats thereof made out of the Exchequer, ꝛ.

And so of Issues returned vpon the defendant.

*Attaint.*

The petie Jurie attainted in a writ of attaint, shall forfeit to the King all their goods, and the profits of their lands during their liues, or vntill they haue made a fine with the King: Br. Attaynt. 95. Fitz. Ass. 396.

¶

If any person shall strike, or but draw any weapon to strike any Justice sitting in place of Judgement: Or any Juror or other person in the presence of the said Justices: or shall make an Affray in their presence, such offenders shall forfeit to the King all his goods, and the profits of his lands during his life: So it is of any person which shall rescue any such offender.

If any person shall ride or goe armed offensively in affray of the Kings people, the Sherife may seise and take away their armour and weapons, and preise them, and shall answer them to the King as goods forfeited to him: See my Countrey Iustice, tit. Armour.

If any person shall weare any priuie armour in the Kings Palace, or in Westminster Hall, hee shall forfeit his armour to the King: Fitz. forf. 22.

Stat. 187. b. *Nota que home ne forfeitera ascun terres que il ad in auter droit, Regule come in droit sa feme, ou in droit sa esglise, mes solement les terres que il ad in son droit demesne,*

Fitz. forf. 16 & Coron. 390. *Home endite de felonie, ad feme inheretrix, le Roy auera les issues del terre le feme &c. Issint si le baron est fugitive roy auera l'issues, tanque le baron soit mort ou attainit.*

Fit. Coron. 308. *Home occist auter, & obtaine Pardon, & uncore ses biens fuerount seises come forfeit al roy, & auxylan & wast in ses terres, & le vic' fuit charge de tout.*

*Home ad Iewell in gage pur x. li. & cesty que mitter ceo in gage est attainit, le Roy nauera le Iewell sans payer le x. li. car prerogative le Roy ne voet preiudicer auter, Plow. 487.*

*Et issint est de distresse prise &c. Plow. 487. b.*

25. E. 3. Note that after a man is indited of felonie ( by the Statute made Anno 25. E. 3. cap. 14. ) a Capias shall goe out to the Sherife, commaunding him to attach the bodie of the felon; And if the Sherife returne in the said writ that the bodie is not found, another writ of

*Affray.*

*Armour.*

*Regule*

*Seise felons goods.*

## Forfeitures.

of Capias shall bee incontinently made returnable at three weekes after, and in the same writ it shall bee comprised that the Sherife shall seise his goods, and safely to keepe them till the day of the writ returned: and if the Sherife returne that the bodie is not found, and the Inditee commeth not in, the Exigent shall bee awarded, and the goods shall bee forfeit: But if hee come and yeeld himselfe, or bee taken by the Sherife (or other Minister) before the returne of the second Capias, then the goods and chattels of the Inditee shall bee saved.

By the Statute made Anno. 1. R. 3. no Sherife (or other Officer) ought to take or seise the goods of any person, arrested, imprisoned, or indited for felonie, or for suspicion thereof, before the same person bee duely convicted or attainted of the same felonie (scz. either by Triall, Confession, or Utlarie and Judgement thereupon giuen;) or that the same goods be otherwise lawfully forfeited, vpon paine to forfeit the double value of those goods so taken to the partie griued.

1. R. 3. c. 3.  
P. Sher. 24.  
Br. fort. 40.

And yet least the goods should bee disorderly wasted, imbeaselled, or sold away, the Sherife, &c. (before the attainder of the felon) may take sureties that the goods bee not imbeaselled, &c. (sc. may cause the owner, or some of his friends to find suretie) and for want of sureties, the Sherife, or other his Officers may seise them, and deliver them to the Towne (scz. to some of the neighbours of the Towne where the goods were) by them safely to bee kept: And by the opinion of Master Brooke, tit. forf. 44. this order ought to bee obserued concerning the goods of euerie one which committeth felonie, vntill hee bee attainted: But yet the felon must haue reasonable maintenance out of his goods for himselfe and his family in the meane time: And according heereunto there is a writ in the Register, videlicet, Quod tenementa & bona taliter capta, videantur & imbreuiantur, & saluo custodiantur per ballivum ipsius capti, qui securitatem Regi inveniet ei respondendi si, &c. Salvis inde ipsi capto & familiae suae, necessarijs quamdiu fuerit in prisona. So that the felon must haue maintenance of his goods for him and his family, vntill hee bee conuict, and then that which doth remaine shall bee to the King.

43. E. 3. 21.  
Br. forf. 7.  
10. 44.

Plo. 68.



So then this difference is to bee obserued in the seising of a felons goods, viz. where the goods bee forfeited before the felonie tried (as where one is found guiltie before the Coroner of the death of another; or where it is found before the Coroner that one did flie for a felonie) in such cases the goods shall bee presently seised vpon the forfeiture of them, though there bee no conuiction of the felon, and vpon such forfeiture the goods are presently the Kings, and the felon is to haue no mainetenance out of them, &c.

But where the goods be not forfeited vntill the felony tryed, then they shall not bee seised vntill the felon be conuicted, but yet there the Sherife, &c. may take sureties that the goods bee not imbeaselled or disorderly wasted, as aforesaid, and for want of sureties may deliuer them to the Towne, &c. And note that if goods so deliuered to the Towne, bee impaired in their custodie, the Sherife shall bee charged to leuie of the same Towne the value of the losse, &c. (as it seemeth) F. Coron. 355.

Also if a man shall flie for felonie, the Sherife, &c. is to seise all his goods and chattels, as also the profits of his lands to the Kings vse. *Fugitives.*

Co. 5. 109.  
Flo. 26 2.

But yet the goods, &c. of a fugitiue, are not forfeit vntill the flying for felonie bee lawfully found of Record; either before the Coroner vpon an inditement, super visum corporis, in case of the death of a man; or by verdict vpon his acquittal (for although hee bee found not guiltie vpon his triall, yet hee shall forfeit his goods for his flying; Quia fatetur facinus, qui iudicium fugit, and the Law will admit no prooffe against this presumption:) And although the Jurie which tryes him shall find him not guiltie, and further that hee did not flie; yet the goods are forfeit by force of the finding of his flying before the Coroner.

Co. 5. 105.

And if a felon bee arrested for any manner of felonie, and as hee is leading to a Justice of Peace to bee examined, or towards the Gaole, hee flyeth, and those which pursue him cannot take him againe without killing of him, by reason

## Forfeitures.

*Fugitives.*

Whereof they doe kill him : if all this matter, and the flying bee presented before the Coroner, or before any other who hath authoritie to inquire of felonies, the partie so slaine shall forfeit all his goods and chattels : 1cz. all such as hee had at the time of the felonie committed : Fitz. Coron. 290.

And in these cases the Sherife, &c. presently after such flying found before the Coroner, is to seise the goods, and the profits of the lands of such offenders : See Fitz. Forf. 32.

And the custodie of the goods of those which bee convicted of felonie, or which bee fugitives after they bee forfeited, doth belong to the Towne where those goods bee, or where the felon doth dwell : and therefore vpon a Fugam fecit presented before the Coroner, the goods ought to bee seised by the Sherife or his Officers, and pressed by an Enquest, and the appzelement must bee inrolled in the Coroners roll, and the goods shall bee deliuered to the Towne to answer to the King for them : And though the goods bee not deliuered to the Towne, yet if the goods were in the felons house or possession at the time of his conviction or flying, the Towne shall answer for them : Fitz. Coron. 366.

But for the profits of felons and fugitives lands, the Sherife is, and was alwayes chargeable therewith according to the extent thereof, and not any Towne. Fitz. Corō.  
390.

Also hee that shall flie for felonie shall not forfeit the goods or profits of his lands, which hee had at the time of the felonie or flying ; but those and such onely which hee had at the time of the inditement or acquittal : Co. 5. 109. Fitz. Coron. 296, & 344.

If proesse bee awarded vpon an appeale or inditement of felonie against any person, who doth absent himselfe and not appeare, vntill the Exigent shall be awarded against him, by this absenting himselfe ( which in Law is a flying ) hee shall forfeit all his goods, which hee had at the time of the Exigent awarded, although hee yeeld himselfe vpon the Exigent, and that after hee bee Co. 5. 110.  
& 111.

See postea,  
v. law.

bee acquite of the felonie : but if hee were in prison, or beyond the Sea, &c. at the time of the Exigent awarded, then hee shall not forfeit his goods, &c. See Fitz. forf. 19. & 31.

Note that he that is outlawed for treason or felonie, shall forfeit those goods which hee had at the time of the Exigent awarded, and not such as he had before, and hath aliened.

Note also a difference touching the profits of the lands of fugitives : scz. where the flying is presented before the Coroner, and where the flying is found by verdict upon an acquittal ; for upon a flying presented before the Coroner, the offendor shall forfeit the profits of his lands untill his death, or untill hee bee acquite, or untill hee hath purchased the Kings pardon : But upon a flying found by verdict upon acquittal, hee shall forfeit no profits or issues of his lands, for by his acquittal his lands are discharged, and consequently the profits thereof : Fitz. Coron. 344.

If a man shall kill himselfe, hee shall forfeit to the King *Felo lo dese.* all his goods and chattels : And the Sherife and his Officers are to seise them to the Kings vse, but hee shall not forfeit his lands.

If an enfant, a man Non compos mentis, or a lunatike killeth himselfe, they shall forfeit nothing : See more in my Countrey Iustice, tit. felo de se.

There be other kinds of forfeitures of goods to the King,  
as *bona Wayvata*, Estrayes, *bona Confiscata*, *Deodanda*, &c.

Co. 5. 109.

*Bona waiviata*, or *derelicta*, are where a felon hath stolne *Bona way-* goods, and upon hue and crie, or other pursuit after *vata.* him, hee wayueth the goods ; or where the felon for feare to bee apprehended (thinking that pursuit is made after him, or otherwise to ease himselfe of his carriage) he hauing the goods with him in his possession, flyeth and wayueth, casteth away, or goeth from the goods : In these cases the goods are forfeit to the King by the Com-  
mon

## Forfeitures.

mon Lawe of this Realme : and the Sherife, &c. is to seise them to the Kings vse.

And yet the partie robbed, or owner of the goods, shall after bee restozed to his goods againe : scz. if he make fresh suit, &c. and this is by the Common Law : or if he doe cause the felon to bee thereof attainted, &c. and this is by force of the statute made, 21.H.8.cap.11. Br. Estray. 8. & 14.

But if the felon had not the goods with or about him when he fled (having peradventure hid them, or left them in his owne house, or in the house of any other, or in the custodie of any other, or left them within any mans Mannor, or put, hid, or bestowed them in the ground, or in any other secret place, and then had fled : ) These goods are not forfeit, neither shall they bee said to bee wayued goods in Law, but that the owner may take them againe when hee will, without either fresh suit made after the felon, or without causing him to bee attainted, or other prosecuting of him (as it seemeth) and the Sherife, nor any other Officer are not to seise or meddle with any such goods, &c. Co. Ibid.

Note that there can be no waife (properly) but of goods that were stolen ; and yet if upon hue and crie leued, a man that hath committed no felonie, doth leaue his owne goods and flyeth, those goods (by some opinions) may bee seised to the Kings vse for a waife. See 29.E.3.fol.29. And so seemes the opinion of Laicon in 12.E.4.fol.5. But by the opinion of Nedh. in 12.Ed.4. and of Master Brooke tir. Estray 2. (agreeing with the opinion of Sir Edward Coke, here before) a waife is only that which is stolne, and after wayued and left in flying ; and Catalla felonum, are the proper goods of the felon, and the one may bee seised and forfeited by the flying, but not the other : Br. Estray 2. 6. but a man wayuing his owne goods they are not forfeit, but that he may haue and take them againe when hee will. Stamf. 186.

*Regule.*

*Home poet prescribe d'auer wayffe, mes nemy in Catalla felonum.*  
Br. Estray 2.6. & Co. 9.27.

*Biens emblees & waiffed, uncore cesty a que le proprietie fait, poet eux reseiser 20. ans apres, si nul officier le Roy, ou d'auer Seignior, &c. ad eux seisie, Fitz. Estray 2.*

13.E. 4. 10. *Si Merchant Alien vient in cest realme per safe conduct, & ses biens sont emblees, ceux biens ne poent estre waifes, car le roy ad grant a luy saluum & securum &c. tam in bonis quam in corpore, & cest un couenaunt perenter le roy & luy, per que le roy ne poet auer les biens come waifes; & per mesme le reason le roy ne poet granter eux al auter person &c. Fitz. Estray 1.*

Bracton lib. 3. cap. 12. **These goods waived, the Ciuilians call derelicta: and** **After Bracton saieth, Quod olim fuerunt inventoris de jure naturali, & jam efficiuntur principis de jure gentium; and he reckoneth them inter res quæ sunt nullius &c. as estraies, and the like.**

But now kings haue graunted this, and such like Perogatiues unto their subiects within their liberties, so that Waifes and Estraies are (in many places) the Lords of the franchise where they are found; but they must first by him be caused to be cryed in Churches, and Markets neere about him, or else the yeare and day doth not run to the prejudice of him that hath lost them.

*Nota per le Common Ley Estray serra proclaime in deux prochein Estray market Villes, & deux market iours, lun in lun ville, & lauter in lauter ville: Et sil soit claime deins lan & iour, le owner reauera; & cesty que prist eux come estray poet eux retenir tanque il soit satisfie pur le finding, keeping, & proclaiming del beast &c. See Br. Estray 1. 4. & 16. Fitz. Estray. 4. & Co. 5. 108.*

*Estray ne poet estre in tiel lieu, ou le partie ad common. Br. Estray 3. & Co. 7. 16.*

Co. 5. 108. *Biens de Infant, feme conert executrix, home in prison, & home ouster le meere, sils estreyont, & sont proclaime solonque le ley, si nul claime eux deins le an & iour, ils tous serra lye, & tiel biens poient estre seise al oeps le roy &c.*

*Estray est lou ascun beast ou cattell vient in ascun seignorie, & nul conust le owner de ceo.*

*Et nota que wained biens & estraies serra seise per lofficer le roy, al oeps le roy; ou per lofficer ou bailife del seignior, que ad tiels choses per grant*

## Forfeitures.

*grant le roy, ou per prescription al oeps le seignior: Termes del Ley.*

One as bailife oz seruant to the sherife, seised a horse, as an estray to the kings vse, and proclaimed him according to law &c. And after the yeare and day sold him, and the sherife accounted therefoze in the Exchequer. Br. Estray 4. & 5. 24. H. 6. fol. 5.

Swans may be seised as an estray. 7. Hen. 6. Fitz. Barr. 6.

Swans that be vnmarked and wilde (being at large and abroad) the sherife may seise them to and for the vse of the king, by his prerogatiue, they being volatilia regalia. Co. 7. 16.

*Bona confis-  
cata.*

The word confiscate (confiscare, i. conferre in fiscum) cometh from *fiscus* which (as Master Minshew saith) originally signifeth a hamper, &c. but metonymically, the Emperors treasure, because it was anciently kept in hampers; and such goods as were forfeited to the Emperors treasure for any offence, were *bona confiscata*, and so do we call those goods that are forfeited to our kings Exchequer. *hec ille.*

And indeed our law in some cases doth intitle the king to goods that late were another persons, but lost by some default or negligence of his, yet this cannot properly be termed a forfeiture, but a confiscation of goods. As if a man doe steale diuers goods, and the owner of the goods doth bring his appeale of Robberie against the felon, and therein doth omit or leaue out any part of his said goods that were stolne, in this case the king shall haue all those goods which were left out of the appeale, and the reason of law is, for that by this omission or leauing out any of the goods the felon may escape and the appellant shall be thus punished by the losse of his goods, for such his negligence, conuencie, and concealing of the felons offence; and then in as much as the owner cannot haue those goods, the king shall haue them as confiscate, according to the old rule, *quod non capit Christus, capit fiscus.*

Co. 5. 110.  
fit. cor. 100

So if a man be indicted for the felonious stealing of another mans goods, where in trueth those goods bee his owne, and the goods bee brought into the court (as a manoure against him) and he is asked by the court whose those goods

goods bee, and he doth disclaime to haue any proprietie in them, by this disclaimer hee shall loose the goods, though they were his owne; and though he be acquit of the felonie, yet the goods by this disclaimer shall bee confiscate to the king. Fitz. Coron. 355. & 368.

So if goods be found in the possession of a felon which he doth disauow, and after hee is attainted for stealing of other goods, but not of those; in this case the goods which he did disauow shall be confiscate to the king: but if he had bene attainted for the stealing of those goods, they should haue bene termed goods forfeit, and not confiscate. Fitzh. Forf. 24.

Co. 5. 110.

Also if A. hath the goods of B. by bailment, or finding them, or by other lawfull meanes, and B. doth bring an appeale of robbery against A. charging him to haue stolne them or taken them feloniously, and it is found by the Iurie, that the goods were the plaintifes, and yet that the defendant A. came to them lawfully, in this case B. the plaintife shall loose these goods to the king, for his false and malicious appeale; scz. they shall be confiscate. *Faux appeale.*

If a man do steale goods at diuers times from severall men, and he is attainted at the suite of one of them for the goods stolne from him, but is not attainted at the suit of the others, by this attainder the felon shall forfeit to the king not onely his owne goods, but also the goods stolne from those other at whose suit he was not attainted, although he had no proprietie, but onely a possession of those goods; for a felon hath no proprietie in goods stolne, but the proprietie doth alwaies remaine in the right owner, which proprietie in this case he also forfeiteth or looseth to the king, for default of pursuing the felon. *Per default de pursuit.*

So if a man do steale goods from another, and befoze his attainder he doth kill himselfe, he shall forfeit to the king not only his owne goods, but also the goods which he hath stolne from the other: for the owner of those goods not hauing prosecuted and giuen euidence against the offendor to attain him of felonie (either by appeale, or indictment) can neither haue restitution of those goods by the common law, nor by force of the statute of 2 I. H. 8. c. 11.

Deodands,

## Forfeitures.

*Deodands.*

**Deodands**, are goods, or any other thing, which do cause or are any occasion of the death of a man by misadventure: And the Jurie which doe finde the death of the man, must also find and appraise the Deodand. And the Sherife shalbe chargeable therewith; scz. shall be charged to leuie the price of such Deodands of the towne: but Quære whether the Sherife may not seise such Deodand.

Co. 5. 110.  
Fitz. Co.  
298.  
Stamf. 23.

See the statute de officio Coronatoris made Anno 3. E. 1. that hozles, boates, oxen, and carts, or other things whereby any person shall be slaine, that properly are called Deodands, they shall be praised, valued, and deliuered (by the Coroner) to the whole Coboneship, who shall bee answerable therefoze.

*Goods of Egyptians.*

Euerie Sherife, within one moneth after the arriuall may seise to the Kings vse, all the goods and chattells of any outlandish persons calling themselues Egyptians, that shall come into this Realme: And may keepe the one moitie thereof to his owne vse, making an account to the King in the Exchequer for the other moitie, 22. H. 8. cap. 10.

But yet euerie person that shall proue by two credible witnesses, befoze the Sherife, that any of those goods were craftily, or feloniously, taken from him, shall be presently restored thereto, vpon paine of the double value thereof, to be forfeited by the Sherife, to the partie grieved &c.

And yet note that after the moneth, the offence is made felonie by the statutes, 1. & 2. Ph. & Ma. cap. 4. & 5. Eliz. cap. 10. And then the king is to haue the whole goods of such Egyptians,

*Vilans goods*

Where a man is appealed, or indicted for felonie, and withdrawes and absent's himselfe, so long time as that an Exigent is awarded against him, this absenting himselfe is accounted a flying in Law, for which hee shall forfeit all his goods although he shalbe afterwards acquite of the felonie. And the Sherife or his officers may, ex officio, seise them presently to the kings vse, see hic antea Fugitiues, & Franchises.

Co. 5. 120. b.  
Stamf. 184.

*Pur felonie.*

Note that he which is outlawed for felonie, shall forfeit his lands, and the king shall haue Annum diem & vastum &c.  
But



But for vtlacie in any personall action he shall forfeit no land, but onely the profits of his lands. Br. Forf. 75. & vt. lag. 36.

The sherife (and his officers) may ex officio seise to the kings vse, all the goods and chattells reall and personall, of all such persons as shall bee outlawed in any personall action: scz. all such goods as they had at the time of the exigent awarded (although they peeld themselues vpon the exigent :) And they may take for the king all the profits of the lands in the possession of the partie outlawed, scz. all the corne and grasse growing, and the feed and herbage of the grounds &c. (as they arise oz grow of themselues) and the rents of his fermours. But they may not meddle with the possession of the lands, to plough, oz let the same &c. And if the partie outlawed shall make a feoffment of his land, the king shall haue no moze the profits thereof, but the feoffee shall haue the same. See Br. Forf. 24. 26. & 30. & Br. Issues 9. 10.

Plo 541. b.  
5. H. 7. 16.  
21. H. 7. 7.

Quere si le  
roy auera  
les coppies  
woods cres  
sants sur le  
terre.

In action  
personall.

But where a woman executrix takes a husband who is outlawed, the goods of the testator shall not be thereby forfeited. 33. H. 6. Br. Forf. 71.

And so if an executor himselfe be outlawed, he shall not thereby forfeit the goods of the testator. Ibidem.

He that is outlawed in a personall action, shall forfeit all such debts as are owing to him by bond oz other specialtie, but not such debts oz other dueties, as are due to him by contract &c. (without specialtie) as it hath beene aunciently holden. See 49. E. 3. Br. Forf. 74. 16. E. 4. 4. & 4. H. 7. 17. Br. Forf. 107.

And yet now it is holden by sir Edw. Coke in Slades case 4. part fol. 95. a. that he that is outlawed (in a personall action) shall forfeit such debts and dueties as were due to him by single contract. See ibid.

No goods lawfully distrained, noz goods letten oz demised, noz goods pawned oz pledged, shal be taken oz seised for outlaworie, vntill the lease be Determined, oz the rent oz other satisfaction be peeld vpon the distresse, oz the money paid for the pawne oz pledge. 4. F. 6. Br. Distr. 75.

In

## Forfeitures.

In an action of trespass for carrying away goods, it is a good plea, that the owner was outlawed, and that hee as seruant to the sherife, and by his commandement tooke the goods, Br. Trespas 339.

But note where the lord of a manor or franchise, hath by charter the goods of felons, fugitiues, or outlawes &c. there the sherif or his officers are not to seise or meddle with such goods: And yet such lord must haue them by charter, and not to claime them only by prescription or vsage: And such charter must be made within the time of memorie &c. (scz. since the time of King Richard the first) and by plaine and speciall words; or else such charter must haue the aide and helpe of some other matter of record, within the time of memorie, as allowance before the Iustices in Eyre, or before the Iustices of the Kings Bench, or (in some cases) before the Iustices of the Common Pleas, or before the Barons of the Exchequer, or by force of some confirmation by charter of record of some King or Queene within the time of memorie: And it shall be only good for such part of such charter, as hath beene so allowed or confirmed, Coke 9. 27. 28.

If the sherife (or any other officer) shall wrongfully seise or take one mans lands, or goods, being of the same name with another that is outlawed, in such case the partie grieued, his executors or administrators may haue a Writ de Idemptitate nominis directed to the sherife &c. wherupon the partie grieued shall find sureties before, or to the sherife (or other officer which hath warrant to seise) to answer the king of the value of such lands, or goods and chattels, in case that hee cannot discharge himselfe: And for this the sherife (or other officer) shall not take any thing of the partie, but shall forthwith (vpon sureties found as aforesaid) deliuer to the partie grieued his goods &c. againe, vpon pain to lose to the partie grieued his double dammages, and besides to be grieuously punished to the king. See the statutes of 37.E.3.ca.2. & 9.H.6.ca.4. & Fitz. 268.

*Idemptitate  
nominis.*

*Vic' prendr'  
sureties.*

*Regule.*

Nota per *Bracton* libro 2. Homo vtlagatus forisfacit patriam, amicos, quæ pacis sunt, quæ legis sunt, & quæ juris & possessionis sunt. Vide *Stamf.* 196.

*Regule.*

*Sur briefe de Capias vtlagat. le vicont poet vender les biens del  
partie*

## Forfeitures.

37

partie vtlage ; on poet eux conserue al oeps le Roy. Co. 5. 90. b. Dyer 363.

Co. 5. 90.  
& 8. 143.

Mes si les biens dun home vtlage sont vend per le vicont, sur briefe de Capias vtlagat. &c. & apres le vtlarie est reuerse per briefe de Error, le defendant auera restitution de ses biens, pur ceo que le vicont nest compellable ne commaund de vender eux: car per le Capias vtlagat. le vicont est commaund a prender le corps &c. Et bona & cattalla que per Inquisitionem invenerit in manus nostras, vt de vero valore &c. Et sic vide diuersitatem inter meane acts & faits in execution de Iustice que sont compulsive, & acts que sont voluntarie. See hic postea Exec' per Fieri fac'.

Cesly que est vtlage sur Indictment de Trespas al suit le Roy, fera fine & ranfome (que est treble le fine al meines) Br. Vtlag. 37.

Si al temps del Exigent agard, le defendant soit in prison, ouster le meere, ou que le Exigent issera auerment erronee, uncore si le vicont seiser ses biens al oeps le Roy, le defendant nauera restitution de ses biens, tanque le agard del Exigent soit defcate: Et pur ceo in tiels cases, le defendant, ses executors, ou administrators doivent porter leur briefe de Error, de reuerse mesme le Exigent; car intant que le Roy est inutile (a les biens &c.) per matter de record, il besoigne que ceo soit auoid per matter de cy haut nature. Vide Co. 5. 111. 43. E. 3. fol. 17. & Fitz. Forf. 19. 31. & Plow. 137. b.

Uncore vide vtlary reuerse per plee sans briefe de Error. Br. Vtlag. 28. 31. 47. 75. 77. & 79. Et Fitz. Index tit. Vtlag.

Si home ad charter de pardon portant date deuant le Exigent, la les biens del partie sont saue per ceo, pur ceo que le cause del sauing de eux, appiert de record. Co. 5. 111. Vide Stamf. 184.

Mes nota, que deuant pardon de vtlarie serra graunt, si le vtlarie fuit sur originall (deuant son apparance) le partie doit primes yeeld luy mesme al prison &c. Et si le vtlarie fuit apres iudgement, le partie doit primes agree oue le plainife pur son det ou damages. Vide Stat. 5. E. 3. c. 12. Fitz. Chre de Pardon 27. & 28. & Fitz. Vtlag. 4.

Note that the Sherife, nor his officers, may not arrest or attach the bodie of any man that is outlawed in any personall action, without a writ of Capias vtlagat. first deliuered to him; but otherwise it is where the vtlarie is for felony or treason. See Dyer 120.

D

Note

## Treasure troue.

Note also that the goods of persons outlawed may belong to a subiect, by the kings grant, but not by prescription, Co. 9. 27. 29. Pl. 81. b.

There be other things belonging to the King, *quia non apparet dominus eorum*, in regard that the true proprietor or owner thereof cannot be knowne, as Treasure troue, Wrecke &c.



## Treasure troue.

Treasure  
troue.



Treasure troue dicitur, where money, gold, silver, plate, or bullion is found in any place, the owner thereof being unknowne: And such goods or treasure the king is to haue; and the sherife is to seise it to the kings vse. And it seemeth to be all one whether it were hidden in the ground, or onely lost, See Br. Coron. 176. & Presentments 24.

But all Mines of mettall (except Mines of gold and silver) doe appertaine and belong to the owners of the soile wherein they are found; and the mines of gold and silver belong to the king. Br. Coron. 176. See Br. Prærogat. 134. & 137.

Also see Master Plowden fol. 314. &c. That if gold or silver bee in Mines, or Ores of Copper, Tinne, Lead, or other base mettalls, the whole Mine pertayneth to the king.

Wrecke



Wrecke of the Sea.

3.E.1.c.4.



recke is by the Ciuilians called Naufragium, *Wrecke*, where a ship perisheth at the sea.

Br.Wreck 2

Concerning wrecke of the sea, the Statute of Westminster 1. (made Anno 3.Ed.1.cap.4.) is thus; where a man, a dogge, or a cat escape quicke out of the shippe, such shippe or barge, nor any thing within them, shall bee adiudged wrecke; but that the goods shall bee saued and kept by the view of the Sherife (or other officer) and shall bee deliuered into the hands of such as are of the towne where the goods are found; so that if any sue for those goods, and proue that they were his, within a yeare and a day, they shall be restozed to him without delay; and if not, they shall remaine to the King, (as belonging to him by his Prerogatiue) and shall bee seised by the Sherife, or other officer, and deliuered to the towne, who shall answer therefoze &c.

Note that if the goods within such a ship, be of that sort that they cannot bee kept sweete and good by the space of a yeare, there the Sherife, or officer, may sell such goods, and deliuer the money taken for them, to the towne to keepe and answer for them. But if the goods were such as might be kept a yeare, there the goods shall be kept and preferred during the yeare, or else the officer is punishable &c. Pl. 466.

Do & Stu. cap. 1.

By the Common Law if goods were wrecked, they were immediately (and ipso facto) forfeited: And now by the former Statute of Westminster 1. cap. 4. the partie shall haue a yeare and a day to proue his proprietie, if a man, a dogge, or a cat shall escape out of the ship aliue: but if nothing escape out of the ship aliue, it seemeth that the goods wrecked are presently forfeited to the King, so as the owner shall not be admitted to proue his proprietie, for that this prooue within the yeare and day is giuen onely where something escapeth aliue. See Termes of the Law, & Br. Wrecke 3.

where wrecke belongeth to another than to the king, he  
 shall

## Wrecke of the Sea.

shall haue it in like manner as the King should, but there the Sherife is not to meddle therewith: As where the Lord of any Libertie, Franchise, or Manor hath wrecke graunted by Charter &c. or hath had any wrecke by Prescription &c.

By the statute made 27.E.3.cap.13. if any ship shall per-<sup>27.E.3.</sup>ish on the sea, and the goods come to land, which bee no wrecke, the owner shall be receiued to proue the said goods to be his owne; and vpon prooffe thereof they shall bee presently deliuered, paying to them that haue saued and kept the same, conuenient for their trauell, by the discretion of the Sherife, or other officers, with the assent of foure or fixe of the best or most sufficient discreet men of the countrie.

*Quid.*

Master Bracton lib. 3. saith thus hereof. Item magis proprie dici poterit wreccum, si navis frangatur, & ex qua nullus vivus evaserit, Et maxime, si dominus rerum submersus fuerit, Et quicquid inde ad terram venerit erit domini regis: And therewith agreeth the Booke of Entries fol. 611. 612. tit. Trespas in Wrecke. And accordingly also it was adiudged in Sir Henrie Constables case, Co. liber 5. fol. 106. <sup>Co. 5. 106.</sup> That nothing shall be said to be Wreccum Maris, but such goods only, which are cast, or left vpon the land by the sea: For Wreccum Maris signifyeth, illa bona quæ naufragio ad terram appellantur.

There be other casuall profits of like nature, as  
*Flotsam, Ietsam, and Lagan.*

*Flotsam.*

Flotsam, is where a ship is drowned, or otherwise per-<sup>Co. Ibid.</sup>isheth, and the goods float vpon the sea, or swim vpon the water, (scz. vpon the top of the water,

*Ietsam.*

Ietsam, commeth of the french word *letter*, to cast out, <sup>Co. Ibid.</sup> and is when a ship is in perill to be drowned, and for to disburden the ship, the goods are cast into the sea, and after the ship notwithstanding perisheth.

*Lagan.*

Lagan, vel potius Ligan, is when the goods are so cast into the sea (scz. to disburden the ship &c.) and after the ship per-<sup>Co. Ibid.</sup>isheth, and those goods so cast out, are so heauie that they  
sinks

## Wrecke of the sea.

39

sinke to the bottome, and the mariners, to the intent to haue them againe, doe tie vnto the said goods a cozke, or other thing which will not sink, so as they may find them againe; and they are called Ligan à Ligando.

Co. I. bid.

And so note that wrecke is when the goods are by the sea cast vpon the land, & so infra comitatū, whereof the Common Law taketh conusance; but the other thre (Flotsam, Ietsam, & Lagan) are all vpon the sea, and therfore of them the Lord Admirall hath jurisdiction.

Note also that none of those goods which are called Flotsam, Ietsam, or Lagan, shal be wrecke so long as they remaine in, or vpon the sea; and being vpon the sea, quære if they are not due and belonging to the Lord Admirall by vertue of his Letters Patents.

But if any of them shall bee cast vpon, or driuen to the land by the sea, then they shall bee called and said to bee wrecke, and so the king shall haue them; or any other lord &c. by grant of wrecke from the king may haue them, for that they being cast vpon the land, will passe by the grant of wrecke. Co. 5. 106.

And the king shall haue Flotsam, Ietsam, and Lagan, (remaining in or vpon the sea, (sz.) when the ship perisheth, or when the owner of the goods is not knowne. Co. 5. 107.

Co. 5. 117.

Note that the ship must perish, or els the goods cannot be forfeit, nor said to be wrecke. But though the ship perish, yet if any of the seruants escape, the law saieth that they haue the custody of the goods, and so they are not wreck, nor forfeited.

If the ship be broken by tempest, & the goods cast vpon the land, they are not wrecke. Fitz. 112. c.

So if goods are cast into the sea for doubt of a tempest, they are not wrecke, nor forfeit. 46. E. 3. fol. 15. And therewith agreeth master Brafton lib. 2. Res habitata est pro derelicta vbi dominus itatim desinit esse dominus, si autem causa navis alleviandæ, non sic, quia non ea voluntate eiecit quis, vt desinat esse dominus &c.

Co. I. bid.

Also in Sir Henrie Constables case aforesaid, it was ad-

H 3

judged

## VVrecke of the Sea.

iudged, that the afoze recited statute made 3.E. 1. concerning wrecke, was but a Declaration of the Common Law; and all that is therein contained concerning wrecke shall be also extended to Flotsam, Jetsam, and Lagan: And that if the owner of such goods shall proue that they were his, within a yeare and a day, they shall be restozed to him, and if the owner dyeth, his executozs oz administrators making prooffe that they were their testatozs &c. they shall be restozed to them.

Note that the yeare and day in such cases shal be accounted from the time of the taking oz seisure of such goodes as wrecke; for although that the proprietie be in labo vested in the lord before seisure, yet vntill the lord (by his officers oz seruants &c.) seiseth them, and taketh them into his actual possession, it is not knowne either who claimeth the wrecke, oz to whom the owner shall resozt to make his claime, and to shew his proofes. *Vide quel maner de proofes le owner fera.* Co. 5. 108. a.

If the wrecke belongeth to the King, the owner may haue a commission to heare & determine the trueth of such proofes as the owner shall bring &c. which must be by a Iurie of twelue men. Co. Ibid. B

Also it was there holden, that the king shall haue Flotsam, Jetsam, and Lagan, by his prerogatiue, although they stil remaine in, oz vpon the sea; (for the sea is of the kings ligeance, and parcell of his crowne of England &c.) and yet another may haue them by the kings grant. Co. Ibid.

Note that at the first the Common Law gaue as well wrecke Flotsam, Jetsam, and Lagan vpon the sea, as Estrayes, Treasure troue, and the like to the king: for that by the rule of the Common Law, when no man can claime proprietie in goods, the king shall haue them by his prerogatiue. Co. 5. 108.

Also note that wrecke is an estray vpon the sea, comming to land, as an estray of any beast is vpon the land comming within any priuiledged place oz seignorie &c. And the Law giueth in both cases a yeare and a day to the owner to claime them. Co. 5. 108.

Also if the goods of an infant, woman couert being an executrix,



Executrix, a man in prison, or of a man beyond the sea, shall be wrecked at the sea, if they be not claimed and proved to be theirs within the yeare and day, they shall bee all forfeit, &c. For the Law is strict and binding in this case, as well as in case of an Estray, (whereof see antea tit. Estray.)

17.E.2.c.11. By the Statute de Prærogatiua Regis (made Anno 17. E.2.) the King shall haue wrecke of the sea throughout the Realme (except in certaine places priuiledged by the King;) which Statute also is but a declaration of the Common Law: Co. 5. 108.

Also by the same Statute of Prerog. Regis, the King *Whales, &c.* shall haue Whales and great Sturgeons taken in the sea, or elsewhere within the Realme, (except in certaine places priuiledged by the King) which was also the Common Law before the said Statute. Co. 5. 108. Pl. 315.

Also it seemeth by the Common Law, that the King (by his Prerogatiue) shall haue other fishes Royall taken in the Sea, or elsewhere within this Realme, as the Porpus, &c. 39. E. 3. Br. Prerog. 35.



Wards.

51. H. 3. **B**y the Statute de Scaccario, made Anno 51. H. 3. *Wards and Escheats.* Sherifes shall seise and keepe all such Wards, and Escheats (that are not in fees) as belong to the King, which bee within their shires, and of the issues thereof they shall be answerable in the Exchequer, when they account for their Counties, and they might let to ferme, or otherwise such Wards and Escheats, &c.

2. Ed. 6. Also by the Statute made 2. & 3. E. 6. cap. 34. it seemeth that Sherifes shall bee accountable for all Wards, marriages, and reliefes; and for all fines for alienations and intrusions made by the Kings tenants within their Countie.

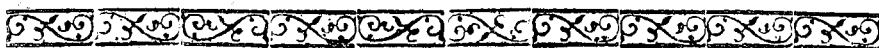
32. H. 8. But by the Statutes made 32. H. 8. c. 46. & 33. H. 8. c. 22. & 34. H. 8. c. 46. All the Kings Wards are to bee within the order, suruey, and gouernance of the Court of Wards; together with their lands, rents, and issues thereof.

The

## Escheates.

The King (by his Prerogative Royall) shall haue <sup>17.E. 2. c.1;</sup> the wardship of all their lands, which hold of him in chiefe by knight seruice, whereof the tenants were seised in their demesne as of fee, the day of their death of whomsoeuer they hold, &c.

Also the King by his prerogative of the wardship of the heire, shall haue rent charges, commons, estouers, annuities, aduousons, offices, and the like which descend, &c. to the heire: 12. H. 7. Br. Prerog. 63.



## Escheates.

Escheates.



*E haut Treason, le Roy auera le escheat, de quocunque tenuerit, 22. Aff. pl. 49. Br. Escheat 14.*

*Ou le tenant est atteint de felonie, il est al election del seignior d'auer brieve de escheat, suppose que le tenant fuit Atteint de felonie, ou que il denie sans heire, car per lattainder le sanke est corrupt, 48.E. 3. fol. 2.*

*Si hōe fait felonie, & puis purchase terre ou terre descend a luy apres, ceux terres sont forfeit & escheat, cybien cōe le terre que il auoit al temps del felonie fait, ibidem.*

*Home atteint de heresie, son terre ne escheater, sinon que il soit mise <sup>Br. Esch. 29;</sup> al execution; & dunque si le terre soit tenuis del Roy, il auera le escheate. Auxy si le terre tenant fuerit de Ordinario, dunque le Roy auera ceo per escheate, per statut' 2. H. 5. cap. 7. mes cest stat' semble deste repeale per stat' 1. Edw. 6. cap. 12.*

*Roy auera le escheates del tenants, del Archieuesques, & Euesques in temps de vacation, 17. Edw. 2. cap. 14. vide hic antea Forfeit'.*

*Roy auera le escheate de tous les tenements in London, de quocunque ils sont tenus; 49. Ed. 3. 5. Fitz. Prerogat' 15.*

*Omnes escaetæ, ciuitatum mero jure pertinent dño Regi, de quibuscunq; feod' tentæ sunt, 8. Ed. 2. Fitz. Esch. 12.*

*Alien*

*Alien nee ad issue fits, & puis est fait Denisen, & purchase terre & denie, tiel fits nauera la terre, mes Escheater.*

*Home ala ultra mare, extra alledg' Regis, sine licentia Regis, & la esposa feme, & ad issue fits illonque, & deuie la, tiel issue ne inheriter mes le terre escheater, Br. Esch. 8.*

*Fits est atteint de felonie in vie le pere, & happa Charter de pardõ, le pere denie, & le fits suruiue, le terre Escheater, ibidem.*

*Le eigne fits est atteint de felonie, puis son pere deuie, le terre le pere Escheater 49. Ed. 3. Br. Discent 7.*

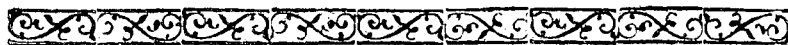
*Ou heire fault per demy sanke, ou de part le pere & c. le terre Escheater ibidem.*

*Terre taile ne escheater pur le felonie, ou per le attainder, del pere 29. Ass. pl. 61.*

*Rent ne Escheater, car le terre est tenuis, & nemy le rent.*

*Nota que si tenant le Roy deuie sans heire, & nul enter, le franktenement est in le Roy, sans office, ou entre, car franktenement ne poct merger, 9. H. 7. fol. 2. Br. Escheat 25. & 33. Plow. 229. b.*

**But quare what the Office or authoritie of a Sherife is, at this day, concerning Wardes, or Escheates.**



## Ideots.



**I**f there shall be an Ideot (sc. a naturall foole, *Ideots.* à Natiuitate) there may bee a writ awarded to the Escheator, or to the Sherife, of that Countie where such Ideot is abiding, to enquire of such Ideot, and of his lands &c. Fitz. 232. 233.

*17. B. 2. 62. 9.* **Le stat' de Prerogatiua Regis, est quod Rex habebit Custodiã terrarum fatuorum naturalium, capiendo exitus eorundem &c.**  
*Es coment que le dit stat. dit Custodiam terrarum, vncore le roy auera cibien le custodie del corps, biens, & chateux del Ideots come de lour terres &c. & cybien ceux terres que il ad per purchase, come ceux queux il ad come heire &c. Co. 4. 126.*

## Direction and Execution of Writs.

*Mes le roy nauera le Custodie del terre, que le Ideot seigne per copie ; car ceo nest que estate a volunt &c. Co. ibidem.*

*Auxy le Roy nauera les profits del terre &c. forsque apres office troue ; car per loffice appiert de record que le Roy ad droit de seiser les terres Co.8.170.*

*Et sic nota que le roy seisera le terres de Ideots , ( & l'heire suera liuerie ; ) mes auterment est de terres de Lunatiques, & de terres del Ideot per accident ou infirmitie , Co.4. 126. & Br. Ideot 5.*

*Quel person serra dit Ideot, & quel Lunatique , vide Co.4. 124. 128. Fitz.233.b.*

*Le manner del Triall del Ideot. Co.9.31.*

*Que auera le ordering &c. del terres del Ideots , vide Stat' 32.H. 8.cap. 46.P.Prerogat.10. & Wards 27.*



## Direction and Execution of Writs.

*A que breues serront direct.*



The office of a Sherife consisteth chiefly in the execution and seruing of writs and Proces of Law: and to doe this he is the immediate Officer of the King and all his Courts (scz. to execute the writs of the Common Law:) And hee is sworne that hee shall truely doe this, and hee must doe this without any fauour, Dread, or corruption.

*Dyer 60.b.  
Plow.74.*

*Al Viscont.*

By the ancient Law of this land, all Originall writs (purchased at the suit of the partie to maintaine actions) are to be directed to the Sherife, and cannot bee directed to any other, vnlesse it be in speciall cases to the Cozoner, who then standeth in the place of the Sherife.

*Co.3.Pref.  
Br.offic.2.*

*Al Coroners*

As where it is alleaged by either partie (scz. by the plaintife or defendant, &c.) that the Sherife is cosen, or otherwise of kindred, or tenant to the other partie, and the other partie doth not deny this: in such cases processe shall be directed to the Coroners of that countie, and shall be executed by them: Br.Chall.78. Officer 14. & Proces 63.70.

So where the Sherife is a<sup>b</sup> partie to the suit, the processe shall be directed to the Coroners.

*b 12.H.4.24.  
8.H.6.28.*

And

And yet you may obserue much contrarietie in our bookes herein, for some hold a difference where the Sherife is plaintife, and where defendant; for where hee is <sup>c</sup> plaintife the processe shall bee directed to him against the defendant, and he may serue it himselfe (scz. the summongs and Capias, and other like originall processe shall be directed to him against the defendant) except the pannell of the <sup>d</sup> array which hee shall not make; and except where he is <sup>c</sup> named Sherife in the writ, for there the Coroners must execute it: And it seemeth that the writ to the Coroners in such cases is, that the Sherife, *sc non intromittat.* 18.E. 4. 7. See Br. Proces 9. 14. 40. 58. & 118.

c 9. H. 6. 10.  
14. H. 6. 1.  
21. H. 6. 18.  
34. H. 6. 39.

d 8. H. 6.  
12. 18.  
c 12. H. 4. 24

And where the Sherife is plaintife hee may serue the processe vpon the defendant, and he or his Undersherife for him may afterwards put in pledges (de prosequendo) in the Chancerie, or in the Court of Common Pleas where the writ dependeth, and when they come to issue, he, or the defendant may shew that he is a Sherife, and then the *venire facias* shall be directed to the Coroners.

Br. Proces  
9. 65. 145.

And yet see Br. Proces 60. & 106. 118. 140. the contrarie, scz. that the proces shall goe to the Coroners wheresoeuer the Sherife is a partie, and that there should be no diuersitie where he is plaintife, and where defendant, and that hee may neither serue proces vpon himselfe, nor for himselfe: *Ideo quare.*

If the Sherife be defendant, he cannot serue the proces vpon himselfe: 2. H. 6. 12. 8. H. 6. 30. 9. H. 6. 10. Bro. proces 9. Neither can he distraine nor warne himselfe.

5. H. 6. 10.

And yet the bookes varie in this also: see 18. H. 8. 3. Fitz. & Register. 81. b. & Thel. 107. 108. vide Plow. Wimbish his Case, an originall writ, *de assise, de nouel disseisin* directed to the Coroners was adiudged good, in regard that assises ought to be speedie, &c. But otherwise there seemeth a difference betweene other writs originall, that they in all or most cases shall be directed to the Sherife, but that Iudiciall writs may be directed to the Coroners: see Plow. 74.

But (in an Assise of *Nouel disseisin*) if the Sherife (by craft to haue the writ directed to the Coroners) be named one of the disseisors where indeed hee is no disseisor, nor ever was disseisor or tenant of the lands in demand, the tenant in the said Assise may auerr this couin, or the Sherife may shew this matter and couin to the Court, and pray that it may be inquired of; and if it bee found that the Sherife was no disseisor, but was named disseisor by collusion, then shall the

## Direction and Execution of Writs.

the writ be abated, and the plaintife in the grievous mercie of the King: 11.H.6.c.2.Fitz.N.Br.155.a.

*Default.*

Also in some cases where the Sherife maketh default of serving the proces, it shall be directed to the Coroners: see Fitz.Proces 48. 51.Br.officer.43.& Fitz.fol.54.e.

And in some cases proces (scz. an attachment) shall be directed to the Coroners against the Sherife, for his default in not serving or returning proces, &c. Fitz.54.e.62.o.64.b. 68.e.98.c.

*Partialitie.*

So where partialitie is found in the Sherife in returning the Array (or Jurie) partially, and thereupon the Jurie is quashed, there proces shall goe to the Coroners; and in such cases also the writ to the Coroners is that the sherife shall not intermeddle: 18.E.4. fol.3.

Br. Proces  
155.

Co.10.103.  
104.

But if the Sherife be dead or remooved, or that otherwise there be no Sherife, there the proces shall not be directed to the Coroners, for that the Sherife being the immediate officer to the court, proces shall goe to the Coroners only in speciall cases; as where it is alleaged that the Sherife is of kindred, or tenant to either partie, or that the Sherife is partie to the suit, vt supra; or that the Sherife made default, or is found partiall, vt supra: in such cases proces shall be directed to the coroners, and otherwise not.

Br. Proces  
70.

If the venire facias be awarded to the coroners, where it ought to haue beene directed to the Sherife, or e conuerso (and so the Jurie be returned by such as haue no authoritie) it is errour; and is not remedied by the Statutes of Jeofayles: Co.5.36.& 8.152.163.

Note where the Originall Processe is once directed to the coroners, all the residue of the proces in that suit shall ensue the originall, and shall likewise be directed to the coroners, yea although that Sherife be remooved, or dead, or acquitted, and another indifferent Sherife be chosen depending that suit & proces: see Br. Proces 4.73.118.144.155.& 183.

If proces goeth out Coronatoribus, and there be foure coroners, it seemeth any two of them may serue and execute, or returne the proces, for the plurall number Coronatoribus is obserued: but one of them alone cannot execute or returne such proces, although all the rest happen to be dead: Br.Ret. 42. see Br. Ret. see Co.4.46.

14.H.4.34.  
39.H.6.40.

And yet by the booke 31.aff.20.Br.Officer 22. the returne must be by all foure: And contrariwise by the booke 39.H.6.Br. Retorne 66. if three Coroners dye, the fourth may execute the processe vntill moe Coroners be chosen, Ideo quære.

Where

## Direction and Execution of Writs.

43

Br. Ret. 42

Where Proces goeth out to the Sherifes of London or  
 Yorke (there being two Sherifes) and one of them returne  
 the writ alone, it is not good, although the other bee dead:  
 and yet it is vsed that one of them doth serue the writ, and  
 that is the seruing of them both; but when it is returned,  
 that must be in the names of both of them: 21. aff. 20. Br.  
 officer 22.

Br. Proces  
 355.

For fauour in the Undersherife (sc. where he is of kindred,  
 &c. to either partie) that being alleaged, Processe shall bee  
 directed to the high Sherife, with this clause (as it see-  
 meth) that the Undersherife shall not meddle,

Br. Proces  
 38.71.

But if both the Sherife and Cozoners shall bee found *Al Esliors.*  
 partiall or faultie, then the proces shall be directed vnto cer-  
 tain other persons to be chosen or named by the Court, (by  
 the assent of the parties as it seemeth) which persons vpon  
 a venire facias to them directed, shall make & returne the pan-  
 nell, and after the returne thereof, they shall serue and exe-  
 cute all other the Processe which shall follow thereupon, as  
 the Sherife himselfe should haue done if the Processe had  
 beene directed to him: see 15. E.4. fol. 24. Bro. Chall. 69.

Br. Proces  
 14.62. 64. &  
 127.

Sometimes also Proces shall be directed to the Bishop, *Al Euesques*  
 &c. as where the defendant is named or returned to bee a  
 Clerke, Non habens laicum foedum, there a venire facias  
 Clericum shall go to the Bishop; and by vertue of this writ,  
 the Bishop shall sequester the benefice of such Clerke, to  
 compell him to appeare and answere, and must also  
 warne his person to keepe his day, &c. and if the defendant  
 commeth not in at his day, a distringas Episcopum shall goe  
 out to the Sherife, to cause the Bishop to make his Clerke  
 to come in: and thereupon may the Bishop sequester all the  
 benefices of the defendant, and shall answere to the King  
 for the issues thereof, &c.

But if the Bishop be a partie to the suit, there the Proces  
 shall bee directed to the Metropolitane: see 34. H. 6. fol. 29.  
 Br. Ret. 118.

Bastardie being pleaded in an Assise, a writ went out to  
 the bishop to certifie, &c. who certified the partie to be *Mulier*,  
 reciting the writ word by word. but did not send the writ  
 with the Certificate, and for default of sending the writ,  
 the Certificate was adiudged void: 41. aff. 19. Br. 81.

Excommunication being pleaded in disabling of the plain-  
 tife, it ought to be certified by the Bishop (who is the imme-  
 diate

J

diate

## Direction and Execution of Writs.

Diate officer to the Court) and such certificate ought to comprehend specially the cause of the excommunication, &c. that the Judges may iudge thereof, &c. But this may be pleaded ( being shewed vnder the Bishops seale ) without any writ to the Bishop to certifie the same : Co. 8. 68. & Lit. 201.

*Al Lieutenant del Tower.*

Also in some cases the Constable or Lieutenant of the Tower shall receiue & execute the Kings writs ; as where the Maior and Sherifes of London be faultie, &c. see the statute of 28. E. 3. c. 10. & 1. H. 4. c. 15.

*Al Iustices.*

Sometimes writs shall be directed to the Iustices, &c. as writs of Errour to the Iustices, &c. before whom the Judgement was giuen; And writs of audita quærela, to the Iustices before whom the plaintife is to haue remedie.

*Al Signiors.*

Sometimes writs shall be directed to the Lords of whom the lands are holden : Pl. 74. Sometimes to Stewards, Maiors, Bailifes, or other officers of Mannors, Cities, Boroughs, or Townes, within which the lands doe lie. Theil. 107.

*Al parties.*

And sometimes writs shall bee directed to the parties themselves of whom complaint is made, as the writs of Monstraverunt, de ne iniuste vexes, de Estreparento sometimes, and sometimes writs of Prohibition, &c.

*Delinerie of Writs.*

Sherifes and Undersherifes shall receiue all manner of writs in any place, and at all times within their Countie, when and wheresoeuer they shall be deliuered them, without taking of any thing and shall make thereof warrant. 1. E. 2. c. 5.  
Cromp. 203

If any man doth feare the malice, indirect dealing, or negligence of the Sherife, &c. in the execution of any writ, they may deliuer their writs in the open Countie Court, or in any other place in the Countie, and may take of the Sherife or Undersherife being present a bill, wherein the names of the Demandants and Tenants mentioned in the writ shall bee contained, whereto vpon request made by him which deliuered the writ, the Sherife or Undersherife shall put to their seale for a testimony, without taking any thing therefoze, and mention shall bee made therein of the day of the deliuerance of the writ : and if the Sherife or Undersherife shall refuse to put his seale to such bill, others that bee present shall set to their seales to such bill for witness thereof. W. 2. c. 39. &  
2. 3. c. 5.  
P. Ret. 1.

And



13 E.1.39.

And if the Sherife or Undersherife make not a due returne of the said Writs deliuered vnto him, the Iustices of Assise shall haue power to enquire thereof, by those that were present when the Writ was deliuered, &c. And if the Sherife bee found in fault hee shall bee punished, and shall yeeld Damages to the partie grieued (having respect to the quantitie and qualitie of the action, and to the perill which might haue chanced vnto him by the delay which hee suffered:) see the booke of Assises, Lib. 29. pl. 58. Br. returne de breue 72. & Officer 40. *Nient Returne.*

¶ The Iustices of Assise haue power to enquire thereof at euerie mans complaint, and to award Damages vt supra. 2.E.3.c.5.

Also by this meanes remedie may be had when the Sherife &c. shall returne that the writ came too late, wherby he could not execute the Kings commandement: 13.E.1.c.39. *Tarde.*

Also the like remedie is giuen when the Sherife, &c. shall make a false returne of any Writ (wherby right is deferred) and the offendors making any such false returne, shall yeeld Damages to the partie grieued, vt supra, 28.E.1.c.16. *Faux Returne.*

**A**Ll Writs and Proces directed to the Sherife, are usually deliuered to the Undersherife and executed by him. *Que excec-ter.*

Lambert.91.

And yet the high Sherife may execute them himselfe, or the high Sherife may command his Undersherife, Bayliffe, or other sworne or knowne officer to serue or execute them, and such commandement of the Sherife by word onely is good.

1.H.7.23.a.

But if the Sherife will command another man (that is no sworne or knowne officer) to serue or execute any Writ, Processe, or other Warrant, the Sherife must deliuer him the Writ it selfe, or else a Precept in writing, otherwise an action of false imprisonment will lie for the arrest, Lambert 91.

And yet the Sherife may commaund his seruant by word onely (without any Precept in writing) to serue or execute any Processe, and it is good: and so any stranger by the commandement of the Sherife, and as a seruant to the Sherife, may iustifie to serue and execute any Processe vpon the bodie or goods of another, or to seise the goods of any person that is belawed, &c. and that without any Precept or Warrant in writing: see Br. faux impr. 43. & trespass. 339.

## Direction and Execution of Writs.

*How to be  
executed.*

If the writ or other procelle commeth to the Under-  
sherifes hands, hee must make his warrant to the Bay-  
lifes, and other such Officers in the high Sherifes name.

If the high Sherife (or Undersherife in the high She-  
rifes name) vpon any writ or procelle to them directed and  
deliuered, shall direct their warrant to their bailifes, or any  
other such officer (to arrest one, or otherwise to execute such  
writ or proces) such bailife or other officer must serue or Lambt. 91  
execute it himselte: for these can command none other to do  
it neither by word nor writing.

And so it seemeth if the high sherife shall direct his war-  
rant to his vndersherife, the vndersherife must execute it  
himselte, and can command none other to do it.

*Posse commi-  
tatus.*

Note that the vndersherife, bailife, or other such officer  
may (if need be) take posse committatus, i.e. what number of  
other persons they shall thinke good to execute any writ,  
procelle, or other lawfull warrant to them directed, and  
such as shall not assist them therein being required, shall  
make fine to the King.

A warrant directed (by the high sherife, or vndersherife)  
to the bailife or other sworne officer, and to a stranger (or  
speciall bailife, who is no sworne or knowne officer) and the  
warrant is made to them, coniunctim & diuisim, and is exe-  
cuted by the stranger, this is good.

A warrant is directed to two men ioyntly to arrest ano-  
ther, yet either of them a one may do it: Lambt. 91.

The formes of Warrants to be made vpon meane Pro-  
ces: see hic postea.

*Not to dis-  
pute the  
Authority.*

The Sherife nor his Officers are not to dispute the au-  
thoritie of the Court, from or out of which they shall re-  
ceiue any writ, proces, or other warrant: but they at  
their perill are to execute all writs, warrants, proces,  
and precepts of the Judges, Justices, or Court to them  
directed, and to this also they are sworne: And therefore  
whereas there was an information preferred in the Star-  
chamber (termino Michaelis Anno 3. Iacobi Regis) by the  
Attorney generall, against diuers Serleants of the Mace,  
and others, for arresting the bodie of Isabella Countesse  
of Rutland, by force of a Capias ad satisfaciendum, vpon a  
Judgement in debt giuen in the Court of Common Pleas,  
against the said Countesse; it was resolued for good Law (by  
Egerton Lord Chancellour, Popham and Gawdie chiefe  
Justices, Fleming chiefe Baron, and by all the Court of  
Star-

Co. 6. 54. 9.  
68. & 10. 70.  
D. & St. 150

Star-chamber) that the Sherife, or his officers by his warrant, without any offence (of Law) might execute the said writ vpon the bodie of the said Countesse: And although it appeared in the Capias that shee was a Countesse (against whom by Law no Capias in such case lyeth, Et quod ignorantia Iuris non excusat: ) yet for as much as in some cases, (as in cases of contempt, &c.) a Capias doth lye against a Countesse (or against any Peere of the Realme, &c.) for that cause it was there resolved, that the Sherife and his Officers or Ministers ought not to examine the iudiciall act of the Court, but ought to execute the writ.

And with this agreeth the opinion in 36.H.8.Dyer f. 60. that if a Capias (in an action of debt) or an Exigent, or a writ of execution shall come to the Sherife against a Duke or Earle, &c. whereas it lyeth not against such persons, yet the Sherife ought to serue and execute such writ or processe, and not to argue and dispute the validitie thereof: see Co. 9.68. & 10.76. b. accordant.

Dyer 60.

A Burgesse of the Parliament was taken, arrested, and imprisoned by the Sherife vpon a writ of Exigent, which issued vpon a Capias ad satisfaciendum, and after a writ of priuledge was granted from the Parliament; whereupon the Sherife let the prisoner goe at large, and it was holden that the priuledge was grantable, notwithstanding the execution; for that the King and the Realme haue interest in the bodie of euerie Burgesse (and other member of the Parliament) and the Common-wealth shall be preferred, and the partie may bee afterwards taken in execution againe: but admitting that a writ of priuledge had not been grantable in this case, yet it was holden that the Sherife should not bee charged for such his letting of the prisoner goe, hee being commanded thereto by authoritie of Law, and not done of his owne head onely; and besides hee is bound to execute all processe of Law, as well by his Oath, as by his Office: and the Sherife is not bound to take\* notice of the Law, for the Law intends him to be a lay person, and not to haue knowledge of the Law: so that where as a writ shall come to him by authoritie, or without authoritie, hee may not argue or dispute it: and therefore if a Capias shall come to the Sherife without any originall, and hee shall serue it, hee is excusable in an action of false imprisonment: for the Sherife being the officer and minister of the

\* Yet in some cases the Law is otherwise: see fol se. quent.

## Direction and Execution of Writs.

Court, it shall be against reason to punish him for executing the proces and commandement of the court, and the rule is, Quicumq; iussu Iudicis aliquid fecerit, non videtur dolo malo fecisse, quia parere necesse est: Co. 10.70.

And yet this difference is to be taken: scz. when a court hath iurisdiction of the cause, and shall proceed in verio ordine, or erroneously; there the Officer or Minister of the court, which shall execute the Precept or Processe of the court is excusable, so as no action will lye against him: But when the court hath no iurisdiction of the cause, there all the proceeding is coram non Iudice, and therefore there an action will lye against the Officer without any regard had of the Precept or Processe of the court: And as to the former rule, Quicumque iussu Iudicis aliquid fecerit, non videtur dolo malo fecisse, quia parere necesse est, the Law well alloweth thereof; But when hee hath not iurisdiction of the cause, non est Iudex, and it is not of necessitie to obey him who is not Judge of the cause, no more than it is to obey a meere stranger, for another rule is, Iudicium à non suo Iudice datum, nullius est momenti; And accordingly in 22. Edw. 4. fol. 33. Pigott saith, That if the court hath not power and authoritie (in the cause) then their proceeding is coram non Iudice.

Also by the booke 22. ass. pl. 64. it is holden, that where an erroneous Judgement is given in any court, the officer which maketh execution is excused: but contrariwise, where the court giueth Judgement of land, contract, or the like, which lyeth out of their iurisdiction, as where an action is brought in a court, of land which lyeth out of their iurisdiction, or of a contract which was made out of their iurisdiction, and the demandant or plaintife recovereth and hath execution, there an Assise, or an action of Trespasse will lye against the officer, &c. which maketh the execution, for all the proceeding is, coram non iudice.

Also by the booke 14. H. 8. 16. if a Justice of Peace shall make a Warrant to arrest one for felonie, who is not indicted, the Justice doth erre in the graunting of such a Warrant, and yet the Baylife, Constable, or other Officer shall serue such a Warrant: this is a good iustification of the Officer in an action of false imprisonment (notwithstanding the Justice did erre in making the Warrant) for the Justice of Peace is a Judge of the cause.

The

24.H.3.14

The same law is where the Sherife doth erre in his warrant directed by him to the bailife of a franchise, or to his owne bailife. Br. Faux Imprif. 8.

14.E.3.8

So vpon a Commission from the King granted out for the arresting of any person though it should be against the law, yet the Commissioners, or those to whom the Commissioners shall direct their Precept or Warrant (for arresting of any such person) may execute and iustifie the same. Br. Faux Imprif. 9.

But vpon an action of false imprisonment, where the defendant iustificeth as Sherife of C. and that he arrested the plaintife by force of a Capias &c. this is a good plea, so as he pleadeth that this was the same imprisonment. Br. Faux Imprif. 29.

And so note that in some cases the Sherife, or other officer, is bound at his perill to take knowledge of the law, as in the cases aforesaid, where the Court, Judge, or Justice, hauing no jurisdiction of the cause shall grant out any Process, Writ or Warrant &c. and the officer shall execute the same &c. *The officer to take knowledge of the Law.*

Fitz 66.f.

So if a Writ de homine replegiando cometh to the Sherife (which writ commaundeth the Sherife to make deliuerance of the bodie except the prisoner be in, per speciale preceptum nostrum, vel capital' Iustic' nostri, vel pro morte hominis, vel pro foresta; vel pro aliquo alio recto, quare non sit replegiabilis: ) yet the Sherife shall be amerced if he deliuer a prisoner for Redisseisin without speciall commaundement, see statute Marl. cap. 8. Fitz. Natura Breuium 189. c. Dyer 60. 61.

Metc. 1. cap. 11.

And so of a prisoner condemned in arrerages before auditors, if the Sherife or gaoler, shall deliuer him vpon a writ de homine repleg', or otherwise, without the assent of his Master, it is an Escape, and the Sherife &c. shall pay the debt &c.

The

# The Officers duetic.



## The Officers duetic.



The officer to whom any Warrant shall bee directed and deliuered, ought with all speede and secrecy, to execute his said Warrant, and besides hee is bound to pursue the effect of his Warrant in euerie behalfe, or otherwise his Warrant will not excuse him.

21.H.7.23.2

*Shew the warrant.*

All swozne and knowne officer (be he Sherife, Undersherife, Bailife, or Seriant) needes not to shew his warrant when hee commeth to serue it vpon any mans person, or goods, although the partie demaundeth it: But a speciall Bailife, or other person who is no swozne and knowne officer must shew their warrant to the partie, if he demaunds it, or otherwise the partie may make resistance and needs not to obey it.

Co.9.69.  
21.H.7.23.  
& 37.

And so of the Sherifes seruant, or Undersherifes seruant, being no swozne Bailife, they cannot arrest a man without shewing their warrant, if it be demanded.

And yet no speciall Bailife is bound to shew his warrant without demand thereof. 8.E.4.14. 14.H.7.9. Co.9.69.

But euerie Bailife and other person that will iustifie the imprisonment of the bodie of any other, by force of any Warrant, must shew the same Warrant in Court &c. And therefore it behoueth all Bailifes and other such officers to keepe safely by them all such their warrants.

Co.19.92.

*Or declare the contents.*

All swozne and knowne officer, if he will not shew his warrant to the partie (as he needes not) yet vpon the arrest the officer ought to declare the contents of his warrant, (scz. at whose suit he maketh the arrest, for what cause, out of what court, and into what court, and when it is returneable) to the end, that if it be vpon an execution, the partie may pay the money, and so free his bodie from imprisonment: and if it be vpon meane proces, that the partie may either agree with the other, or else that he may put in sureties and baile for his apparance according to law, and to know the day of his apparance.

Co.9.68.69  
& 6.34.

But this (scz. that the officer vpon the arrest ought to declare the contents of his warrant vt supra) must be vnderstood, when the partie arrested, or to be arrested, shall peeld and

Co.9.69.2

and submit himselfe to the arrest, and not when he maketh resistance, or flieth.

Co. 9 69. b. Note where our Law bookes or statutes, doe speake of a *Bailife com* knobone bailife or officer, they are not to be understood (neither is it needfull) that such bailife or officer bee knobone to the party who is to bee arrested, but if he be so commonly knowne it suffiseth.

Co. 9 69. And an officer giueth sufficient notice what he is, when he saith to the partie, Arrest you in the Kings name; and in such case the party at his peril ought to obey him, though he knoweth him not to be an officer, and if he haue no lawfull warrant, the partie arrested may haue his action of false imprisonment against him.

Dyer 244. Fitz 93. d. If any officer doe arrest a man before that he hath any *Sans warrant* warrant, and then afterwards doth procure a warrant or a warrant cometh after to him to arrest the partie for the same cause, yet the first arrest was wrongfull, and the partie grieved may haue his action of false imprisonment against the officer: Br. faux imprisonment. 8.

43. Eli. ca. 6. 1. Jac. ca. 25. If any Sherife, Undersherife, or other person hauing *Sans original* authoritie, or taking vpon him to breake vp writs, doe make any warrant for the summons of any person, as vpon any writ, proces, or Suit; or for the arresting or attaching of any person or persons by his or their bodie or goods, to appeare in any his Maiesties Courts at Westminster, or elswhere, not hauing before that the originall writ or processe warranting the same, vpon complaint thereof made to the Judges of Assise of the Countie where the offence shall be committed, or to the Judges of the court out of which the proces issued, as well the partie that made such warrant as also those that were the procurers thereof, shall bee sent for by the same Judges, and be thereof before them examined vpon oath, and if the same offence, shall be confessed by the offenders, or proued by sufficient witnesses to the satisfaction of the same Judges) the same Judges shall forthwith commit euerie of the same offenders to the gaole, there to remaine without baile vntill they haue payd (amongst them) tenne pounds vnto the partie grieved and such costs and damages as the same Judges shall set downe that the partie hath sustained thereby, and withall twentie pounds a peece to the king for their said offence.

66. faux imprisonment 31. And yet where a Capias &c. shall goe out to the Sherife without an original and he doth execute and serue the same, an action of false imprisonment will not lie against the Sherife

## The officers duetie.

rife, for it was not his fault, by Hank. 11.H.4.36.

*Two men of  
one name.*

Where there be two or three knowne by the name of I.S. and upon proces granted out against one of them the officer arresteth another of them (where it is not the defendant) or attacheth the goods which are not the defendants goods, the officer shall be a trespassor; and if the plaintife had shewed the officer the wrong man, or goods, and had told him that, that had beene the defendant, or those had bin the defendants goods which were not, there both the plaintife and officer are trespassors; but it is otherwise upon such information, in making of the view of land, for that is neither seisin, nor an arrest. See L.5.E.4.fol.51.& 84.

11.H.4.90.  
Br. Officer 8

Where a warrant is granted out against I.N. the sonne of W.N. and the officer thereupon arresteth I.N. the sonne of T.N. although in trueth he be the same person that offended, and against whom the complaint was made, yet this arrest is tortious, and the officer subiect to an action of false imprisonment. See the like matter 10.E.4.fol.12. Br. Faux Imprif.38.

If an officer hath arrested a man by vertue of a Capias, or upon a Lattitat, and then giueth him a day to come to him againe with sureties to be bound for his apparance &c. and so the officer letteth the partie goe, who comes not againe at his day appointed; here it seemeth that the officer cannot take his prisoner againe by vertue of his former writ or warrant, for that the officer gaue the prisoner leaue &c. As where a man is in execution for debt, and the sherife or gaoler licenseth him to go at large for a time, and then to returne, and he commeth againe at the time, yet this is an escape; And so it is adiudged in Boytons case Co.3.fol.44. and in Rigewaies case Co.3.fol.52. But if the partie arrested (or the prisoner) had escaped of his owne wrong, without the consent of the officer, then upon fresh suit made, the officer may take him againe, and againe, so often as he escapeth, although he get out of view, or that he shall flie into another countie. See Br. Faux Imprisonment 18.& Br. Escape 4. 12.

Cröp.214.

*Escape.*

Co.3.44.

*Warrant of  
the old sherif.*

If an officer shall arrest another by force or vertue of a warrant of the old sherife, after that the sherif is discharged &c. an action of false imprisonment will lie both against the sherife and against the officer for such an arrest.

Cröp.205.b

*To arrest one  
that is arre-  
sted before.*

If a man be taken and imprisoned upon a warrant from a Justice of peace in the countie, for suretie of the peace, or for some riot, or forcible entrie, or the like, and after a Capias com-

2.H.7.2.  
B. Returne  
83.



meth out of the Kings Bench, or Common Place &c. to the Sherife to attach or arrest the same person, and the Sherife vpon the Capias returneth all this (and bringeth the prisoner into the court) yet the prisoner shall first answer to the plaintife, and after his answer put into the court he shall go vnder baile, and then be remitted or sent backe by the Sherife into the countrie, there also to make his answer before the Iustices of peace; so that the Sherife vpon a Capias to him deliuered to attach or arrest such a prisoner, formerly committed to the gaole by the Iustices of peace is to bring such prisoner into the court vpon the Capias, as it seemeth.

Co. 5. 87.

Note that when a man is in the custodie of the Sherife by proces of law (or by force of any lawfull warrant) and after another writ is deliuered to the Sherife to take the bodie of him that then is & was in his custodie before, now presently is that prisoner in the custodie of the Sherife by force of this second writ, and in such case if the Sherife shall refuse to take the second writ, or shall not keepe the prisoner thereupon, it is an escape in the Sherife; and so the Sherife in this case must be answerable for his prisoner, although he do not arrest him by the second writ.

*Escape.*

Where the defendant being taken at the kings suit, vpon a Capias vtlagatum, or vpon a Capias pro fine, shall be presently in execution for the plaintife, See hic postea tit. Executio sur Capias ad satisfac'.

40. E. 3. c. 5.  
1. R. 2. c. 15.  
See stat. 1.  
Ma. cap. 3.

If any of the kings officers, or other person, do arrest any Minister, or other person, which is doing any diuine seruice in the church, churchyard, or other place dedicated to God, he shall be imprisoned, and punished at the kings pleasure, and further shall recompence the partie arrested; but no people of the church shall keepe them within the church by fraud or collusion.

*The place.*

And yet the Sherife or other officer may serue proces, and execute the kings writ within the church, so that it be not done to the disturbance of diuine seruice. See 6. H. 4. fol. 3. & hic, Retorne de sanctuarie fol.

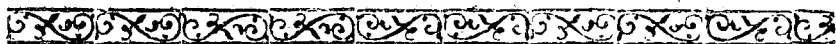
Cc. 9. 66.

The Sherife or his officer may make an arrest, or execute any proces, or do any other ministeriall act vpon the Sabbath day, or in the night time, and that as well at the suit of a subiect, as at the suit of the king; for the officer of justice ought to execute his office whensoever hee can finde the partie,

*The time.*

## Warrants vpon meane Proces.

partie, otherwise peradventure they shall neuer execute their Office nor arrest him, quia qui malè agit, odit lucem; and if the Officer shall not arrest him when hee findeth the partie and may arrest him, the plaintife shall or may haue his action of the case against the Sherife or Officer and shall recouer in damages, whatsoeuer he looseth or is indammaged thereby.



## Warrants vpon meane Proces.

*Warrants sur  
meine Pro-  
cesse.*

**N**ow for that the Sherife hauing all writs and proces Directed vnto him as afoze said, and yet it being a thing impossible for him to execute them himselfe, *lc.* for him to doe execution of all, therefore the Sherife ( or his vndersherife, to whom such Proces vsually are deliuered) are to make out Warrants, to their bailifes or other officers, for the execution of such meane proces.

And these Warrants must be made according to the seuerall natures of the writs, which for the substance will direct them therein.

And yet the Sherife may arrest a man, when hee hath a writ, without making any Warrant; and so may his seruant (or any other person by the Sherifes commaundement) where the Sherife shall deliuer him the writ, 2 I. H. 7. 23. a.

But if the Proces commeth to the vndersherifes hands hee must make out these Warrants in the High Sherifes name.

### *The forme of a generall Warrant.*

**A.** B. miles vicecomes com̄ predict' balliuo Hundredi de R. Canteb.  
salutem. Ex parte domini Regis tibi mando quod capias I.  
S. si &c. Et eum saluo &c. Ita quod habeam corpus eius corā  
Iustic' domini regis apud Westmoñ in octabis sancti Hillarij ad  
respondend' C. D. de placito debiti ( or transgress. according  
to the writ. ) Et hoc &c. Datum sub sigillo officij mei decimo  
die Aug. Anno regni domini regis nunc Angliæ &c. xx.

per A. B. milit' vicecom.

*The*

*The forme of a speciall Warrant.*

**A**.B.Miles vic' com' præd' ballivo hundredi de R. necnon *I.W. Cantabr.*  
*T.B.* ballivis meis hac vice, & eorū cuilibet salut'. Ex parte  
 dñi regis vobis & cuilibet vrum coniunctim & diuisim mando,  
 q' capiatis seu &c. *I.S.* si &c. & eum salvo &c. Ita quod habeam  
 corpus ejus\* coram dño rege apud Westm. die Iovis prox' post  
 Octab. sancti Hillar' ad respond' *C.D.* de plito transgr' &c. Datū  
 &c. vt supra.

\* **Note if the Writ commeth out of the Kings Bench,**  
 then the Warrant must be, Ita quod habeam corpus ejus corā  
 domino rege &c.

**But if the Writ come out of the court of Common plees,**  
 then it must be, Ita quod habeam corpus ejus coram Iustic' do-  
 mini regis &c.

*Another good forme of a Warrant.*

W.14.

**A**.B. miles vic' com' præd', omnibus ballivis meis (vel omnib' *Cantabr.*  
 ballivis infra com' præd') tam infra libertat' quā extra, Nec-  
 non *I.B.* & *C.D.* ballivis meis hac vice tantum, salutem. Ex parte  
 domini regis vobis & cuilibet vestrū conjunctim & diuisim mā-  
 do, quod Capiat' seu, &c. *I.S.* si &c. Et eum saluo, &c. Ita quod  
 habeam corpus eius, Coram, &c. vt supra.

**This last warrant is a good forme to bee vsed vpon exe-**  
 cutions, or vpon Capias vtlagatum, &c.

*Another plaine forme of a Warrant.*

Decimo die Aug. Anno Domini, 1622.

**B**y vertue of the Kings Maiesties writ to mee directed,  
 returnable Coram domino rege apud Westmon' die Iovis  
 proxim' post xv. sancti Hillarij &c. you shall arrest *I.S.* if hee  
 may be found within my Bayliwicke, to answer to *C.D.* in  
 a plea of Trespasse, &c. (or in a plea of Debt according to  
 the writ.) Datū sub sigillo officij mei, die & anno supradictis.

Per *B.A.* mil' vic'.

To *I.P.* and *R.S.* my speciall  
 Bailifes in this behalfe, iointly  
 and feuerally greeting.

**The forme of a bond for appearance of the prisoner.** See  
 hic postea tit. Obligation.

# Executions.



The nature of Executions, and of how many  
sorts they are, and how they are to be  
done and executed.

*Executions.* **E**xecutions are of diuers sorts, and in diuers manners to  
be executed and done, scz.

1	}	Statute Merchant	}	de corps, terres, & biens.	
2		Statute Staple,			
3		Recognisance	}	de Medietate terrarum, & tous les biens.	
4		<i>sur</i> Elegit			
5		Capias ad satisfaciendum,	}	de medietate terrarum, & de tout les biens le dettor.	
6		Fieri facias,			de biens tantum.
7		Leuari facias,			de proficuis terres, & de biens.

Execution in our law signifieth the last performance of an  
act, as of a judgement, statute, or the like: and these execu-  
tions are of two sorts, one finall, another with a quousque  
&c.

An Execution finall, is when the defendants lands are Co. 5. 87.  
extended, or his goods sold, and deliuered to the plaintife,  
who accepting this in satisfaction, ends the suit.

An Execution with a quousque, and not finall, is in the  
case of a Capias ad satisfaciendum, where the bodie is taken  
to the intent to satisfie the plaintife, but is no satisfaction,  
but a pledge for the debt.

*Sur statute  
morchant.*

*Nota que le stat. Merchant, est bond ou obligac' de record, acknowledge  
deuant le Maior de London, Yorke, Bristow, ou de aut' citie, ou deuant le  
bailife dasc' borough ou ville, ou deuant auters persons la, a ceo purpose ap-  
point, & est seale ones q' les seales del dettor, & del roy; le forme de quel  
veies in West 106.*

*Si stat. merchant ne soit seale per le party, ne vaut. 6.R.2. Fitz.  
Exec' 131.*

If a man be bound in a statute merchant (and do not pay  
the debt at the day) execution shalbe done therof in this ma-  
ner: first (the conusee may come to the Maior or other offi-  
cer

Statute de  
Acton Burn  
12.E.1.  
& Stat.de  
Mercator  
12.E.1.  
Fil.120.131  
P.Statute 1.

cer before whom the stat. was acknowledged, and pray him to certifie the same into the Chancery vnder his seale &c. & if he wil not certifie it, then a writ of Certiorari must be sued forth of the Chancery, directed to the said officer &c. (of the place where the stat. was acknowledged) to certifie the acknowledgement of the same stat. into the (pettie bag office in the) Chancery, and vpon that certificat (a writ of Execution, (cz.) a Capias shall go out to the Sherife, against the body (onely of the conusor. si laicus sit) to take his bodie, and command the Sherife to keepe him safely in prison, vntill he hath agreed for, or fully satisfied the debt: But the Debtor after he is taken, hath libertie giuen him (within a quarter of a yeare) to sell his lands and goods to discharge his debts: and if he do not agree for his said Debt within the next quarter, then all his lands and goods shall be deliuered (by the Sherife) to the creditors by a reasonable extent, to hold vntill the debt be fully paid, and yet neuer thelesse the bodie of the Debtor shall remaine in prison vntill the debt be paid.

*Certifie in  
le Chancery.*

*1. Execution  
serr' del corps*

*2. Del terras  
& biens*

Fitz. 130g

And this writ may be returnable into the court of common pleas, or into the Kings bench.

But vpon the returne by the Sherife (of that shire to whom the Capias was directed) q̄ laicus est, & non est inventus in balliva sua, then shall go out an Extent against all the conusors lands and goods, and against his bodie. Vide le Regist. 147.

*Non est in-  
uentus*

And vpon such an Extent come to the Sherifes hands, the Sherife shall or may presently cause the moueable goods of the Debtor to be prized and sold as farre as the debt doth amount, and the debt without delay to be paid to the creditor. See Stat. de Acton Burnell 13.E.1.

Fitz. Ext. 67

Note that if the Sherife can find no buyer, hee shall cause the same goods to be deliuered to the creditor at a reasonable price, as much as doth amount to the debt: And if the prizors of the goods do set an ouer high price, to the damage of the creditor then shall the things so prized be deliuered to the prizors at the same price, and they shall bee forthwith answerable vnto the creditor for his debt &c. but the Sherife must sell the goods to them which offer most for them: And yet if the Sherife shal sell them at an vnder price, it seemeth the Debtor hath no remedie. See the statute de Acton Burnell.

12.E.1.

If the Debtor haue no moueables whereupon the Debt may be leuied, then shall his bodie be taken and kept in prison vntill he hath made an agreement &c.

If the Sherife doe not returne the Capias; Or Doe re-  
turne

## Executions.

returne that the writ came too late, or that hee directed it to the bailife of some franchise, hee shall bee punished and shall peeld damages to the partie grieved, according to the Statute of Westminster: 2. cap. 39. stat. de mercatoribus.

*Clerke.*

If the Sherife returne that the debtoz is a Clerke, then there shall goe out an extent against his lands and goods (onely) to bee deliuered by a reasonable extent as aforesaid: but his bodie shall not be taken.

See Fitz.  
1; I. a. 166.  
a. b. Stat. de  
Mercator.  
Vide Fitz.  
Execuc' 79.

*Sureties.*

If the debtoz found sureties (which acknowledged themselves to bee principall debtozs after the day passed) they shall be ordered in all things as the principall debtozs scz. for the arrest of their bodie, and deliuerie of lands and goods stat. de mercator.

But so long as the debt may be fully leuied of the goods of the debtoz, the sureties shall receiue no losse. Stat. de Acton Burnell.

*Escape.*

And if any of these debtozs (being in prison) shall happen to escape, the sherife or gaoler must answer the bodie or the debt; and therefore it behoueth the sherife and gaoler that the prisoners be safely kept. Stat. de Mercator.

Note that when any Statute Merchant is certified into the Chancerie, and thereupon a writ awarded to the sherife, and returned into the Common place, and the statute there once shewed, that howsoeuer the proces after the same shewing be discontinued, that at what time the partie sueth to haue the proces recontinued and to haue execution of the same statute, that the Justices of the Bench where the statute was once shewed, may vpon the same record make and award full execution of the Statute Merchant aforesaid, without hauing the sight thereof another time.

5. H. 4 ca. 12.

And yet see Dyer f. 180. Termino Pasch. anno 2. El. where the conusee of a Statute Merchant hauing the same certified into the Chauncerie vpon a Certiorari directed to the Maior, thereupon sued a Capias against the conusor retornable into the Bench, at which day the Sherife returned Non est inventus, and the conusee shewed there the Statute (as hee ought) and had another Capias, before the returne whereof the conusee died, and it was doubted whether his executors should haue a Scire facias against the conusor, or that they should beginne of new, scz. to sue a new speciall writ out of the Chauncerie to the Maior, or to make Certificate (notwithstanding the first Certificate) and to haue out of the Chauncerie a new Capias or no, or whether (at the suite of the Executors) the

Dyer 180.

## Statute Staple.

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the Justices of the Bench might haue awarded an Alias Capias, or a Writ of Extent vpon the first proceeding or not; But it was agreed by the Court that no Scire facias did lie in this case; but vpon oath made by the executors in the Chancerie, that the debt is not satisfied, they shall haue a new Certiorari to the Maior &c. to make a new Certificat of the Statute, and so to begin all againe of new, vide.



## Statute Staple.

**T**he Statute Staple est de deux sorts, ou in deux maners :

1 Lun per force del statute 27.E.3.ca.9. & ceo propriè sic Statut Staple dicitur.

2 Lauter per force del statute. 23.H.8.cap.6.

27.E.3.ca.9

Le premier est obligation de record, acknowledge devant le Maior del Staple, in le presence de vn del Constables de mesme Staple, & est seale oue le seale del Staple, & seale del partie: mes tiel Statute Staple ne serra prise, sinon tantum inter merchants de mesme Staple, & par marchandises de mesme Staple. Stat. 23.H.8.ca.6.

Viã Pl.62.b

Lauter est obligation auxy de record, & de mesme le nature & force que le premier est, quant al execution de ceo: mes est acknowledge devant lun del chiefe Iustices, & in leur absence (hors del terme) devant le Maior del Staple al Westminster, & le Recorder de London, & est seale (ouesque trois seales, scz.) ouesque le seales del conusor, del roy, & del vn des dits Iustices, ou del Maior & Recorder. 23.H.8.ca.6.

Les formes de ceux Statutes Staple, veies in West 108.109.

27.El.ca.4.

Nota que tous statutes (Merchant & Staple) serra port al Clerke de Recog. deins 4 mois, & inroll deins 6 mois, autrement tiel statute serra void vers purchasors &c.

27.E.3.ca.9  
15.R.2.ca.9  
Fitz. 13 E. d.

All Statute Staple must be certified (into the Chauncerie) in the like manner as a Statute Merchant, and vpon that certificat a Writ of Execution shall presently go forth, both against the bodie (si laicus sit) and against the lands and goods of the conusor, returnable in the Chancerie in the petite bagge office there, (and not into the court of Common Pleas, or Kings Bench, as the Writ of Execution vpon a Statute Merchant shall) And vpon the Writ of Execution, the sherife shall take the bodie of the conusor, and shall

Certificat in  
le Chancerie

## Statute Staple.

also (per sacramentum proborum & legalium hominum, & iuxta verum valorem, Fitz. 131.d.) presently extend, and prise, and shall seise into the Kings hands, his lands, goods, and chattels; and that extent and prise ment or valuation of the lands and goods shall returne and certifie into the Chauncerie as aforesaid, and thereupon the recognisee shall haue another writ called a Liberate to the Sherife out of the Chauncerie to deliuer to the conusee those lands and goods to the value of his debt &c. And vpon that Liberate deliuered to the Sherife, then such lands and goods as are taken in execution shall be deliuered to the conusee by the Sherife and not befoze, And this execution shall bee made in manner as befoze is declared vpon a Statute Merchant, 27.E.3.ca.9. Vide Plow. 62.b.

*Liberate.*

*Regule.*

Et sic nota, que sur Statute Merchant l'obligor ou conusor serra imprison pro dimid' ann', Et sil ne vend ses terres deins mesme temps pur payer ses debts, donque ses terres serra deliuer al obligee tanque son det soit satisfie. Mes sur Statute Staple (le dettor ou conusor apres que il est prise nauera libertie de vender ses terres, & biens, deins le demy an, come il auera sur Statute Merchant; Mes per force de cest Statute Staple) si le moneyne soit pay al iour, maintenant apres certificate del ceo in le Chauncerie, le creditor poit auer execution del corps, terres, & biens del dettor, scz. le conusor serra imprison, & touts ses terres & biens serra extend instanter. 27.E.3.c.9.

Auxynota que sur Statute Staple le extent serra primes fait, & returne, & puis briefe de Liberate serra agard, mes deliuerie ne serra fait al commencement, tanque le chose appiert certainement per le retourne del vicont. Plo. 62.b.

*Dettor le Roy.*

Touts obligations & specialties faits al Roy (ou a son vse, pur ascun cause) serra de mesme force que Statute Staple est. 33.H.8. 33.H.8.

Touts obligations prise de Ecclesiasticall persons pur leur first fruits, serra de mesme le nature & force que Statute Staple est. 26.Hen.8. cap.3.

Les terres de (plusors) accountants al Roy, serra liable, & mise in execution, sicome ils ossent estre lie in Statute Staple. 13.El. cap.4. P. Accountant 29.

Le heire que clame per done son auncestor, serra lye a payer le det le Roy, per statute 33.H.8.cap.39. Plo.440.  
Co.7.19.

Isint le heire in taile (per mesme le statute) serra liable de payer det le Roy due per son auncestor. Ibidem. Vide Plow. 240.b. 249.b. 554.b. & Fitz. 217.c.

Mes si tenant in taile deuaigne in det al roy per receit des deniers del roy, ou auterment, sinon que soit per iudgement, recognisance, obligation, ou auter specialtie, & morust, la terre in le seisin del issue in taile, per force 20.7.21.

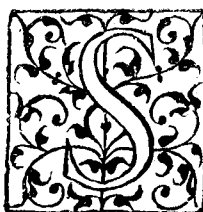


force del dit act de 33.H.8. ne serra extend pur tiel det le Roy : car le statute de 33.H.8. extend solement al dits 4. cases; & tous auters det le roy remaine al common ley.



Execution fur Statute.

Co.7.21.



I tenant in taile deueigne in det al Roy, per vn des dits 4. voies (sc. per iudgement, recognisance, obligation, ou auter specialty) & morust, & deuant ascun proces ou extent, le issue in taile bona fide alien (ou lessa) le terre intailed, ore cest terre ne serr' extend per force del dit act de 33.H.8.

Co.7.22.

I sint, ou det fuit originalment due al subiect, & apres deueigne ou accrue al Roy per reason de attainder, vtlawrie, forfeiture, done del partie, ou per ascun auter voy, ou meafne, tiel det nest deins le dit statute de 33.H.8. de charger terres intailed, in le possession del heire in taile.

Ibidem.

Mes terres in feesimple fueront extendable al common ley (pur det le Roy) in quecunque mains que eux deniendront; & pur ceo quant al eux le dit statute de 33.H.8. ne fuit forsque declarativum antiqui juris, Co.7.21.

Deux iointenants in fee, lun de eux esteant dettor le Roy morust, laut' tiender' discharge, Fitz.Execut' 113.

33.H.8. ca. 39.

Le heire serra chargeable de paier det le roy, coment que il ne soit nosme (ou que cest paroll heire ne soit comprise) deins le Recognisance, Obligation, ou specialty.

Roy serra preferre in son suit & execution, deuant common persons, per statute, 9.H.3. cap. 18. & 33.H.8.39.

Co.8.171.

Dettor le Roy possesse dun lease vend ceo bona fide, cest lier le roy car forsque chattell.

Co.11.93.

Nota que le Roy leuier le summe de que ascun est chargeable a luy, non solement vers le party mesme, sc. de son corps, & ses terres & biens in ses mains demesne, mes in les mains de son heires, assignes, exec' ou administrat', & sil nad' execut' ou admin' donques in les mains des possessors des biens del mort.

## Execution sur Statute.

Queux terres, & biens serra extend ou prise (per le vicount) in execution, sur statute &c. in case de common perfon.

**N**Ota que sur statute merchant, ou staple, tonts le fee simple terres, queux le consor auoit al temps del dits statutes acknowledge, ou al ascun temps en apres, serra liable al dits statutes, in quecunque mains que ils viender' apres, per alienation, feoffement, ou auterment. stat. de mercatoribus 13.E. 1.27.E. 3.cap. 9. & 23.H. 8.ca. Co. 3. 12.

Mes si le dettor morust, le corps de son heire ne serra prise; mes son fee simple terres que descend, a luy del consor serra prise (in forme auandit) si soit de pleine age, ou quant il viender al plein age, quous que le det soit leue, statute de mercatoribus.

Et issint fuit le common ley deuant, sc. que in det vers le heire, le pl<sup>r</sup>, auera tout le terre que descend al heir, in execution; & vnc' naua donques exec' d'ascun part del terre vers le pere mesme.

Nota que ad este tenuis que le heire ne serra charge in det lou le executor ont affets vide Fitz. Execut' 25. Br. Det 237.7. Edw. 4. 13. & Co. 3. 12.  
Flo. 44<sup>le</sup> Plo. 193. a. b.

Mes (a ceo iour) le ley semble auterment, sc. que est al election del creditor de suer le heire, ou le executor, quant ambid' ont affets; vide 4. E. 4. 25. 22. H. 6. 4. 10. H. 7. 8. Doct. & St' 153. Dyer 204. & Plow. 439. 440.

Auxy semble que si le heire ne confesse la c<sup>ti</sup>on, & monstre le certainty del affets que il ad per discent, mes plede riens per discent, ou est condemn<sup>d</sup> per default &c. que la le plaintife auera execution de son auter terre, ou de ses biens, ou de son corps, per Capias ad satisfac' Plo. 440.

Nota que fee simple terres del heir' queux il ad per discent, iour del br' e purchase, ou apres, serra liable: auterment sil ad alien deuant le brieve purchase, sinon soit per couin Co. 5. 60.

Possession in ley descend sur le heire, luy charger.

Issint lou il entre pur condition &c. Br. Affets. 8.

Reuersion sur estate pur vie descend al heire, ceo luy charger &c. B<sup>r</sup> Affets 12. 19.

Reuersion serra mise in execution, & le Iudgement serra cum accide-rit, & in le mesme temps del rent, Dyer 373. Fitz. Affets 237.

Notain det home auera execution de nul terre, mes de cel que le def. ad, le iour del Iudgement done ou rendus. 2. H. 4. Fitz. Execut' 24.

Si home sua stat' merchant de parcell de les terres, in nosme de tous les terres, il nauera auter execution in apres. Fitz. Exec' 134.

Si ieo nay forsque vn acre per discent, ieo serra charge de 1000. li per obligation fait per mon pere, per Belk. 40. Ed. 3. 15. Fitz. Execution 32. vide & quære. Car semble que le heir poit conuistre ceo que a luy est descend, & demand Iudgement si de plus que de value del ceo il doit estre charge.

Terres

## Execution sur Statute.

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Pl0. 557. b.

*Terres intailed sont liable forsque durant le vie le conusor come si tenant in taile soit lye in stat. ou recognisance, le terre taile serra lye durant son vie, mes nest lie, vers lissue in taile. Br. Recogn 7. Vncore si lissue in taile in feoffe estr. ore execution serra vers le feoffee, 19. Ed. 3 Fitz. Resceipt. 112.*

*Mes si tenant in taile conust statute, ou recognisance & apres alien, le terre in mains le feoffee ou alienee serra subiect al cest statute ou recognisance, Co. 1. 62. & 2. 52. 8. H. 7. 8.*

*Coppibold terres, ne sont liable, ne serra extend sur statute ou recognisance &c.*

*Lease ou terme pur vie, serra extend.*

2. H. 4. f. Execut' 24.

*Lease ou terme pur ans, & tous autres biens & chattells del conusor ou dettor sont liable, & serra extend, sc. tiels queux le conusor &c. ad in son possession demesne, & a son use demesne, al temps del execution sue, ou agarde. Mes sale de chattells, bona fide, apres Iudgement, & deuant execution agard' est bon (sed nemy apres execution agard) come apiert in 2. H. 4. fo. 14. per cur. 11. H. 4. fol. 7. & 9. H. 6. 58. vncore per Babbington 7. H. 6. Br. Execution 116. Si home soit condemne in det, ou oblige in vn stat' les biens queux il ad iour del Iudgement, ou conusance del recognisance serra lie al execution, in quecumque mains que ils viendera, quod non fuit negatum: & Co. 7. 39. a. Chescun execution, in Iudgement del ley, ad relation & retrospect' al Iudgement.*

*Mes vn fraudelent conueyance, ou done de terre, ou biens, ne auoider aucun execution, vide les statutes 50. E. 3. c. 6. 1. R. 2. c. 9. 2. R. 2. stat. 2. ca. 3. 3. H. 7. cap. 4. 13. Eliz. ca. 5. & 7. & les liuers. 43. E. 3. fol. 3 Dyer 295, & Co. 3. 81. 82. 83.*

*Terres in auncient demesne son liable al statute vide F. Execution 118. & Retorne 109. contra.*

13. H. 7. 22. a

*Terres, ou biens, tenus iointment per le conusor ouesque estranger, & le conusor est condemne in damages & morust deuant execution, ceux terres ou biens veignans a le estranger per suruiuor, ne sont extendable, Br. Execut' 116. & 148.*

*Terres la feme sont extendable durant le conerture, per det le baron, 15. H. 7. fol. 14.*

*Rent poit estre deliuer in exes' Fitz. Auowrie, 237. Exec' 63.*

*Rent extinct per release del partie, poit estre extend; Co. 7. 38. 39.*

*Come si home ad Iudgement a recouer det, ou damages, per ceo le rent que il ad d'acun estats de franktenement est liable a ceo, & par ceo comēt que apres Iudgement ceo soit release &c. vncore ceo poit este extend.*

*Mes home nauera vnques vn chose extend sur vn execution sinon que il poit graunt & assigne mesme le chose, per Shelley 28. Hen. 8. fol. 7.*

*Et pur ceo vn auowrie, ne poit estre deliuer in execution; Doct. & St. fol. 53.*

Ifs 162

## Execution sur Statute.

*Isint les profits del office, ou auter chose que ne poit estre graunt ou assigne oustre, ne serra extend, Dyer fol. 7.*

*Biens demise, pawned siue pledged, ne poient estre prise in execution, par son det que demise ou pawnne eux durant le temps ou terme, que ils sont isint demise ou pawnne, vide 22. Ed. 4, fol. 10. 34. Hen. 8. Br. Pledg. 28.*

*Come si home (bona fide) lessa son barbits (ou oxen pur ans) &c. ou fil baile ses biens in pledge & apres serra condemne in personal actions, la tiel barbits ou biens ne serra prise & mise in execution, tanque le lease soit determine, ou le money pay pur le pledge, Br. Distr. 75.*

*Isint semble de biens que sont distraine pur iust cause (come pur rent, amerciament, damage fesant, & tiels) & sont impound, ils sont ore in custodia legis, & tã diu que ils sont isint, ils ne poit estre prise in execution, See Br. Pledges 28.*

*Det ou damages recouer vers un cominalty, nul execution serra fait mes tantum del biens queux ils ont in common, Fitz. Execution 128.*

*Si le conusor in fesse le roy, ceo ter' est discharge del execut', Fitz. 266*

*Isint tous auters terres del roy sont exempts des distresses, & des executions, Plo. 242. b.*

*Si plusors homes soient seueralment seise de terre, & ils tous ioyne in un recognisance (statute merchant, ou statute staple) in cest case le conusee ne poit extend le terre del ascun des conusors solement, mes tous les conusors doivent ouelment estre charge, & lun de eux solement ne portera tout le burden, pur ceo que sont tous in ouell degree: Et in executions queux concerne le realty et charge le terre, le vicount ne poit faire execution del terre lun solement.*

*Lou le conusor ad alien part de son terre, uncore le conusor mesme, al volunt del conusee, poit estre solement charge, pur ceo que il est mesme le person que fuit le dettor, & que fuit lye, & pur ceo il & ses terres poit estre solement charge.*

*Isint le heire del conusor (ou de cestuy vers que iudgement est done in det) poit estre solement charge: uncore in ascun cases le heire del conusor auera contribution vers le feoffees son pere &c. see Br. Suit 12. mes Co. 3. 12. semble contr' sc. que le hr' e nauera contribution vers ascun purchasor, coment que in rei veritate le purchasor vient al terre sans ascun valuable consideration &c. car coment in le case dun recognisance, statute ou iudgement, le heire est charge come terre tenant, & nemy come heire (& le reason del ceo est pur ceo que per le recognisance, ou statute le heire nest lye, mes le conusor concedit, quod dicta pecuniæ summa de terris &c. leuetur) uncore il nauera contribution vers un purchasor.*

*Vide le liner 17. E2. Br. Suit 13. & Fitz. Execution 139. que eye longe que le heire ad assets execution serra vers le heire tantum, mes si le heire nad assets, execution serra sur tous les terre tenants, & chesens serra contributorie al auter: mes ou execution est sue vers le heire*

heire que ad affects il nauera contribution vers le terre tenaunts ne feoffees.

Mes quant le terre descend al diuers heires (ou files) lun heire solement ne serra charge, mes tous les heires ensemble serra charge, autrement un heire auera contribution vers l'auter heir, car ils sont in equali jure, Co. 3. 12. 13.

Br. Suit 10  
12.

Et quant al purchasor de tiels terres, coment lour dits terres apres le iudgement, recognisance, ou statute, soit subiect al execution, vncore tiels purchasors ont greinder priuiledges done al eux (per le ley) que le conusor mesme, ou son heire, ont: Istint que si le terres de un purchasor soit solement extend pur l'entier det, tiel purchasor auera contribution vers tous auters de les purchasors, & vers le conusor, vel son heire, mes nota que per cest parol, contribution, nest deste intend que les auters doner ou allow a luy ascun chose per voy de contribution, mes doit estre intend, que le purchasor (ou party) que ad son terres solement extend pur tout, poit per Audita quærela, ou Scire facias (come le case require) defeater le execution, & per ceo serra restore a tous les meane profits, & chaser le conusee de suer execution de tout le terre, issint que in cest maner chescun serra contributorie, ceo est, le terre de chescun terre tenant serra owelment extend, Co. 3. 14.

Mes si le conusor infeoffe le conusee del parcel del terre, & un estranger, de auter parcel, & reserue parcell in ses maines, ore conusee nauera execution vers le stranger (ou ascun auter feoffee, car tout serra extinct vers les feoffees) mes vncore vers le conusor, le conusee auera execution del parcell que remaine in son maine.

Fitz. 246. b.

Si le conusor dun statute merchant, ou staple &c. soit prise, & morust, in exec<sup>r</sup>, vncore le conusee auera execution de ses terres & biens, Co. 5. 86. 87. vide Fitz. 246. b.

Co. 5. 86

Si le conusor sur statute &c. soit prise in execution & escape, vncore ses biens & terres sur mesme statute poit estre extend; car le scape, & l'actiõ que le plamitise ad vers le viscount pur le scape, nest satisfactiõ del det.

11. H. 6.

Vide plus hic postea Execution sur Capias ad satisfaciendũ.  
Si le conusor &c. esteant in execution procura Corpus cum causa, de remouer son corps, & sua Scire facias, vers le conusee &c. a defeat<sup>r</sup> un execution sur un stat. il primerment troua sureties al partie plamit<sup>r</sup> de satisfaire luy son det ou duety, in case que le matters comprise in son Scire facias, ne soit troue & adiudge pur le conusor, stat. 11. Hen. 6. cap. 10.

3. Jac.

Auxy per le statute 3. Jac. ca. 8. nul execution serra stay, ou delay, per brieve de error ou Supersedeas, pur reuersing d'ascun iudgement in ascun actiõ de det sinon que le party, (que sua tiel brieve de error) oues q<sup>d</sup> 2. suffic<sup>r</sup> sureties soit primerment lye al party pur que tiel iudgement est done, de prosecute le dit brieve de error cum effectu; ac de payer  
tous

## Execution sur Statute.

touts les detts, damages, et costs &c. si le iudgement soit affirmé, ac etiam costs & damages pur tiel delay.

Et pur ceo si home soit condemné in ascun court, & son corps mise in execution, & puis il procure un brieve de Corpus cum causa ou Certiorari, destre direct al vicount de remoue son corps &c. icy le vicount sur le dit brieve, doit returne le verity sc. que son prisoner est condempné per iudgement done enuers luy &c. sur que, le prisoner serr' maintenant remand al prison, la a demurrer quousque il ad satisfie le plaintife.

2.H.5.cap.2  
Fitz. 251.0.

Purchase  
parcell.

Si statute soit acknowledge al deux & lun de eux purchase apres terres del conusor, donque semble que le dit statute ad perde son force vers ambideux, vide le Register, 147.

Fitz. Execu-  
tion 21. &  
88. acc'

Si execution soit sue del corps, & del terre, & puis le conusor in seoffe le conusee del terre, ou surrender parcell descend a luy, in touts ceux cases le corps serra discharge, car per discharge del part del chose in execution tout est discharge, Plow. 72. b.

Si home soit lye in 2. statutes, lun apres l'autre, & la darreine stat. est primerment extend & deliuer in executio, & puis le primer stat. est mise in \* execution pur greinder temps, & pur greinder somme que le prim' fuit, vncore quant le primer statute est satisfie, le second conusee auera le terre arere per force del primer extent, Co. 4. 66. vide Fitz. Execution 250.

\* Nota le  
primer co-  
nusee poit  
auer Scire  
fac' & exe-  
cution sur  
ceo.

Quant le extent (sur statute) est satisfie & incurre per effluxion de temps, le conusor poit enter arere. Co. 4. 67.

Mes quant le extent est satisfie per casuall profit, le conusor couiet de auer Scire facias &c. Ibid.

Defesans al statute, fait apres execution, est bone, & defeater cy bien le statute, come le execution sur ceo. Co. 6. 13.

Le statute de Mercatoribus, lye touts les terres le conusor al execut' & voet que serra deliuer al conusee sur reasonable extent, mes ne parle que serra deliuer al extender, si ils eux extend troppe haut; & vnc' serr' deliuer al extender, per le equity del statute de Acton Burnell fait devant, que parle que kiens preises troppe haut serra deliuer al preisors &c. Plow. 82. b. & 127. a.

Biens ouster  
prise.

Mes nota ou le statutes de Acton Burnell &c. est que si les preisors del biens le conusor, preise eux troppe haut (in fauour del dettor, & al damage, del creditor) les choses isint preise serra deliuer al preisors per mesme price, & ils vender le creditor son det, ceux statutes sont penall, & ne extender al ascun auter briefes de execution forsque sur le statute merchant, ou staple, & sur recognisance. Et pur ceo sur brieve de Elegit ou auter brieve de execution sur iudgement, si les extenders (ou preisors preise les terres, ou biens, troppe hault, le plaintife (sc. le creditor) nad remedie, Benl. 4. P. & M.

Nota

## Execution sur Recognifance.

55

*Nota quant les terres ou biens sont liuer al extendors, ils maintenant responder al creansor, de son det, per les parols del stat, & vncore ils ne payer le argent tanque a les iours assise & limit in lextent, Pl. 205. b.*

*Si le dettor complain que ses biens ou terres fuer' vend, ou deliuer al conusee, al trope petit value, vncore il nad remedi, (statute de Acton Burnell) car in tiel cases le dettor poet pay le money, et recouera ses terres, ou biens, 15. H. 7. 15.*

*Nota si le extendors ont extend les terres ou biens, a trope haut, vncore si le vicount sur lextent liuer eux al creditor, et le creditor prist eux solonque le extent; ou sil ne vient in court mesme le terme que le vic fait son retourne, et pria que sont deliuer al extendors; il nauera remedy apres, Register 146. b.*

*Et pur ceo le partie bien refuse terre extend trope haut sur statute, auerment serra conclude a preyer que lextendors les ayent. Fitz. Extent 11.*

*Auxy le partie bien refuse quia le vicount ne voil luy liuer forsque parcel del terre le conusee, car sil accept ceo, il serra conclude a demand tout apres. Fitz. Execution, 84. & 86.*



## Execution sur Recognifance.

**R**ecognifance, est obligation de record, acknowledge in ascun court de record, ou deuant ascun Iudge, ou auer officer ayant authori ty de prendre ceo, come deuant les Iudges del banco regis, vel del common Plees, les Barons del Eschequer, les Masters del chancerie, les Iustices de peace &c. Et ceux que sont meere Recognifances ne sont seale mes sont inroll; Et ascun foits sont seale, oue le seale del partie: Et poient estre oue condition annex, ou poet estre single, et donque de auer Indentures de defeasans.

*Recognifance  
quid.*

*Auxy le Roy poet per son commission done authoritie al ascun home de receiuer conufance de auer home, et de retourne ceo in le chancerie; Et per vertue de tiel commission, si home conust deuant commissioner, ascun det al auer, destre pay a luy a certaine iour &c. et ceo certifie in le chancerie, oue le commission &c. ore sur ceo certificate fait del cest conusee, sil ne paya le det al iour, il auera elegit sur cest recognifance issint prise, vbi bien come sil fuit prise in le Chancerie.*

L

Nota

## Execution sur Recognisance.

Nota que Recognisance est al common ley.

*Sur Recognisance, la ne issera Capias, mes un Scire facias, retournable in le Chancerie; Et sur le retourne del ceo, ils vse de agarder un Capias un Fieri facias, ou un Elegit, al election del conusee, 48.E. 3. fol. 14.*

*Sur Recognis. le conusee ne poit auer action de det enuers le heire, car le recognis. est, quod tunc vult et concedit, quod dicta pecunia summ, de bonis et cattallis, terris et tenementis &c. levetur; issint que le charge est impose sur ses biens & terres, issint que det ne gist sur ceo vers le heire, mes Scire fac. gist vers le heire.* Co. 3. 15.

*Vncore (sur recognis. acknowledge al vse le Roy (coment les parols del recognis. sont, de bonis et cattallis, terris et tenementis &c. levet) le Roy auera liable a son Execution, cybien le corps, come les terres et biens de son dettor, See Co. 3. 12. b. & 11. 93. a.* 7.H. 4. fo. 34

*Execution per force del recognis. (in case de common person) serra de tous les biens & chattels le conusor, (except ses auers del carue, & implements de husbandrie) et del moitie de ses terres, West. 103.*

*Nota que cest parol recognisance, extend souens foits in nostre lius, al statutes merchants, et statutes staple.*

## Execution per Elegit.

*Elegit.*



**A** Elegit is a writ judicial, and lyeth for him that hath recouered det or dammages in the K. Court, and must be sued within the yeaere, *Termes del ley.*

**By force of an Elegit, the Sherife may take** 13.E. 1. c. 18.  
in execution, and deliuer vnto the partie (sc. vnto the creditor) the one halfe of the lands of the conusor, and all his goods, and chattels (preter boves et affros de caruca sua) sauving onely his oxen, and beasts of his plough vntill the det be leuied, vpon a reasonable price or extent: And this is by force of the statute of West. 2. cap. 18. which is the first stat. Co. 3. 12. a.  
which did subiect land to bee taken in execution vpon a judgement, or vpon a recognisance, which is in the nature of a judgement.

**This statute of West. 2. cap. 18. (which giueth this Elegit,) prouideth,** quod vicecomes liberet ei omnia cattalla &c. Co. 4. 65. a. & 74.  
Et medietate terrae suae, quousque debitum fuerit leuar, per rationabile



tionabile prærium, et extentum : **which last words**, prærium, is to be referred to chattells, and extentum, to be referred unto lands ; Et rationabile prærium et extentum, ought to be found by Inquisition and verdict, scz. the appzeising of the goods, & the extent (or valuation) of the lands, ought to be per sacramentum duodecim proborum et legalium hominum &c. For the Sherife himselfe cannot appraise the goods, nor value & extend the lands upon an Elegit : Neither can the Sherife upon an Elegit, deliuer any goods in execution, or extend any lands, but only such as are appraised and valued by the Jurors of the inquisition, Co.4.74. Otherwise it seemeth of all other sorts of executions, see Co.4.74.a. et 67. et hic postea fol

*Executio per Elegit consistit estre per inquisitionem.*

Dyer 100.

Co.7.39.

**The words of this statute of Westm.2.cap.18. are thus** Libèrent ei medietatem terræ, debitoris, *quel per construction de la ley, est (medietat e) de tout que il ad al temps del Iudgement done, ou al ascun temps apres.*

Br. Parliament. 102. Pl. 178.

*Auxy le statute de Westm. 2. cap. 18. est qd̄ vicecomes liberet medietatem terræ, &c. & per legnity del ceo, le vic' poit auxy deliuer (al creditor, ou conusee) le moitie des rents.*

Co.4.82.

*Auxy ceux parols (in le dit statute de Westm.2.) quousque debitum fuerit levatum, serra intend, be or might be leuied : Car sile conusee, ou tenant per Elegit (ou tenant per statute Merchant, ou staple) negleçt a prender les profits, vncore quant le conusee puit auer estre satisfie de son det solonque le extent, le conusor reauerà son terre ; mes s'ee ne poit enter in tiel case, mes est mise a son Scire facias &c.*

Ibid.

*Si tenant per Elegit &c. soit ouste per vn estr' la le temps incurgera, et il est mise a son remedy vers le trespassor.*

*On le conusee &c. tiender ouster.*

*Si tenant per Elegit &c. soit interrupt de prender le profits del terre per reason del guerre (sc. que le terre ou profits soit distroy per guerre) vncore il ne tiendera ouster, mes ceo serra in son disaduantage, Fitz. Execution, 146. & Co.4.82.*

Co.4.82. 15.H.7.15.

*Mes si les profits del terre sont degaste, per surrounder del ewe, ou per wildester, ou per ascun auter act de dieu, sans default ou negligence del conusee, la le conusee (ou tenant per Elegit &c.) tiender le terre ouster, sc. quousque soit satisfie de son det, vide Br. statute Merchant. 41.*

Co.4.66. 15.H.7.

*Si le conusee soit ouste per tort, per le conusor, ou per ascun auter claymant south luy (pur vie, ou ans &c.) le conusee tiender ouster Co.4.66.*

*Iffint sile conusee soit ouste per garden in chivalrie. 15.Hen.7.14. 15.Ed.4.5.*

*Si le feme le conusor recouer dower, le conusee tiender ouster ibid.*

*Si cesty in reuer sion que est dauer le terre, ousta le conusee &c. il ad election, ou de tener ouster, ou a porter sont action, Co.4.82.*

*Si les terres deliuer in execution sont loyalment recouer prise, ou emiç*

## Execution per Elegit.

del possession del conusee &c. deuant son det soit satisfie, il auera Scire facias &c. et sur ceo nouel briefe de execution, statute 32.H.8.cap.5.& Co.5.87.

In trespas le plaintife recouer, et le def. est prise pur fine le Roy, si le plaintife prie que le def. remainer in prison tanque il soit satisfie, (come il poet) icy le plaintife nauera Elegit, pur ceo que il ad prise execution de son corps, & a voit : Mes si le party deuy in prison, issint que il nad execution, oue satisfaction, la il auera Elegit apres, pur ceo que nauois satisfaction solonque son primer election ; tamen quare, de ceo darreime case.

Costs et damages.

Mes apres satisfactiō ewe, le conusor, in case de Elegit, poet enter arere car le conusee nauera damages, costs, ne auer chose, mes solement le terre tanque le det soit satisfie, & pur ceo que tout est certaine, le conusor apres lextent expire poet enter.

Nota tamen que sur execution sur statute merchant, ou statute staple, le conusee auera ses damages & costs (ouster son det come patet per le statute de Acton burnell, & de Mercatoribus 13.E.1. & per le statute de 27.E.3.cap.9 & pur ceo in tiels cases, semble le conusor ne poit enter, apres lextent expire, mes doit auer Scire facias &c. vide 15.H.7.15.

Nota que le conusor auera Scire fac deins le terme del extent, in ascū cases, & issint reauera son terre ; Come.

Si le conusor voile giser les deniers in court, deins le terme.

Ou si le conusee soit satisfie deins le terme, per casual profit.

15.H.7.15.

Ou si le conusor obtaine acquittance, ou release del conusee.

Copihold.

Cest statute de Westm. 2. cap. 18. que done le Elegit ne extend al Copihold terres : Car serra prejudiciall al seignior, et encounter le custome del mannor, que estr' auera interest in le terre tenus per copie, ou per le custome ceo ne poet estre transfere al ascun sans surrender &c. Co.3.9.

Pone.

Terme pur ans ne poet estre extend per le vic' sur Elegit, sans trouer le commencement & certenty del terme, per inquisition : Car execution per Elegit conient este per inquisition (vt supra) & si soit troue per le inquisition que le dettor fuit possesse de certaine terre pro termino quorundam annorum ad tunc ventur' : cel inquisition est insufficient car couient trouer le certentie, & le reason est pur ceo que apres le det satisfie le partie est de reauer son terme si ascun part de ceo remaine ; quel certainty del terme couient appeare sur le retourne del vicount : come semble.

Mes sur Fieri facias le vicount poet vender le lease ou terme sans reciter asc' certainty sc. le vic' poet recit' que le dettor ad un terme de tiel chose pro termin' diuerso' anno' ad tunc ventur' : & que il vend ceo per force dun Fieri fac. al I.S. &c. & ceo est bon. Issint si le vic' vend tout l'interest que le dettor ad in le terre, ceo est bon, (mient ob. misrecital) car per common intendmet le vic' ne poet auer precise connsance del certenty

certenty del commencement, & certaintie del fine del terme: Mes sil im-  
prise a reciter le terme & mprise ceo (reciting ceo fausement) & vend  
mesme le terme, cē sale est void, pur ceo que nest ascun tiel lease ou terme;  
uncore faux recital nient obstant, si le vic' vend auxy tous lenterest  
que le dettor ad in le dit terre, ceo sale est bone.

Auxy le vic' ne besoigne de mention ascun certainty del terme in  
son retourne de Fieri facias, mes generalment, quod Fieri fecit de  
bonis & cattallis &c.

Nota que est al election del vic' de extender, ou de vender, un lease ou Extender:  
terme, tam diu que cest remaine in les mains del dettor sc. le vic' (a son quid.  
election) poet vender ceo tout ousterment; ou il poet extend & deliuer ceo  
al conusee a certaine annual value (come de franktenement); Et la le  
conusee a que le terme est deliuer ad un propertie, le quel est incertaine, &  
le lessee, (ou consor) mesme ad auter property, issint que sur le payment  
del det, ou sur le det receine del reuenue del ceo per le conusee, le consor  
reañs son terme. Plo. 5.24. vide Co. 8.171. & 31. Aff. p.6.38.  
Aff. p.4. & 44. E.3. 16.

Nota icy diuersitas inter le sale (per le vic') dun terme, Et un extent  
dun terme: Et que sur sale dun terme per le vic' le party nad remedy  
dauer son terme arere (si ascun remaine), apres le det satisfie, come,  
semble.

Nota que cest paroll Extendere (ou Anglice, Extend) in nr'e ley,  
signifie, de value le terres ou tenements de cestuy que est lye per statute,  
ou recog' &c. (& ad forfait son recog') a tiel indifferent rate, que per le  
annual rent, le creditor ou conusee poit in temps destre pay son det.

Auxy cē parol extent (Extentum) ad deux significac', asc' foits cest  
signifie le br'e ou commission al vic' pur le valuing del terres ou tenem'ts;  
et ascun foits lact del vic' sur tiel brieve.



Execution sur Capias ad  
Satisfaciendum.

Capias ad  
satisfac'.

**A** Capias ad satisfaciendum, is a writ of execution af-  
ter judgement, lying tohere a man recouereth in an  
action personall any det or damages, in the kings  
court; there the recoueroz shall or may haue this writ to the  
sheriffe, commanding him that he take the body of the party  
against whom the det or damages is recouered, and him to  
keepe in prison vntill satisfaction be made to the pl. &c.

Mes nota si Capias ad satisfac' soit agard, mes q' le def. ne soit troue  
le pl. ne poet auer auer execution 20. E.2. Fitz. Execution 132.

## Execution sur Capias ad satisfaciend.

And this Capias ad satisfaciendum, is onely against the body, which the Sherife must be sure to keepe safe, or else hee may perhaps pay the debt himselfe. And therefore if the Sherife shall take a man vpon a Capias ad satisfac' to him directed, (or shall haue any prisoner to him committed for debt vpon any execution, &c.) and he after shall let the prisoner to goe at libertie before the debt bee satisfied, &c. The creditor may either haue his action of Debt against the Sherife, and shall so recouer his debt: or the creditor may haue his action of the Case against the Sherife.

21.H.7.23.a

Fitz.93.a.c

*Escape per  
Consent.*

And if the prisoner doe escape after that hee is once in execution, if the escape bee with the leaue and consent of the Sherife, or of his Undersherife, or Bayliffe, Gaoler, or other officer, deputie, or seruant, then the Sherife hath small remedie, or none at all: See Plow. 36.a.

Co.3.52a

*Sans consent.*

But if the prisoner doe escape of his owne wrong (against the will of the Officer) although hee escape and get out of sight, or into another Countie where the Sherife or Officer hath no authoritie, yet if fresh suit bee made, and hee bee taken againe vpon the fresh suit, hee shall bee said to bee still in execution: Coke 3. 52.

*Fresh suit.*

Also if the prisoner doe escape against the will, and without the consent of the Sherife or Officer; then the Sherife or his Officer may take him againe, where, or whensoeuer he can find him (by vertue of the same writ before the returne thereof) yea although it bee in another Countie or Shire. And if that the prisoner which so escaped bee followed with fresh suit, and taken againe, before any action bee brought by the plaintife against the Sherife for the escape, it shall bee adiudged no escape.

Co.3.44.52  
L.5.E.4.12a  
Br. Faux  
impr. 18.

And if the plaintife hath brought his action against the Sherife for the escape, before that the Sherife hath taken the prisoner againe: Or if vpon the escape, the Sherife or his Officers, did not make fresh suit after the prisoner, yet in both these cases (if the escape were against the will of the Officer) the Sherife may take such prisoner againe, and keepe his bodie in custodie, vntill the prisoner hath made his agreement with the Sherife: Or otherwise the Sherife may haue his action vpon the Case against such prisoner for such his wrongfull escape (if the prisoner that so escaped bee able to make him

Co.3.52.

Fitz. 95. e.  
et 130. b.

satisf-

**satisfaction :**) And the prisoner in these cases shall not be releued, because the escape was of his owne wrong, & without the consent of the Sherife or officer.

*Nota que si un soit in execution sur erroneous Iudgement, & puis escape, le vic' ne prender aduantage de ceo error, mes serra charge pur les-cape: Mes si le erroneous Iudgement soit reuerse (per briefe de error) ad- que le vic' nest chargeable pur les-cape, car la il poet plead nul tiel Record, Co.8.142.*

**Co.5.87.** *Si conusor dun statute merchant ou staple, est prise et morust in execution, vncore le conusee auera exec' de ses biens et terres, Co.5.87.*

*Conusor sur statute est prise & escape, vncore ses biens & terres, sur mesme statute, poient estre extend.*

*Car coment que per ley, vnica tantū fiat executio &c. ceo est destre intend dun execution oue satisfacion.*

**Ibid.** *Et Nota que la est diuersitie inter un execution que est valuable, come de terres, ou biens, & execution que nest valuable, come del corps.*

**Co.5.87.** *Auxy la est diuersitie inter un execution finall, per que le party est satisfie (come lou le vic' leuy les deniers des biens del defendant, ou extend ses terres, & deliuer eux al plaintise, icy le plaintise accepting ceo in satisfacion, il ad le fine de son suit) & inter execution oue un quousq' &c. & que nest finall, come ou le corps est prise in execution sur Capias ad satisfaciend' &c. lintent de que est tantum que le defendant satisfier le plaintise, Et son imprisonment nest absolute, mes quousque le def. satisfie le plaintise.*

*Ou 2. homes sont condempnes in det, & lun est prise & morust in execution, vncore lauter poet loyallyment estre prise in exec' Co.5.86.*

*Iffint si deux sont oblige ioynment & seueralment in un obligation, Et lun est sue, condempne, & prise in execution, vncore lauter auxy poet estre sue & prise in execution, tanque le plaintise soit satisfie in fait de son entier det, Co.5.86.*

*Si home ad Iudgement in action de det, & puis le Iudgement vtlage le defendant, icy si le def. soit prise per Capias vtlagatum al suit le Roy, il serra in execution pur le plaint. sil voet, Co.5.88.*

*Auxy in tous caser quant le plaintise poet auer Capias ad satisfac' & le def. est prise per Capias pro fine, la le defendant est in execution maintenant, si le plaintise voet, sans ascun preier del party. Co. ibid'.*

**Fitz. 121. P.** *Et in tiel caser si le vic' suffer tiel prisoner daler alarge, ceo semble destre escape, & que per ceo le vicount est subiect de payer le plaintise s'õ dette.*

**If the Sherife, or any of his officers, doe suffer any pri-<sup>Escape.</sup> soner, being in execution, to goe at libertie befoze the Det be satisfied, the creditor may recouer his Det against the Sherife**

## Execution sur Capias ad satisfaciend'.

as is aforesaid.

So if the Sherife, or his officer shall suffer any such prisoner to goe out of prison, by baile, mainprise, or baston (sc. with a keeper, or with the seruant of the Sherife, warden or gaoler &c.) before the det be satisfied, or without agreeing with the partie, at whose suit he is in execution, (except it be by the Kings writ) the Sherife shall be answerable for the whole det. For by the Law those which are in execution, ought not to goe at libertie within the prison, much lesse abroad though with their keeper, or by baston; but such prisoner ought to bee kept in *salva & arcta custodia*; yea the Sherife may keepe such as are in execution, in gybes and fetters, to the intent that they may the sooner pay and satisfie their creditors, see the statutes made, 13.E.1. cap. 11. & 1.R.2. cap. 12. Fitz. 93.c. et 121.a.

Co. 2.44. &  
8100.  
Plow. 360.a.

*Prisoner  
com' serra  
de 127. f. 110.*

And yet note a difference betweene the custodie of one in execution within the countie (or franchise) where the common gaole is, or where the office of the Sherife, or bailife, extendeth, or reacheth & where the Sherife, or bailife, hath the custody of one in execution, out their county (or franchise) by vertue of an Habeas corpus &c.

Co. 3.44

For if the Sherife (or bailife of franchise) shall agree that one who is in execution and vnder their custodie, shall goe out of the gaole, or at libertie, for a tyme, and then retozne, although the prisoner retozne at the time, yet this is an escape, and the Sherife (or Bailife of franchise) shall pay the det.

But where the Sherife &c. hath one in execution for det, & a Habeas corpus cometh to him to haue the bodie in the K. Bench (at Westm) at a certaine day, and he carryeth his prisoner to London (to an Inne &c.) and the prisoner of his owne head goeth at large, and after commeth againe to the Sherife, so as the Sherife at the day of the retozne of the writ (of Habeas corpus) doth deliuer the body in court, this was adiudged to be no escape, for that the commandement of the writ is perfozmed, scz to haue the bodie in the court at such a day: And in such case the Sherife may goe and take what way, or place he shal thinke to be most sure and safe for himselfe and to carrie his prisoner.

Co. 3.44

Yet sometimes the act or commandement of the K. court is no sufficient warrant to the Sherife &c. to suffer a prisoner in execution to goe at libertie &c. for there is a case reported by master serieant Benlow, Anno 16.El. how that W. Manser brought an action of det against B. Anstey warden of the

16.E.101  
1343.

the fleet, upon the escape of a prisoner there in execution for  
154. l. and the defendant pleaded that H. Draycot who was  
in execution, was before bailife to the Queene (of her lands  
late parcell of the monastery of Cuesbury in the Countie of  
Staff.) and was found in arrearages, for which hee was  
committed to the fleete by the Barons of the Exchequer,  
and after by their commandement, he suffered the said Dray-  
cot by baston (vnder the custody of one of his seruants) to  
goe into the countie of Derby, to gather by his Dets &c. to  
pay the Queene; and pleaded all in certaine, and upon this  
plice, the plaintife demurred in Law, and after argument,  
judgement was giuen for the plaintife. Quod nota. see the  
like case Dyer 297. And there it was adiudged, *que si vn soit in  
execution, nul commandement quamuis del Roigne mesme, sans briefe, est  
suffisient garrant de discharge le keeper &c. & per mesme reason ne dis-  
charger le vicount.*

*Auxy vide 13. H. 4. 17. Ou le vic' pur executer del commandement le  
Roy in torrious acts, serra punish & ou nemy.*

¶ *¶*ea sometimes the Kings writ, is no sufficient warrant  
to the sherife, to deliuer a prisoner &c. see hic fol.

And yet see 14. H. 6. 8. Br. Prerog. 37. that he which is im-  
prisoned (by writ) for a contempt, may be discharged by the  
kings commandement, by word without writing; But M<sup>r</sup>  
Bro. maketh a Quere of it.

But note that in as much as escapes are so penall to she-  
rifes, bailifes of liberties, and gaolers, the iudges of the law  
haue alwaies made a fauourable construction as much as  
the Law will permit in fauour of the sherifes, bailifes of li-  
berties, and gaolers, who are officers and ministers of Ju-  
stice, Co. 3. 44.

Co. 5. 88.

*Nota si home recouer det ou damages vers auter, il poit eslier de auer  
Capias, ou Elegit, mes sil prist le Capias, il nauera le Elegit apres, nec e  
conuerso 15. H. 7. 15.*

*Nota auxy que deuant le statute de 25. Ed. 3. cap. 17. vn Capias ne  
gist in det, Ne le corps del defendant, deuant cest statute fuit subiect al ex-  
ecution pur det, (sinon in case le Roy.)*

At the common Law, the bodie of a man, nor his lands,  
were not liable to an execution for Det or damages, except  
onely in the Kings case, or in some other speciall case, Plow.  
441.

Neither was the bodie of a man subiect to imprisonment,  
by the common Law, except in some speciall cases,

The

## Execution fur Capias ad satisfaciendum.

The body, was first subject to imprisonment, for det by these statutes. } 2.H.3.cap.23. } Accountants.  
 } 15.E.1.ca.11. }  
 } 13.E.1. } de Acton burnel } for det by }  
 } } de Mercatoribus } on a stat.  
 } 25.E.3.ca.17. } for det bypon specialty or }  
 } contract, sc. by Capias (bypon the ori- }  
 } ginall &c.)

The lands, were first subject to be ex- tended scz. } The moiety by the stat. 13.E.1.(westm }  
 } 2.) ca.18. which statute giueth the }  
 } Elegit, and is the first statut, which }  
 } subjects the Land.

The whole Land } 13.E.1.de Merc'. }  
 } by the statuts of } 27.E.3.cap.9. }  
 } } 23.H.8.cap.6. }

*Leuari fac.* At the common Law, where a common person sued a Re- cognisance, or a judgement, for det or damages, hee had exe- cution in such case, onely of his goods & chattells, and corne and other present profit which grew vpon the Land: To which purpose the common Law gaue to him two seuerall writs; the one, a *Leuari facias*, by which writ the Sherife was commanded, *Quod de terris et cattallis ipsius A. &c. Leuari faciat prædictam pecuniam &c. ita quod eam habeas in &c. tali die præfato B. (querenti) deliberand &c.* The other writ called a *Fieri facias*, which was onely, *de bonis et cattallis*.

*Scire facias.* So then this writ, *de Leuari facias*, is giuen by the com- mon Law (before the stat. of Westm 2.c.18. which giueth the writ of *Elegit*, as is aforesaid); And this *Leuari facias* is onely to bee executed vpon the profits of the lands, and vpon the goods: Or the Sherife may hereupon take the rents payable by the tenants, in execution for the det, and bring them in court; but he cannot seise the land, and deliuer that to the party, by this writ &c. *Pl. 441.a.* And this ought to be sued within the yeare, after the day of payment to be made by the Recog. (or after the Judgement); For af- ter the yeare, the cognisee (or plaintife) is now by the statute of Westm. 2.cap.45. to haue a *Scire facias*, whereby the She- rife is commanded, that he giue knowledge to the def. that he appeare in the Chancery, at a certaine day, there to shew what he can say, why he should not pay the det, or damages: And if he doe not come at the day, or doe come, and can say nothing why execution ought not to be done, then the Sherif shall be commanded to doe execution, see *Fitz. 266.c.*

And if the Sherife, vpon the *Leuari facias*, shall returne that he hath leuied part of the summe (sc. 20, li. part thereof &c.)



## Execution per Fieri facias.

60

ꝛc.) the which he hath deliuered to the partie ꝛc. now vpon this returne, the partie which ought to haue the money, may haue a Sicut alias leuari fac' directed to the sherife to leuy the residue of the summe ꝛc. Fitz. 265. h.



## Execution per Fieri fac.

**A** Fieri facias, is a writ iudiciall, that lyeth for him which hath recouered any det or damages, & thereby the Sherife is commaunded to leuy the det or damages of his goods, against whom the recovery was had.

This writ of Fieri facias, is onely against the goods and chattels of a man, ꝛc. Leases for yeares, or moueable goods as cattell, cozne, household stufte, money, plate, apparrell, ꝛc. And this writ also ought to be sued within the yeare after the judgement ꝛc. Co. 3. 12.

But here the sherife and his officers had need to bee very carefull, how and after what manner they doe execute this writ, for if the leases, or goods, which they shall take in execution, be not the defendants owne goods, or leases, but the goods of a straunger, although they may or doe finde them in the possession of the defendant (which is the best colour in law to proue them to be his, if the defendant notwithstanding his sale or gift of them, shall still vse them and take the profit and benefit of them) yet if it shall fall out and be found vpon triall, that such goods and chattells bee not the defendants owne; then the sherife or his officers which shall take such goods in execution (vpon such a writ) in steede of the defendants goods, the sherife or officer shall be a trespasser to the right owner of such goods, and the Sherife or officer in such case shall pay damages to the owner of the goods to the value of the goods so taken, and costs of suit although the officer hath deliuered them to the plaintife in execution.

Or if the officer shall not deliuer such goods to the plaintife in execution, but that the Sherife shall returne his writ that he hath taken so much goods of the defendants, and that hee hath, denarios illos parat. ad reddend', to the  
plaintife,

## Execution per Fieri facias.

plaintife, then is the sherife at a double mischief, for although the value of the goods bee recovered against the sherife or his officer, by the owner of the goods, yet the plaintife in the action, may within the yeare after execution done, haue a Scire facias vpon the judgement, and the returne made by the sherife, and thereby shall compell the Sherife to bring the money into the court, and after the yeare the pl. may haue an action of Det against the sherife for it, if he bee not otherwise ordred by the court where the judgement is depending.

And therefore the surer course for the sherife in such case is either to keepe the goods, vntill the parties be agreed, or else to take good securitie of the plaintife, to defend him and saue him harmelesse, and to stay the returning of his writs vntill he may be well aduised what to do therein; But if he take a bond of the plaintife, it is questionable whether it be good or no in law, and not within the compasse of the stat. of 23. H. 6. cap. 10. to be taken colore officij.

But the safest and surest course for the sherife or officer is not to take in execution, or not to meddle at all, with any such goods as shall not plainly appeare to them, to be the proper goods of the defendant: For it seemeth that the officer is bound at his perill, to take knowledge, whose the goods bee, or at least, that they be the proper goods of the defendant.

For if an officer shall arrest another man who is not the defendant, or shall attach goods which are not the proper goods of the defendant, in both these cases the officer is a trespasser; And if the plaintife shall shew vnto the officer the man, or goods, and shall say to the officer, that this is the defendant, or these are the goods of the def. where they are not, there both the plaintife, and the officers are trespassors.

I. S. Riding vpon his masters horse to C, and there one enters a plaint against I. S. the seruant & attacheth the said horse, whereupon the master of the said seruant brought an action of trespasse against the bailife which attached the horse, and had Judgement to recouer against the Bailife &c. for that the officer is bound to take knowledge, whose goods he attacheth, Br. Trempasse 99.

*Vide plus deuant tit. execution per statute staple, & execution per Elegit.*

*Nota que apres le Fieri facias vn home peut auer le Elegit, mes non econtre*

*contra, entant que le Elegit est de plus haut nature que le Fieri facias.*

Dyer 100.  
Co. 4. 72.

*Sur Elegit, Execution, & appreisement couient estre fait per sacramentum 12. &c. & nemy per le vicont, mes auterment est de execution per Fieri facias.*

*Sur Fieri facias le vicont poit vender lease, ou terme pur ans. Vide antea Execution sur Elegit.*

*Sur Fieri facias le vicont doit vender pur lenier le det. Co. 5. 90. Vide Co. 8. 171.*

*Sur Fieri facias si le vicont vend les biens, & apres le iudgement est reuerse in brieve de Error, vncore le defendant nauera restitution de ses biens, mes le value del eux, pur que ils fuer vend: & ceux que isint achate tiei biens del vic' poient loyallyment enioyer eux. Car le vic' que fist le sale auoit loyall authoritie a vender, & per le sale le vendee ad absolute proprietie in les biens &c. Et si le vendition del vic' per force del Fieri facias serra auoid per subsequent reuersall del iudgement, donque nul voile acheter, & per consequence nul execution serra fait. Co. 5. 90. & 8. 96. & 143.*

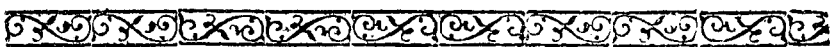
Reuerse per error.

*Sur Fieri facias, le vicont execute le brieve, mes ne retourne ceo &c. Vide hic postea fol.*

*Semble que appreisement de biens, ou extent & valuaion del terres, ne besoigne destre per inquest (scz. per sacramentū duodecim proborū & legal hominū &c.) si non tantū sur Elegit, & sur Statute Staple, & que sur auters executions, le vicont de soy mesme, poit extendre & deliuer le terre, ou seisin inde, ou vender les biens & chattels (ceux esteant fors q' matters in fait) sans a(c) inquest destr' prise. Co. 4. 67. a. & 5. 32.*

Fitz. 131.  
d. c.

*Et vnc' sur stat. staple l'extent & appreisement esteant per sacramentum &c. & esteant retourne & certifie in le Chancerie, Liberate issera al vic' sur que le vic' (de soy mesme) poit deliuer le terre, ou vender les biens.*



Now followeth the manner and formes of such Precepts, Proces, or Writs which go out vpon the originall, and whereby the defendand is called or brought into the court &c. and how the sherife &c. is to execute the same &c.

Summons.

Summons is a writ to the sherife &c. to cite or warne one to appeare at a certaine day &c. scz. in jus vocare, and the summons must be made by (or in the presence of) two or three summoners, and these summonitors ought by law to bee liberi & legales homines, as it seemeth,

Summons.

## Proces.

In summons in reall actions, the summoners in the presence of the pernoys or veioys &c. ought to summon the tenant, first to keepe his day of the retozne (and to name that in certaintie) to answer &c. secondly they ought to name the name of the demandant, and lastly they ought to name the land in demand. Co. 6. 54.

*Pernor.*

This word Pernor seemeth to signifie the pernor of the profits of the land, or the occupier or fermier thereof. And the word Veior, to signifie such as are sent by the court to take view of the place in question, for the better decision of the right. Minsh.

*Veior.*

Note that the defendant ought alwaies to be summoned fiftene daies (at the least) before the day of the returne of the writ. See Stat. 28. E. 1. ca. 15. Fitz. 177. d. Br. Summ 6. Et hic postea tit. Proclam'.

*Per quel chose.*

Note also that the Sherife &c. cannot summon the partie by a rent service, rent charge, common, reuerfion, nor the like, for that the soile is another mans freehold. Br. Retorn de breue 124. & Summ' 14. 31. H. 6.

And yet in case where tenaunt for life prayeth in ayde of him in reuerfion, and a Scire facias goeth out to warne or summon him in reuerfion, and the Sherife returneth that he hath nothing in that countie but the reuerfion of that land in which hee hath summoned him, and it is holden to be a good returne, for he shall bee summoned in terra petita, and yet it was another mans freehold. 38. aff. pl. 12. so aff. pl. 8. & 45. E. 3. vide Br. Summ' 12. 16. 21. 23. 24.

In a Cessavit, the tenant was summoned in other land which was not in demand, he shall not plead this, but if hee makes default and a grand cape is awarded, he may wage his law of non summons; but if the tenant appeare vpon the summons, it sufficeth in what land soeuer he were summoned. Br. Summ 7.

*Nota quant le tenaunt appeare per le summons, il ne prender aduantage apres; adire que il ne fuit bien summon: Eadem Lex sil soit effoine, car tout ceo affirme le summons. 46. E. 3. Br. Summ 22.*

*Per person.*

Note also if the Sherife shall summon him which hath no land, to or by his person, and shall returne him summoned, it is good: And in actions of annuitie, couenant, or the like, summons is the proces, hath the partie land or not; and where a man hath no land where he may be summoned, there the Sherife may summon him by his person. 33. H. 6. 4. H. 7. 7. Br. Summ 1. 7. 8.

In a Præcipe quod redd' the tenant vouched a Bishop to warrantie,

Warrantie, part of whose temporalties were in the Kings hands, he shal not be summoned in his temporalties so long as th<sup>y</sup>, or any part thereof remaine in the Kings hands, although there be asssets in his hands wheron to be summoned. 38.E.3.Br.Summons 17.

In a writ of right of advowson the sherife may summon the defendand in the church, Br Retorn 101. 11.H.6. *In lesglise.*

Also in a Quare impedit, the sherife may summon the defendand in the church per Martin 11.H.6.Br. Retorn 101. *Et issint per aduise fuit fait inter Lanceletum Episcopum Eliens. & Lanthor de cel Liuer, anno 16.Iacobi Regis.*

In Attaint, the tenant was returned Nihil, and it was testified that he had land in another countie, whereupon summons went out thither Quod nota 21.E.3.Br.Sumn 18. And note also that a man may be summoned in diuers counties. 21.E.3.Br.Sumn 19. *In autre countie.*

In a Præcipe against foure, the sherife cannot summon the one, but that is a summons to all. 3.E.4 Br.Sumn 10.

Plo.393.

Also in a Præcipe there ought to be two summoners, for if there be but one, and the tenant maketh default, & looseth by default, he shal haue a writ of Desceit against the sherife &c.

Vide Thel.  
332.

*Nota que le tenant poit gager son ley de non summons (vt supra) & encore Corporation, Recluse, & Decrepite, ne poient faire leur ley, mes leur summons serra trie per pais 33.H.6.fol.8. Thel.334.quare. Ley gager.*

Attachment.

**A** Attachment in our law signifieth a taking hold, or apprehending by comandement of writ, and differeth from an arrest, or Capias, which is onely of the bodie, whereas an attachment is sometimes of or by the bodie and sometimes of goods. Minsh. See master Lam. fol. 05. And the sherif and his officers are to be well aduised by what goods they doe attach a man, least they proue trespassors. For if the officers shall attach my horse in the possession of my seruant, for the debt of my seruant, the officer is a trespassor. 13.H.4.2. *Attachment.*

Attachment cannot be by land, nor by a chattell reall (as a lease for yeares &c.) 7.H.6.& 27.H.6.Br.Attach.1.4. *Per queux biens.*

Neither may a table dormant, or any other thing which is fastened vnto the freehold, bee attached. 21.Hen.7. fol.26.

But an Attachment ought to bee made by moueables, &c. by meere chattels (which may be forfeit by vtlarie, and)

## Proces.

which shall be forfeited by the default of the partie, scz. if he appeare not. Br. 1. 4.

In Debt, Trespasse, or the like, a man ought not to attach the defendant by his horse whereupon he rides, where he hath other goods whereby he may be attached; but if he hath no other goods, then the officer may attach him by the horse he rideth vpon. Br. 23. Fitz 93. H. 1

Neither may a man be attached by his apparrell, 7. H. 6. Br. 4. But this seemeth to be understood of his apparrell which is vpon his bodie; for if his apparrell lyeth by him &c. it seemeth he may be attached thereby.

Neither shall any goods be attached, but the proper goods of the partie, and not goods that are pawned, or borrowed &c. 35. H. 6. Br. 20.

*Per pledges.* An attachment may be made by pledges, scz. by finding pledges or sureties to appeare. Br. Attachmēt 1. 7. & 9.

Also if the officer shall giue warning to the tenant in the presence of other honest men, to appeare &c. it is good enough, although he made no other attachment by goods, or pledges &c. 34. Aff. Br. 9.

*Per parol.* Note that the sherife commaunded his bailife to make an attachment, and the bailife commanded his seruant to do it, who did it, and it was holden to be good, and all this was by *parol* without any warrant by writing. 27. aff. p. 67. Br. Attach. 15. & 16.

But if an estranger without any commandement or warrant from the sherife or his officers &c. shall make an attachment, this is void, and besides the stranger is thereby a trespassor &c.

*Forfeiter.* Where the Sherife or his officers &c. shall attach another by a cow (or by any other goods) if the partie shall not appeare (at the day of his returne) his cow, or other goods attached, are forfeited to the king, and the sherife shall be answerable for the value thereof; and therefore the sherife &c. had need either to keepe the goods attached, or else to take securitie to be saued harmeles therein. 9. H. 7. 6.  
34. H. 6. 29.

*Nota que le property del biens attach, ne sont hors del party, tanque le iour del retourne, & que il fait default; mes si al iour del retourne le party fait default, donque le vic' ou son officer peut prendre tiels biens come forfaits, coment que il ad lessa tiels biens, ou le partie que fuit attach per eux: Et sic nota que sur attachment, l'officer peut (a son election) prendre les biens attach, ou luy; ou peut lesser eux ou le owner, & apres prendre eux sur default del apparance per le owner. 9. H. 7. 6. Br. Attach. 10.*

*Nota auxy, que per essoine, l'attachment (ou les biens) attach est sane.*

non obstant que il ne appeare al iour deffoine, Br. Attach. 3. & 11. Mes 34. H. 6. 29. contra, Ou cesty que fuit retourne attach in trespas per 20 Oues, præcij &c. le defendant fuit effoine &c. & al iour il fait default, il forfeiter lattachment; mes per Ashton sil appiert al iour del lattachment, ou al iour del effoine adiourne il sauera lattachment, aliter non.

Nul biens attach ferra forfeit, mes in courts de record, & nemy sur Iusticies in le county, per ascuns opinions, tamen alij eontra. Vide Br. Attach. 2. & 19.

7.H.6.  
Br. Attach. 4

**A woman couert shalbe attached by the goods of her husband, for the husband is to bring in his wife, vide hic fo.**

27. aff. p. 67.

**The defendant ought alwaies to be attached 15. Daies (at the least) before the day of the returne of the writ.** Br. Attach. 1. 5. 6.

Vnc' triall de nient attach per 15. iours ferra tantū per examination del officer que fait le ret', & sil soit absent lattachment ferra intend deste fait accordant al ley (scz. per 15. iours) & le def. ferra agard de responder. Vide Br. Attach. 6. 12. 17. & 18.

Auxy nota que in Banke le Roy ils allow attachment in ass. de nouvel diff. de 8. iours, & de meins. Br. Attach. 13.

Capias ad respondendum.

**S**i nihil soit retourne sur le summons, Capias issera per le common ley. Capias. Fitz. Wast. 45.

Capias est de deux sorts,	} <i>deuant iudgement,</i>	Capias ad respondendum.	
		} <i>apres iudgement</i>	Capias ad satisfaciendum.
			Capias pro fine.
			Capias utlagatum.
	} <i>ceo est quadrup.</i>	Capias ad valentiam.	

Nota que est vn rule in ley, que in tous actions, Quare vi & armis, Capias (ad respond) gist, & ou Capias gist in proces, la apres iudgement Capias ad satisf. gist, & la le roy aua Capias pro fine. Co. 3. 12

Sur le Capias ad respond, si le vic' } Alias Capias.  
retorne Nihil habet in balliva sua &c. } Pluries.  
sunc issen'. } Exigent.

Deuant le statute de 25. E. 3. ca. 17. vn Capias ne giser in det, ne le corps del def. ne fuit subiect al arrest pur det sur specialty, ou contract &c. Vide hic antea Execution sur Capias.

Co. 6. 53.

Le person (ou corps) del Baron, ou aut' Peere del realme, ne de Countesse ou Baronesse ne ferra arrest in aet, ou trn's, mes in cafes de contempt ils poient estre arrest. Co. 6. 52. &c. Et vnc' si Capias, ou Exigent soit agard vers tiels (sur det ou trespas) lofficer poit bien iustifie de execute ceo.

Capias ad satisfaciendum, est breue de Execution apres iudgement, de que vide hic antea fol.

## Proces.

*Capias pro fine*, est lou vn per Iudgement, est fine al roy &c. si ne discharge tiel fine accordant a le Iudgement, son corps pur ceo est prise, & commit al prison, tanque il ad pay son fine al roy, ou done securitie pur le paiment del ceo.

*Capias vtlagatum*, gist vers luy que est vtlage sur ascun suit, donques sur cel briefe, il serra prise, & mise in prison, sans baile ou mainprise, pur ceo que il ad fait contempt encounter le ley.

*Capias ad valentiam*, gist lou home est implede de certaine terre, & vouch a garrantie vn auter, & il ne scauoit pas barre le demandant, issint que le demandant recouer, donque le vouchet recouera tant in value vers le vouchee, & donque issera cel briefe.

**There is also a** *Capias* in Withernam de homine &c. See hic Retorne de breue de homine replegiand.

**There is also a** *Capias* in withernam, de Auerijs &c. See hic breue de withernam, & tit' Countie Court.

## Venire facias.

*Venire facias*

**This writ of Venire facias is of two sorts.**

The one is to cause the partie to come in, and answeere &c. vpon this if the Defendand be retorned sufficient, and maketh default, then a *Distringas* shall be awarded: But if a *Nihil habit* &c. be retorned at the first, then after the *Venire facias* there shall goe out, a *Capias*, alias, plures, & *Exigent*.

The other is after apparance, when the parties be at an issue, then the plaintife oz defendand shall haue this writ, to cause the Sherife &c. to impannell and retorne a *Jurie* &c.

## Distringas.

*Distringas.*

**This writ is directed to the Sherife &c. commanding him to distraine another for his apparance &c. oz to distrain for the kings debt &c.**

A *Distringas* for the appearance of the partie shall go out infinite, scz. vntill the partie commeth in.

## Scire facias.

*Scire facias.*

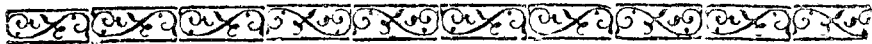
**Scire facias est breue judiciall, direct al visant &c. Et est usualmēt** Termes del L. y. de garner home de venger & monstre cause al court &c. quare execution dun Iudgement que est pas, ne serra fait: Mes cest briefe ne serra grant deuant que lan & iour soit passe apres le iudgement done.

Upon



Upon this writ of Scire facias, it seemes that the Sherife hath no more to do, but only to warne the partie to appeare &c. according to the writ, and then to returne the same: see hic postea fol. 95.

There be diuers other sorts and manners of Proces as well in actions reall, as personall, which you may see at large, in Fitz. natura breuium.



Returne of Writs.

**N**ote that in the execution of all writs and Proces of Law, the Sherife and his Officers must therein doe all that which they shall be commanded to doe by the writ it selfe, and they must pursue the effect thereof in euerie behalfe; and they may proceed no further, or otherwise in the execution thereof, than they are authorized by the writ: And besides the Sherife is to returne the same writ into the Court whence the writ came.

For the manner and forme of returnes of writs; first they must be made according to the ancient course, and according to the presidents, otherwise they are not good.

And therefore in a writ of right, the writ to the Sherife is to returne foure knights, to chuse the grand Assise returnable such a day, and the Sherife returneth that they were no knights but Burgesles, whereupon another writ went out, &c. and thereupon the foure knights were demanded, who came to the barre girt with their swords, &c. And so it seemeth by the opinion of master Brooke that the Sherife may returne them knights, although they bee no knights, for so bee the presidents, as you may see hic postea fol.

*The forme.*

*Knights.*

7. H. 4.  
Br. Ret. 106.  
vide Pl.  
fol. 117. &  
229. a.

Waste was assigned in S. the returne must not bee, quod accessit ad S. but quod accessit ad locum vastatum, 27. Hen. 8. Br. 2.

Upon a scire facias, the Sherife returneth Ego. R. O. Ar' vic' &c. vobis certifico, it is not good, for it ought to bee vobis Iustic' certifico.

*Vobis certifico, for vobis Iustic' certifico.*

Venire fac' 12. &c. le vicount returne venire feci, & non executio istius breuis, & auxi il retorne forsque 12. & pur ambideux ceux causes il fuit chafse damender ceo. 2. H. 7. Br. 84.

The

1. H. 6. 6.

## Returne of Writs.

*Virtute præcepti, virtute brevis.* **The Sherife returneth,** quod virtute præcepti, &c. coepit corpus de I.S. and exception was taken thereto, for that the returne was not virtute brevis, &c. and yet it was holden to be a good returne, for the Sherife may take one in Westminster Hall, by the commandement of the Justices without any writ. 16.H.7.

Upon an habeas corpus, the Sherife must returne attachat' and not quod habet corpus. 2. H.7. Br. 84.

*Probos & legales homines.*

In the returne of garnishment by A. B. and C. D. these words probos & legales homines seeme materiall, and yet if the Sherife returneth scire feci per A. B. & C. D. without the words probos & legales homines, it is sufficient, especially if the defendant appears, and it may be amended: 33. H.6.35. 8.H.6.27. & 44. E.3.36.

*Prout constare poterit.*

The Sherife ought not to returne quod defend' nihil habet, prout sibi aliquo modo constare poterit; vel non est inventus prout ei constare poterit, to returne directly, quod nihil habet, vel non est inventus, otherwise he shall be amerced. 9.H.8.57.

*Tarde.*

The Sherife returneth, quod breue adeo tarde sibi venit, quod illud exequi non potuit propter breuitatem temporis, and it was holden a good returne: vide 21. Hen. 6. 51. Br. 52.

But if the Sherife shall make such a returne, where hee hath sufficient time to serue the writ, he shall be amerced, &c. or rather hee shall yeeld damages to the partie grieued, according to the stat. of 13. E.1.39.

*Non inveni, for, non est inventus.*

The Sherife returned non inveni partem, &c. for non est inventus; and the partie being thereupon blawed, assigned this for error, and it was adiudged to be error, and not to be amended. 9.H.6.fol.12 Br.43.

*Mandavit for mandavi.*

The Sherife returneth quod mandavit balliuo de E. &c. for mandavi balliuo, &c. and was therefore amerced.

*Nomina Manu capt. & Summonit' &c.*

Upon a distringas Iurator', the Sherife ought to returne the names of the Manu captors of the Jurors: Br. Returne 86.

In a scire facias to execute a Judgement or fine, the Sherife ought to returne the names of the Summoners and Weiers: 3.H.7.8. Br. Ret. 86.

So upon the Grand Cape, the Sherife ought to returne the names of the Summoners and Weiers: Ibid.

*Issues.*

Also upon the returne of a Jurie, the Sherife is to returne issues upon euerie person impannelled and returned by him. Ibid.

And

3.H. 7. fol. 8  
Br. Ret. 86.

And yet in these former cases, if the parties, &c. shall appear and plead, (it seemeth) though the Sherife, &c. shall omit to returne the names of such **Hannaptors**, **Summoners**, **Ueitors**, or shall returne no issues, the returne shall be amended and shall bee no errour: But yet **Master Brooke** holdeth it to bee errour if the returne bee not good, notwithstanding any appearance: Ideo quare, vide 8. Hen. 5. fol. 2. b.

The Sherife in a replevin returneth that the cattell are in a **Fort**, **Castle**, or **Parke**, so that he could not make deliuerance, &c. it is not good, but there hee shall bee amerced for such his returne, for that he might haue taken **Polle committatus**, and so made deliuerance. *Que ne poe faire deliuerance.*

If the Sherife shall returne a resistance, it is not good, for hee should haue taken the power of the Countie, &c. but hee shall bee amerced for such his returne, for that it tendeth to the dishonour of the King and his Crowne, 13. E. 1. c. 39 see hic. *Resistance.*

The Sherife returneth a **Rescous**, it seemeth not to bee good: vide Br. Ret. 66. 39. H. 6. And yet see the booke 10. E. 4. fol. 17. & 3. H. 3. Hen. 7. fol. 11. the Sherife returned a **Rescous**; and in the one booke, for that the place where the rescous was made, and in the other for that the place where the **Rescous** was commanded to be made were not certainly set downe, therefore the returnes were holden to be insufficient, and the Sherife amerced therefore; whereas otherwise the Sherifes returne of the **Rescous** had bene allowed: Ideo quare & vide hic returne de capias. *Rescous.*

Upon a **capias** the Sherife returned, that the partie committed felony, and tooke **sanctuarie**, which p̄uilledge hee could not bzeake, this was a good returne: see Br. Returne 29. & 46.

Upon a **capias** the Sherife returneth, that before the comming of the writ, the defendant was taken and detained in prison, by force of a **warrant** from a Justice of peace in the countie, for the finding of sureties for the peace, &c. yet the Sherife ought (as it seemeth) to bring in the partie into the Court, and then after that the plaintife hath counted, and the defendant hath put in his answer, hee shall goe vnder mainprize, and bee remitted to the Sherife for to answer *Arrest de-  
nant.*

Br. Respon.  
33. see 9. H.  
6. 44.

## Returne of Writs.

andwere in the countrey befoze the Iustices of Peace, &c. 2.  
H. 7. fol. 2.

*Inhibition.*

The Bishop being commanded to certifie Matrimonie, &c. certifieth that he could doe nothing, by reason of an Inhibition to him Directed out of the Arches, and it was holden no returne, for hee ought to perfozme the Kings commandement notwithstanding the Inhibition: 36. Ed. 3. Br. Returne 112.

*Clerke.*

In a Scire facias against a Clerke ( vpon a recouerie in a Quare Impedit) the Sherife returned, quod Clericus est beneficiatus, &c. and therefore ( by some opinions ) the Sherife was to be amerced, for heere the Sherife should haue summoned him, &c. And yet it is a good returne, quod est Clericus beneficiatus, &c. Et quod non est inventus, for then hee cannot bee summoned if hee bee not found, nor hath Lay fee.

32. H. 6. 11.  
Br. 124.

Note that the Sherife is not to returne quod Clericus est beneficiatus, but onely in causes where a Capias or a Distringas goeth out, which are a Cohertion. Ibid.

Where the Sherife ( vpon a Scire facias ) returneth, quod Clericus est beneficiatus, Non habens laicum foedum, there shall goe a Writ to the Bishop to sequester his benefice: see hic antea fol.

K. 47. 13. H.  
4. fol. vlt.  
2. E. 4. 10.

*Bayon &  
fense.*

In an Assise against the husband and wife, the Sherife returneth the husband attached, and the wife nihil, quare. if that be a good returne, for by the better opinion of the booke 7. H. 6. the Sherife should haue attached her by the goods of her husband: and yet by the booke 48. Ed. 3. 25. & 49. E. 3. 1. Fitz. Ret. 73. if seemeth that the wife shall not bee attached by her husbands goods; but the Sherife shall returne pledges vpon the one and the other: Ideo quare.

In a Scire facias against the husband and wife the Sherife returneth that they are diuorced, and was therefore amerced, for persons that are diuorced may haue garnishment, quare & vide 1. H. 6. 2. Br. Ret. 63.

2. H. 6. 5.  
Br. 4.

*Executors.*

Vpon a Fieri facias against executors, the Sherife returneth that they had sold the goods of the partie dead befoze the Writ purchased &c. And the Sherife was amerced for this returne, for he should haue taken other goods of the executors to the value thereof, &c.

14. H. 4. 12.  
Br. 41.

Also it had been no returne that all the executors but one had nothing, for the Sherife ought to make execution of that which was in the hands of that one executor.

The Sherife vpon a Fieri facias against executors returneth, Quod nihil habent post adventum brevis, provt sibi aliquo modo

9. H. 6. 57.

modo constare poterit, and for this he was amerced, for hee ought to haue returned directly, quod nihil habet: but the Sherife may returne, quod bona elongata sunt, and thereupon execution shall be of their proper goods.

*Sur fieri facias vers executers, le vicount returne, nulla bona, &c. le plaitise poet auera special brieve de fieri facias, scz. que le vicount leuier le dett des biens le mort, & si sibi constare poterit que les executers ont degast les biens, donque de bonis proprijs. Co. 5. 32. 11.H. 4. fol. 70. Fitz. Exec' 57. 2.H.4. fol. 4.*

Also the omission of words vsuall maketh the returne not to be good, as where the returne was Residium huius breuis patet in quadam schedula, &c. for Residium executionis istius breuis patet, &c. this is vitious, 19.H.6. Fitz. Returne 14.

So in a Scire facias the Sherife returned Scire feci A. quod sit coram vobis, &c. and did not say further, ad faciend' quod breue requirit, and it was adiudged to be no good returne: 16.E.3. & 26.E.3. Fitz. Returne 77. 119.

*Ilsint absise fuit Returne sic Plegij. E.V. infranominat' A. B. & C.D. Ou le returne serra, E.V. infranominat' attachiat' est per Plegies A.B. & C.D. Et pur default de ceo parol attach, le returne tenus void: 5.E.4. Br. 93.*

Againe euerie returne ought to answer the point of the writ (as it seemeth) and therefore where the writ (to the Sherife) was, quod Scire facias, hæred' terrarum & tenentorum que fuere M. &c. and the Sherife returned, quod Scire fecit W.H. militi, fil. & hered. predict' M. &c. And it was assigned for Error, for that hee did not returne him heire of some lands or tenements, according as the writ required; for his warrant was not to summon the heire of M. but the heire of the lands and tenements of the said M. see Co. 3. 15.

3.H.7. 11.a.  
12.a. Br. ret.  
88. sec Co.  
8. 127. 128.

Also the returne of the Sherife ought to bee certaine to euerie intent, as a declaration ought to be, and the Sherife is bound to take knowledge of the Law in making his returne: and therefore in a Scire facias Laurentio Both magistro Aule de B. in Cantabr. & scholaribus eiusdem, &c. the Sherife returned quod Scire fecit Magistro, &c. And did not say Scire feci Laurentio Both Magistro, neither spake of the schollers, and therefore it was holden to be a void returne.

34.H.6.49.  
Br. Ret. 14.

29.E.3. 31.

Yet in a Scire facias against Elen. Prioreff. de W. the Sherife returned Scire feci Prioreff. de W. without saying Elen' Prioreff. and it was holden good.

The

## Returne of Writs.

The Sherife vpon a *capias* returneth that hee arrested the defendant at D. and would haue carried him to the Gaole, and that W. N. did rescue him, and it was holden no good returne, for that hee did not shew at what place W. N. made the rescue, and it shall not be intended to be where the arrest was. 10. Ed. 4. 27.  
Br. 28. 27.

In a *Præmunire* the Statute is that the Defendants shall be warned by the space of two moneths befoze the day of the returne, and for that the Sherife returned the warning generally, and did not say what day, nor that it was two moneths befoze the returne, therefore the returne was holden to be insufficient; yet the contrarie was holden: 39. Ed. 3. 7. Br. 56. And that it shall be intended that it is well serued according to the Law; for other Writs ought to be serued by the space of fifteen dayes befoze the returne, and yet no mention thereof is made in the returne: And if the Sherife doe not warne the partie, nor serue the writ as hee ought, the partie if hee bee damnified may haue a writ of *Dereit* against the Sherife. 43. E. 3. 7.  
Br. 103.

And so in a *Pluries* for a *Corodie*, the Sherife returneth that the Bishop of H. is founder, and returneth not the name of that Bishop which founded it, and therefore it was holden to be incertaine, quia oportet nominare primum Episcopum funditorem, sc. Herbertum, &c. 8. H. 7. 6.  
Br. 116.

If a writ be returned thus, *responsio vicecomitis C.* and sheweth not the Sherifes name, it is no good returne by the opinion of Iennie, 3. E. 4. 9. E. 4. 19.  
Br. 54.

If the Sherife returneth, *mandavi balliuo libertat' R.* and sheweth not whose libertie it is, or who is Lord of the franchise, this is no good returne by Pigot, but Danbie held the contrarie: 9. Edw. 4. 19. see 1. Hen. 6. fol. 6. Br. 64. Ibid.

If the Sherife returneth *mandavi ballivo libertat' de D.* and saith not *ballivo I. N. libertatis suæ de S.* this was good by the opinions of three Justices, but Hales Justice held the contrarie: 1. H. 6. fol. 6.

In a *Scire facias*, the Sherife returneth *Scire feci, E. K. modo & forma prout istud breue in se exigit & requirit*, and saith not *infranomina't' E. K.* and yet this was holden (by the Court) to be good: for note that these words, *prout breue exigit, &c.* doth amount to *infra nominatus*, or *infra scriptus*: see the booke 2. H. 4. 13. & 3. H. 4. 9. Br. 28. Fitz. 44. the like return vpon a *Scire feci* against two or three severall tenants, 1. H. 6. 6.  
Br. 64.  
11. H. 7. 28.

tenants, the Sherife returned Scire feci, &c. modo & forma prout breue exigit, &c. and it was holden to be good, without saying or returning seperatim scire feci, &c.

If the Sherife returne vpon a Capias against I. & N. quod capit corpus I. & N. and saith not infra nominat I. & N. this is misprision and must be amended, and yet by the Reporter it is well enough without amendment.

An Utlarie was returned in this manner, Ad com̄ tentum apud I. in com̄ Somerset, I. M. exactus fuit & non comparuit, &c. and it was holden ( by three Justices ) a good returne, although it were not Ad com̄ Somers. tentum apud I. in com̄ Somerset, but Iay Justice held the contrarie, for that it could not be intended of what Countie the Countie which was holden was but alij è contra: 11. H. 7. 10. Br. 127. Ideo quære.

Note that in the former Case, this word Somerset, was not entred in the Warrant, or vpon the head of the returne, which is and hath bene the auncient vsage, and seemeth also to bee verie materiall: See 11. Hen. 7. 10. a. b.

Also see Co. 10. 141. a returne of an Exigent holden void for the incertaintie.

An Utlarie returned in London, in these words, Ad Husting. tentum in Guildhall, Ciuitatis Londini, tali die A. B. exactus fuit & non comparuit: this is no good returne, for that there are two Hustings in London; one is de communibus placitis, the other is de placitis terræ, and therefore in such case the returne must bee Apud Hustingum de communibus placitis, &c. or otherwise it is not good for that the same may haue two intendments.

11. H. 7.  
10. b.

The Citie of Norwich is within the Countie of Norfolke: also it is a Countie in it selfe, which may hold plea; and therefore if a returne bee made in these words, ad com̄ tentum apud Norwicum in com̄ Norff. this is not good, for that it may haue two intendments: scz. that the Countie which was held there was for the Citie, or for the Countie of Norffolke: But if the returne bee in these words, ad commitatū Norff. tentum apud Norwicum in com̄ mitatu Norff. this is good, for now it cannot bee intended, but onely that this Countie was held for the Countie of Norffolke.

2. Intendments.

Co. 4. 91.

In a writ of Errour to reuerse an Utlarie in the Countie of Lancaſter, and the errour was for that the Sherife returned, quod ad com̄ Lancaſtriæ, tent' ibid. &c. where it

A

should

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Should haue been ad com̄ Lancastriæ, tent' apud Lancaster, or at some other certain place, whereto that word, Ibidem, might haue had relation, and the Utlarie was therefore reuerfed.

One was Utlawed, and the Exigent was returned thus, <sup>21.H.7.</sup>  
ad com̄ tentum apud castrum de Oxen, primo exactus fuit, &c. and for that it was not set downe in what Countie, it was holden to be erroneous.

One was returned Utlawed, and for that it did not ap- <sup>Ibidem.</sup>  
peare that it was p̄ Iudicium coronatorum, it was reuerfed, and that without any writ of Errour: 21. H. 7. fol.

An Exigent went out to the Sherifes of London against I. S. of D. in the Countie of Essex gentl, and Proclamation to the Sherifes of Essex, who returned the writ in <sup>27.H.9.29.</sup>  
this manner; Virtute istius brevis proclamari feci ad com̄ <sup>Br.3.</sup>  
talem, tentum tali die, and did not set downe in what yeare, &c. Et quod se reddidit vic' Kancia, where it should haue beene vic' London: And for these causes it was holden no good returne, and the Sherife should haue beene amerced, but that the writ was returned in another terme.

In a writ to enquire of wast, the Sherife returned <sup>40.E.3.</sup>  
quod capit Inquisitionem die Sabbati proxim' apud K. and <sup>Br.17.</sup>  
for that hee shewed not what Saturday, and also shewed not quod iuit ad locum vastatū prout breue exigit, it was holden no good returne, and the Sherife was amerced.

In an attaint the writ was, & diligent' inquir' qui <sup>34.aff.6.</sup>  
fuer' Iuratores primæ Inquisitionis, and whether M. B. Miles <sup>Br.76.</sup>  
were one of the petie Jurie, the Sherife returned their names, and that M. B. was dead, and did not say M. B. Miles, so as it might bee intended to be another person, and yet it was holden a good returne.

In a Scire facias to haue execution of an annuitie against <sup>2.E.4.1.</sup>  
a Parson, the Sherife returned, quod non habet bona, and notwithstanding that it was not further, Nec habuit die receptionis brevis, yet it seemeth to be intendable, and so to be good.

*Bon per in-  
tendment.*

In wast, or Redisseisin in diuers towne the Sherife ought to goe to all the Townes (though hee may take his inquisition at one) and he returned, quod accessit ad D. & ibid' cepit inquisitionem, and holden good, for that by intendment he likewise might goe to all the other townes, &c. <sup>40. aff. 23. Br. Rediff. 5.</sup>

Also sometimes the returne of the Sherife is onely to <sup>Co.8.107.</sup>  
certifie and ascertaine the Court of the truth of the matter, <sup>108.</sup>  
and



and in such case there needs no such precise certaintie as in pleadings: see the Case of the Citie of London, Co. 8.

*Double*  
 A Double returne made by the Sherife is not good, as if the Sherife returneth (the Pluries against an Abbot to admit the Kings Walett to a Coradie) that the King is not founder, and that King Edward the iiii. did releafe to the Abbie all Coradies, this is double and so void.

*True*  
 The Sherife by his office and oath, is to make a true and iust returne of all writs: see his Oath, & Dyer 60. b.  
 And by the statutes, if the Sherife shall make any false returne, he shall be punished, scz. hee shall bee amerced: stat. 13. E. 1. 39. & 28. E. 1. 16.

7. H. 4. 13.  
 Where the father was condemned, and vpon the Exigent vpon a Capias ad satisfaciend, the Sherife returned quod reddidit se, and it was the sonne which came (and so auerred and found to be the sonne) and the Sherife was amerced.

37. H. 6. 21.  
 Br. 59.  
 Upon an Exigent the Sherife returneth quartus exactus, and the Coroners vpon a Certiorare to them directed, certified that the defendant was vtlawed, the Sherife for such false returne was amerced at fortie pounds.

9. Eliz. c. 23.  
 If any Sherife or other hauing authoritie to returne writs, doe make an vnttrue returne vpon any Capias, in a writ of Excommunicato capiendo to him directed, that the partie named in the writ hath not yeelded his bodie vpon any proclamation made, where indeed he hath yeelded himselfe accordig to the effect thereof, hee shall forfeit to the partie grieued fortie pounds to be recouered by action, &c.

Fitz. 93. b.  
 If the Sherife in a writ of Account, or Debt, shall returne vpon one, quod non est inventus, nec habet terras, &c. per quod distringi potest, &c. whereupon a Capias shall bee awarded against him, and hee shall be taken thereupon, whereas hee had lands sufficient, or goods and chattels, then the partie may haue his action of the Case against the Sherife (directed to the Coroners) for such false returne.

Fitz. 97. c.  
 In a præcipe quod reddat, if the Sherife returne the Tenant summoned, when hee was not summoned, whereby the Tenant loseth by default vpon the Grand Cape returned: here the Tenant shall haue a writ of Disceit against him which recouereth, and also

## Returne of Writs.

against the Sherife for his false returne.

And yet in some cases the Sherife shall not bee amerced or punished for making a false returne, as in an attainr, if the Sherife shall returne any to be of a petie Jurie, which were not, Proces shall goe out against those whose names were omitted, but the Sherife shall not bee therefore amerced: see hic. 48. Ed. 3. 15.  
48. aff. 2.

Note that the Sherife cannot returne any thing which is contrarie to the verdict of the Jurie, or confession of the partie, as in an action of Debt against executors, who plead that they haue fully administred, and it was found against them, scz. that they had Assets remaining, whereupon a Fieri facias was awarded to the Sherife to leuie the summe of the goods of the testator, and the Sherife returned Mandavi ballivo libertatis de K. qui mihi dedit responsum, quod executores predicti testatoris non habent aliqua bona testatoris, &c. the which returne was contrarie to the verdict, &c. and therefore not good. 3. H. 7. 12.  
Br. 87.

In a Replevin it is no good returne, that there are no such goods or cattell: 5. H. 7. 27.

In a writ to deliuer goods vpon a Detinue, it is no good returne, that there are no such goods, Ibid.

In a Habere facias seisinam, it is no good returne that there is no such land, Ibid.

The Sherife cannot returne nihil, vpon him whom hee hath once returned, summoned, or distrained vpon another writ, tamen quære, for such returne may be good vpon some speciall matter returned. 22. aff. 80.  
Br. 110.

By the opinions of Fort. and Markeham, if the defendand be returned sufficient, and after Nichill, it is good, for that the plaintife may haue a Capias, and an Exigent against him; but otherwise against a Juroz: Br. 49. 19. H. 6. 38.

*Falſe Latin.*

But false Latin is not greatly materiall in the returne of a writ, &c. As if the Sherife shall returne in a pannell, Iohannis D. where it should bee Iohannes D. yet it is a good returne.

The Sherife returned Scire feci I. A. Cl'io, whereas it should be Cl'ico, and it was amended: 7. H. 6. 1. 7. H. 6. 1.

*Cepi corpus.*

If the Sherife returne vpon any person Cepi corpus, or Reddidit se, the Sherife shall be chargeable to haue the bodies of the said persons at the dayes of the returnes of the writs, Bills or Warrants, &c. 23. H. 6. c. 10. And so was the ancient Common Law.

The Sherife returneth Cepi corpus, but hath not the bodie

44.E.3.fol.5  
11.H.4.t.57.

bodie at the Day hee shall bee amerced : 44.E. 3. 2. yea although a protection were cast for the Defendant : 11. Hen.4.57.

So if the Sherife returneth quod mandavit balliuo, &c. qui respondit quod coepit corpus ; and if the prisoner appeareth not at the Day, the Sherife shall bee amerced by some opinions ; but by other opinions, the Baylife onely shall be amerced : see hic postea.

The Sherife returneth Reddit se vpon the Exigent, but hath not the bodie, he shall be amerced.

Upon a capias ad satisfac' if the Sherife returneth a coepi corpus, and hath not the bodie, hee shall not onely be amerced, but also the plaintife may haue his action against the Sherife, for an escape, for that his returne hath concluded him : Br. Ret. 107.

Upon a capias for felony, the Sherife returneth coepi corpus, but hath not the bodie at the Day, whereupon the Sherife was amerced for the escape at fiftie pound.

Upon proces against the husband and wife, the Sherife returneth, quod coepit illos, and at the Day the husband appeareth, but not the wife and the Sherife was amerced therefore.

But if the Sherife had returned that the husband non est inventus, and that he had taken the wife, and she only had appeared, that had excused him.

Upon a Fieri facias, the Sherife returneth Fieri feci ad diem infra content, and at the day hee hath not the money in Court, and after a new Sherife was made, and it was mooued to haue a Distresse, nuper vicecom' ad habendum denarios, &c. But Littleton said, That the Justices were advised vpon this returne, being of record, to award a Scire facias against the old Sherife to haue execution, and if hee could not discharge himselfe, then the partie should haue execution against the old Sherife by Fieri facias, or Elegit. 9.E. 4. Br. Ret. 55.

Upon a Fieri facias, if the Sherife leuieth the money, but yet returneth not the writ, nor payeth the money to the plaintife, it seemeth the plaintife may haue his action of Account against the Sherife : as also the Defendant may haue his action of Trespasse against the Sherife for leuying the money, and not returning the writ ; vide 11. H. 4. & 27.H.7.22.b. Br. Tresp. 211.

## Returne of Writs.

*Vic' amerceo.* Note that the Sherife shall bee amerced for his returne in diuers cases.

As if his returne be incertaine, or otherwise insufficient :  
Br. Ret. 3. hic antea.

So if his returne bee false : Stat. 28. E. I. cap. 16. & hic antea.

So if he make no returne : hic postea.

So in a Replevin if hee returne that the cattell bee in a Fort or Castle.

So if hee returne hee could not execute the writ for resistance, &c.

The Sherife shall bee amerced for returning small or no issues, vpon the defendant : Stat. 13. E. I. cap. 39. & Bro. Ret. 120. & 86.

The Sherife shall bee amerced for not returning issues vpon Jurors, according to the Statutes.

The Sherife shall be amerced for not returning pledges :  
Br. Ret. 25. 61. 86.

But note that the vse is to amerce the Sherife the same terme onely wherein hee maketh his returne, and if hee bee not amerced that terme, then hee is to goe quit, quod nota per Fitz. 27. H. 8. fol. 29. a.

*Pur default.  
de auter.*

Upon a writ to enquire of damages, the Sherife returneth that the enquest or Jurie gaue or found no damages, the Sherife shall not be amerced for this default of the Jurie : for the Sherife shall not be amerced, but where hee returneth the writ falsly or insufficiently of himselfe, whereas heere hee returned it as the Jurie had presented it.

44. E. 3. 34  
Br. 20.

*Del South-  
vic*

And yet the Sherife shall be amerced for the default of his Undersherife ; as in the booke of Alises, where the Undersherife returned a pannell by a Precept directed to one who was not Baylife of franchise, by reason whereof the pannell was quashd, there the Sherife himselfe was amerced and not the Undersherife ; and an action of the Case doth lie against the Sherife himselfe, for the returne is alwayes in the name of the Sherife himselfe : see hic postea tit. Sherifes Officers.

38. aff. p. 13.  
Br. 77.

*Del Baylifes.*

So the Sherife shall bee amerced for the default of his Baylife.

If any Baylife or other officer shall impannell or returne any person, vpon any inquirie in the Sherifes Turne, which is not of good name, and haue 20. s. p annum of freehold or 26. s. 8. d. p annum of Coppypold, &c, such officers shall lose  
for

for euerie person otherwise returned or impannelled fortie shillings, and the Sherife other fortie shillings &c. 1. R. 3. cap. 4. hic postea Sherifes Torne.

Also sometimes the Sherife hath beene amerced for the default of the Bailife of the libertie ; and therefore where two were indited of felonie, and pleaded not guiltie, the Sherife returned certaine persons, and by examination of the Justices it appeared that they had not sufficient freehold, according to the statute, and the Sherife was amerced at five pounds, the Sherife said that the Bailife of the Franchise of Bury made the returne, whereunto Greene Justice answered, That the king had no minister but the Sherif : But note that in this case the king was a party, and where the king is a party no franchise shall bee allowed, but the Sherife himselfe ought to haue serued and executed the writ

*Del bailife de Libertie.*

Br. 24. 89.

The Sherife retorneed a Capias qd. mandauit ballivo &c. qui respondit quod cepit Corpus, and the prisoner appeared not at the day, the Sherife was amerced ; for where the Bailife made a false retorne to the Sherife, and the Sherife retorneed it (as quod cepit Corpus, and had it not at the day) yet the bailife shall not bee amerced, for that he is not the immediate Officer to the Court, but the Sherife is the immediate Officer.

Br. 35. 87. 92  
94. 96. 99.

And yet there were sundrie authorities to the contrarie sc. that in the former case the Bailife of the franchise shall be amerced and not the Sherife, and that the default was only in the Bailife and not in the Sherife ; for vpon such retorne of the Bailife (to the Sherife) quod cepit Corpus &c. The bailife was bound to bring in the bodie into the Court at the day, or else to deliuer the bodie to the Sherife, and then the Sherife was to bring in the bodie as the immediate officer to the Court.

Br 89.

But where the bailife of the libertie made an insufficient returne to the Sherife, and the Sherife returned it, he shall bee amerced : And therefore when the bailife made an insufficient returne the Sherif should haue done well, and might haue returned, quod nullum dedit responsum, for an insufficient answer or returne, is as none.

As in a praecepe against two, the bailife returneth one of them summoned, and the other not, this is no answer, and if the Sherife returne this he shall be amerced, Br. 89.

3. H. 6. 9.  
Br 47.

So in an assise the Sherife returned, mandauit balliuo &c. qui mihi respondit &c. and returned but nine Jurors, and the

## Returne of Writs.

the Sherife was amerced, for that he ought to haue returned quod mandauit &c. qui nullum mihi dedit responsum.

So the Sherife returned, mandauit ballivo &c. qui mihi respondit, that the executors had no goods of the Testator, which returne of the bailie was contrarie to the verdict of the Jurie (who had found assets &c.) and therefore the Sherife was amerced; for that the returne of the bailie appeared insufficient in law, whereof the Sherife ought to haue taken notice, and in such case to haue returned, quod ballivus non dedit responsum.

But if the bailie maketh a doubtfull returne and the Sherife returneth this, it seemeth he shall not be amerced, by the opinion of Vaufor, 5. H. 7. 27. Br. 89.

But now by the statute made 27. H. 8. cap. 24. amerciaments for insufficient returnes of Writs, made by bailies of liberties, shall bee set vpon the heads of such bailies, and not vpon the Sherife.

Where the Sherife makes no Returne.

*Fait nul re-  
suerne.*

If the Sherife will not returne his writ (in case of Redif-  
feisin, or vtlarie) the partie may haue a Certiorari directed  
to the Sherife, to command and cause him to returne the  
writ.

If a Capias, or other meane proces, be executed and not  
returned the arrest is not tortious and a wrong; for the ar-  
rest is made to that end, that the defendand should appeare  
to answer to the plaintife, in his action: But if an arrest be  
made by the bailie, and the Sherife wil not returne the writ,  
this laches of the master shall not preiudice the seruant, for  
the bailie cannot compell the Sherife to returne the writ, but  
contrarie wise of the master himselte, scz. if the Sherife ta-  
keth one vpon a Capias and returneth not the writ, an acti-  
on of Faux imprisonment lyeth against him, by him that  
was arrested, and the plaintife also shall haue his remedie  
against the Sherife, Littleton 18. E. 4. 9. Br. Trespa. 339. Br.  
false imprisonment 5. 7. & 12. ac; And yet in the booke of 13  
H. 7. fol. 1. 2. this difference is taken sc. that if the bailie of  
a libertie by vertue of a warrant from the Sherife arrests  
a man and after the Sherife returneth, non est inventus, the  
bailie shall bee discharged in an action of false imprison-  
ment for that he is not the Sherifes bailie, but the Kings  
or some other Lords; but otherwise it is of the Sherifes  
bailie, if he arrests a man by vertue of a warrant from the  
Sherife

3. H. 7. 12  
Br. 87

27. H. 8. 24

Co. 1. 90

3. H. 7. 3. b  
21. H. 7. 22 a

sherife, and after the sherife returneth Non est inventus, this bailife is chargeable in an action of false imprisonment, for it shall be accounted his follie to doe a thing by his masters warrant or commandement, and then his master will not returne the writ according to that which he hath done. See 21.H.7. fol. 22. accordt that the sherifes bailife or seruant is not bound to do any thing but that which his master wil iustifie.

Co.4.67.8.  
5.90. But in all writs of execution (except an Elegit) as vpon a Capias ad satisfaciendum, Haberi facias seisinam, vel possessiō, Fieri facias, Liberate, &c. if the execution be duely done, although the writ bee neuer returned or filed, it is no great matter, if the plaintife haue his Demaund, for then he hath no cause to proceede any further therein: But in case of an Elegit, because the extent is to be made by an Enquest, and not by the sherife alone, that ought to be returned, or else it is nothing worth.

Co.4.67.a. But where no enquest is to be taken, but only land to be deliuered, or seisin had, or goods to be sold &c. which are but matters in *fact*, these are good although that the writ bee not returned.

Upon a Fieri facias &c. if the sherife leuieth the money or debt, but neither returneth the writ, nor paieth the money to the plaintife, he is chargeable to the plaintife in an action of account, &c. and to the defendant in an action of trespass. But if the sherife had paied the money to the plaintife, the execution had beene good without returne of the writ, Co. 5.90. As also the sherife had beene without danger to be sued either by the plaintife or defendant.

And so note a difference betweene a Capias in proces, and a Capias ad satisfaciendum: scz. if the Capias in proces bee not returned, the arrest is tortious; but if the Capias ad satisfaciendum be not returned, yet it is good, if the execution be duely done, and the plaintife satisfied.

Co.5.90. Note also, if the sherife vpon a Fieri facias shall execute the writ, and leuie the debt, but shall neither returne the writ, nor pay the money to the plaintife, yet first the leuying of the debt was lawfull, and the defendant could not resist the sherife therein; secondly, the plaintife may haue a new execution against the defendant, and the defendant is left to his action against the sherife; thidly, the sale of the goods (by the sherife) by force of the Fieri facias is good, and such as shall so buy the goods may lawfully enioy them. And where the words of the writ of Fieri facias be, Ita quod habeas

## Returne of Writs.

*Amerce.*

habeas denarios &c. they are but wordes of commaundement to the sherife to make returne, the which if he doth not, hee shall be amerced therefoze, but yet the execution shall stand in it force.

*Le briefe  
of fine.*

In an action of Disceit against the sherife, for that the partie was outlawed at the suit of the plaintife, and that the sherife (then defendand) did not returne the writ, to the damage of the plaintife &c. the sherife pleaded that hee had sent the writ by A. B. his seruant, towards the court, and that one of them which were named in the Exigent did rob and take away the same writ from his said seruant by the highway, and it was holden to bee no plea, but the action against the sherife to be maintainable. 4 I. ass. pl. 12. Br. Acti- on sur le case 121. But note that in this former case the writ which was taken away from the sherifes seruant, was through the default of the sherife, for it was taken away by one of the persons which were outlawed, whom the sherife ought to haue taken and kept in prison &c.

Br. Barr. 68.

The head and chiefe officer or officers of euerie of the kings courts of reuenuie, being of record, shall haue power and authoritie to set and assesse reasonable fines and amer- ciaments vpon any sherife, for not returning, or misretur- ning of any writ to them directed and deliuered out of any of the same courts, touching or concerning the leuying or answering of any issues, rents, or reuenues, or of any debt due to the king &c.

7 E. 6. c. 1.

If any writ of Proclamation (vpon any Exigent) direc- ted to any of the sherifes of any of the twelue Shires in Wales, or Countie Palantine &c. be deliuered to any of the said sherifes, or to his deputie, and the same sherife do not make true returne thereof into such court out of the which the said writ of Proclamation shall bee awarded, he shall forfeit for euerie default of non returne to the King and In- former fine pound &c. 1. Ed. 6. cap. 10. & 5. E. 6. ca. 26.

If any such writ or writs of Proclamation directed to the Bishop or Chauncelloz of the Bishopricke of Dur- ham, or countie Palantine, be deliuered vnto any of the said Bishops for the time being, or (during the vacation of the said Bishopricke) to the Chauncelloz of the said Countie Palantine, for the time being, or to his or their deputie or deputies in manner and forme aforesaid, and the same Bi- shop for the time being, or (during the vacation of the saide Bishopricke) the said Chauncelloz of the said Countie Pa- lantine for the time being, do not make true returne of euerie such



such writ and writs of Proclamation to them directed into such Court and Courts out of which the said writ or writs of proclamation shall bee awarded; for every such default of non returne, every such Bishop for the time being, and (during the vacation of the said See) the said Chancelor for the time being, so failing to make due returne shall forfeit 5. l. to the King and Informer. 31. El. ca. 9.

Note that it is no good returne for the sherife, that the party wil not pay him his fee, or costs or charges, and therefore he did not execute the writ, or did not serue the writ. 34. H. 6. Br. Ret. 10.

The Bishop is not bound to award his inquirie of a Iure patronatus, (where the church is litigious) but where the partie or his clerke shall require it, and that at the costs of the party, or of his clerke, for that he is a Judge in this case, and therefore he is not to do it at his owne costs and charges; but contrariwise where he is an officer, for there when the court writeth to him to certifie bastardie or matrimonie, or the like, hee is to doe that at his owne costs and charges.

7. H. 6. 32.  
8. H. 6. 3.  
Br. 46.

Note that in some cases, although the sherife serueth not, or executeth not the proces, but excuseth it by his returne, it is good. **As**

1 In a Replewin the sherife returneth that the defendand claimeth propertie. Br. 46. Fitz. 77. c.

So in a writ de Nativo habendo, if the villaine alledge to the sherife that hee is free, and the sherife returneth this. Fitz. 77.

ibid.

And so of other impediments which shall interrupt the sherife to make his returne, or to take the partie.

2 The sherifes of London returne their custome. Sec Br. Custome 23 & Retorn 40. & 46.

3 The sherife of Chester, or of any other countie Pallatine, return that they haue a countie palatine within themselves &c. Br. 46.

ibid

4 Also where the sherife returneth Mandavi ballivo libertatis &c. here although the sherife serued not, or executed not the writ himselve, but excuseth it by such his returne, shewing thereby why he hath not serued it, yet it is good.

Returne de Mandavi ballivo.

The sherife returneth Mandavi I. B. ballivo libertatis de E. cui executio istius breuis pertiñ &c. whereas he should haue returned, quod ballivus habet retorna omnium breviū, & executio

## Returne of Writs.

executio eorundem, and it was moued that the Sherife should haue beene amerced.

**The Sherife returneth** mandavi A. D. ballivo libertatis Ducatus Lanc'. &c. qui habet retorna omnium brevium infra libertatem predictam &c. **Exception was taken against the returne,** for that it was not ballivo libertatis Ducis Lanc' (for that the Duchie hath no capacitie to haue a libertie) but yet it was holden a good returne : And so mandavi ballivo libertatis sancti Edmundi de Burie, and mandavi ballivo libertatis Ducis Lanc. and the like are good returnes.

**Where the Sherife returneth** mandavi ballivo libertatis de S. and doth not shew to whom he is bailife, or whose the libertie is, scz. ballivo I. D. libertatis suæ de S. yet it was holden to bee a good returne by three Justices in 1. H. 6. But there Hales Justice held the contrarie, scz. that the Sherife in his returne ought to shew who is Lord of the franchise. See 9. E. 4. 19. Br. 54.

**The Sherife returned** mandavi tali &c. qui habet retorna omnium brevium & executionem eorundem per chartam Regis, And for that the bailife was not returned bailife of some franchise, or Lord, the Sherife was amerced, quære and see the statute of Westm 2. cap. 39.

**If the Sherife shall returne** mandavi ballivo libertatis de D. who did nothing therein, whereas there is no such libertie within the countie, or nameth a libertie which hath not returne of Writs, the Sherife shall be punished, as a disinheriter of the King, and his crowne, and therefore it is needfull for the Sherife to haue out of the treasure of the Exchequer a note of all the liberties within his countie that haue returne of Writs.

**If the Sherife doth returne,** that he hath directed his precept to the bailifes of some libertie (which in deed haue returne of Writs) which did nothing therein, then the Sherife shall be commanded, that he shall not omit for any libertie aforesaid but shall execute the kings commandement, & that he shall warne the bailifes to whom he returned the Writ, that they shall appeare at a day contained in the Writ, to answer why they did not execute the kings precept ; And if they do appeare at the day, and do acquit themselves that the Writ was not returned vnto them, the Sherife shall bee forthwith condemned to the Lord of the same libertie, and likewise to the partie grieved by delay, to restore him Damgages : But if the bailifes do not appeare, and do not acquite themselves in forme aforesaid, in every iudiciall Writ.

13. Ed. 1. 39.

*Non omittas.*

*Mandavi  
ballivo li-  
bertatis.*

Writ, so long as that suit dependeth, the sherife shall bee commaunded that he spare for no libertie &c. Westm 2. 13. Ed. 1. 39.

12.E.1.5.

There shall be an Indenture made betwixt the bailife of the franchise (which hath full returne of Writs) by his proper name, and the sherife by his proper name, of euerie returne which the bailife of any such franchise shall make to the sherife: And if the sherife doe change the returne so deliuered vnto him by Indenture, and thereof bee attainted at the suit of the Lord of the same franchise from whence hee hath receiued the said returne (if the Lord haue receiued any Dammage, or if his franchise be impaired) and at the suit of the partie which hath receiued losse by this meanes, he shall be punished by the king for his false returne, and also shall yeeld to the Lord and the partie double Dammages. Stat. Ebor 12. E. 1. ca. 5.

*Indenture  
betweene the  
sherife and  
bailife.*

The sherife returneth mandavi ballivo libertatis &c. who serueth and executeth the proces in part, this seemeth not good; for that the sherife himselfe must execute or serue and returne all, or the bailife all. See 2. Hen. 4. 1. & 8. Hen. 4. 16. And yet in a Præcipe quod reddat the sherife was amerced for that hee returned mandavi ballivo libertatis &c. who tooke the pledges and made the summons &c. for that the sherif himselfe ought to haue taken the pledges de psequed although he cannot serue the summons, for first he ought to take pledges, and then shal make his Mandavit to the bailife &c. and so the sherife may returne the pledges de psequendo, and the bailife of the franchise all the rest.

So where the issue is of land part guildable, and part in a franchise, the Jurie shal be returned part by the sherife, and part by the bailife of the franchise, and so they may ioine in the returne; But the distresse shall be by the sherife only, if the bailife of the franchise shall be slacke.

*Jurie retorne  
part per visc  
part per bai-  
liffe.*

Br. 50.

Br. 73.  
30. aff. 5.

The sherife returneth other persons (in a panell) than the bailife of the franchise returned to him, yet the returne of the sherife seemeth to be good; but the bailife may haue his action of the case against the sherife.

*Vicont retorn  
anter que le  
bailife.*

38. aff. p. 13.  
Br. Action  
sur le case  
120.

The sherife maketh his Precept or Warrant to one who is no bailife of the franchise, who returned the panell, by reason whereof it was qualshed, to the Dammage of the plaintife &c. who brought his action of the case against the sherife, and recouered his Dammages, notwithstanding that this was done by the aduise of the friends of the plaintife, and so pleaded.

*Al un que nō  
bailife del  
seignior.*

## Returne of Writs.

*Nullum de-  
dit responsum*

The Sherife (vpon a Repleuin) returneth Mandavi ballivo libertatis &c. Qui mihi nullum dedit responsum, or returnes that the bailife will not make deliuerance &c. these are no good returns, for the Sherife vpon such returnes ought him- selfe to haue entred the franchise, and to haue made deliue- rance of the cattell &c. Fitz. 68. f.

Vpon a Distringas for Debt, the Sherif returned Mandavi ballivo &c. qui nullum dedit responf. And for that the Sherife did not returne, Quod null' habet exit' in ball' sua, therefore he was amerced, 47. E. 3. fo. 3. Br. 23.

Note that where the returne of the writ pertaineth to the bailife of a Libertie, yet if the Sherife doth it himselve, it is well enough, 3. H. 7. 2. b.

Also note where the Sherife serueth the proces once of a thing locall, as in a præcipe of land &c. he cannot after return Mandavi ballivo. 5. H. 7.  
Br. 82.

Where the Sherife is to enter the Franchise.

*Roy partie.*

Note that wheresoeuer the king is a partie (as against a felon, or otherwise in any action) the Sherif is to enter the franchise, and to execute and serue the proces himselve, and not to write to the bailife of the franchise. Br. Franch. 18. 31. 38. aff. 19. Br. Retorn' 78 And yet if this clause Licet fuerimus pars be in the charter, then it seemeth otherwise. Br. Fran. 31

*Sur default  
de bailife.*

Also in other cases, vpon the default of the bailife of the franchise, the Sherife is to enter the franchise, and to execute the proces himselve, or else he shall be amerced: As where the Sherife mandavit ballivo libertatis, and the bailife nullum dedit responf. See the stat. 13. E. 1. ca. 39. & hic postea tit. Bailifes of Franchises.

*Ou vicont  
est Image.*

In a writ to inquire of wast the Sherife returned Mandavi ballivo libertatis &c. qui nullū dedit responf. and the Sherife was amerced, for that in this writ he ought to haue entred the franchise, for that he is both a Judge and an officer by the stat. which is, quod accedat ad locum vastatum &c. & ibi facere inquisitionē &c. So in Redisseisin, and in a writ of Ward &c. See more hic postea.

Quere in the former case where the bailife of the fran- chise maketh default, if the Sherife is not to haue a writ with a non omittas therein directed to him, commaunding him to enter the franchise, and to make execution of the writ, before he may enter the franchise to execute the pro- ces, for the words of the statute of 13. E. 1. 39. are that the Sherife

Sherife shall be commanded, quod non omittat propter aliquam libertatē &c. See Fitz. 68.f. & 266.d. & P. Retor 3.

And this statute of Westm. 2. ca. 39. (made ann 13. Ed. 1.) doth giue a Non omittas propter libertatem.

But in other cases where a man hath a Libertie to retorne Writs, and to execute them &c. if there the Sherife or his officer shall enter the Libertie, and execute any proces there, the Lord of the Libertie shall haue his Action of the case against him. Fitz. 95.b. See hic postea fol.

Where there is a bailife of Fee, the Sheriff shall not returne Mandavi ballivo (as it seemeth) nor write to the bailife of fee, as to a bailife of a franchise or Libertie, but hee shall send his precept to him as to the bailife of Guildable: and the Sherife shall returne his answer, or make his returne, as if the Sherife himselfe had serued the proces, and shall not in his returne make mention of the bailife of fee, as hee shall doe of the bailife of a Libertie: And yet note that this bailife is an officer of Fee within this precinct, so that if such a bailife of Fee will not execute the proces, a Non omittas shall not goe out to the Sherife &c.

27. a. 65.  
Br. Proc. 98.

*Bailife of fee*

All proces against any person, directed to the Sherife, ought to be duely and truly executed and returned into such courts, out of the which such proces shall be awarded.

*Inqui. court*

The Sherife (as also the bailifes of Liberties which receiue the Kings Writs returnable in his court) ought to set their names to their returne (i.e. their surnames and christen names. Plo. 63. a.) so that the court may know of whom they tooke such returnes, if need be: And this is by force of the statute of 12. Ed. 2. ca. 5.

*Mitter leur  
nesse at re-  
turne.*

And if any Sherife or bailife do leaue out his name in his returne, they shall be grieuously amerced. And by the opinion of Ienny 9. E. 4. fol. 20. a returne without the Sherifes name thereto is void; and an vtlarie was reuerfed for such cause, 26. H. 8. 3. Thel. 385. See Plo. 63. a. that the Writs are directed to the Sherife of such a countie generally without naming his name, but he must put his name to the returne, and this was a common difference holden at mootes in Court and Chancery.

Br. 48. 54.  
81. 129.

If the Sherife shall not put his name to the returne of a Jurie, or shall returne the Venire fac' without any indorcement, these are erroneous, and not to be amended. Co. 8. 162. 163. & 5. 41. 42.

## Returne of Writs.

If one returneth a writ in and by the name of the Sherife who is no Sherife, this is erroneous by Gascoyne, 21. Hen.4. Br.40.

*Or ferra  
amend.*

But note that the returne of the Sherife being erroneous, or not good, yet it may be amended by the court in diuers cases, yea although such returne were made in another Sherifes time. 22.H.6.45. 33.H.6.47. 37.H.6.12. & 2.H.5.8.

As where the Sherife by negligence shall omit any of the Jurors in the Distringas, which were in the Venire facias, or shall returne T. B. for A. B. Or shall returne octo tales for decem tales; these shall be amended by the Sherife vpon his examination in court. Br.50.

The Sherife hauing retourned too small issues prayed to amend his returne, and it was suffered, Br. Issues 1.

See plus hic.

*Mes apres verdict sur issue trie &c. la sont diuers defaults in retorne le vicont, queux ne sont amendable. Vide hic postea Retorne de Venire facias.*

*Vncore per stat. 18.El.ca.13. imperfect ou insufficient retornes del vic' sont remedie & amendable.*

Where a man may Auerre against the Sherifes  
returne, and where not.

**B**y the statute of Westmin. 2. cap. 39. vpon a Distringas against the partie, a man may auerre that the Sherife hath returned too small issues: but (by some opinions) vpon a Distringas Iuratoꝝ, if that the Sherife shall returne too small issues, that is out of the statute. 10.H.7.fol.11. See 20. Hen.6.fo.26. 13.E.1.

By the statute made 1.E.3.cap.5. A man shall haue an auerment against the false returne of bailifes of franchises which haue full returne of writs, and shall recouer as well against them as against the Sherife, as well of small issues returned, as in other cases, so that it be not preiudiciall to the Lords &c. 1.E.3.

*Proces vers vouchee, le vic' retorne le vouchee mort, le demandant pot auerre que est in vic. 14.E.2.*

*Sur Venir fac' le vic' retorne 24. Iurat', Et sur le Habeas corpora il*

il retorne que, xij. de eux sont morts, le plaintife auera auerment que sont *Auerment*  
*contrary al*  
*retorne del*  
*vicount.*  
 in vie, encontre le retorne, 20.E.4. fol. 111.

Le plaintife pria que le defendant in repleg' gager deliuerance, & le  
 defendant dit que ils deuont in pound ouert, in default del plaintife, et  
 pria brieve al vicount si constare poterit; si le vic' sur ceo br'e retorne  
 que sont mort, le pl' poit auerre le contrary, & auera, Sicut alias 30.  
 H. 6. 2.

Vicount retorne Mandavi ballivo libertatis de N. que sic respōdit,  
 que anterfois le def. fuit commit al prochein gaole per Auditors sur son  
 accoumt pur arrerages, & que il esteant bailife de ceo gaile luy amesne al  
 prison, & il vient eins sur Cæpi corpus, & dit que nul tiel accoumt, &  
 aua cest auerment nient obstant le retorne del vic' 28.E.4.5.

Vn sue br'e de Nativo habendo, le quel fuit deliuer al vic. & puis  
 le def. sua brieve de libertate probanda &c. & le vic' retorne que nul  
 brieve de Natiuo habendo fuit deliuer a luy & lauter auerre le contr' &  
 poet 18.E.4.7.

Le vic' retorne sur Exigent, que 4. Exactus, & nient obstant auer- *Auerce al*  
*ment fuit prise que fuit vtlage, & ceo fuit certifie per Coroners, & pur* 50. *markes.*  
 ceo le vic' fuit auerce al 50. markes, 36.H.6.24.

Vn poet auera auerment in auter action vers retorne del vicount  
 come in couenant le vicount retorn luy garnish, vnc' in detinue poit auerre  
 le contrarie 11.H.4.17.

5.E.4.1.

Nota vn ne poet auer direct auerment encontre retorne de vicount  
 in mesme le action, mes in auter poet, come in det vers bailife de fran-  
 chise pur escape d'un retorne per le vicount que il ad prise luy per warrant  
 a luy direct sur Capias ad satisfacend' poet ore in cest action de det  
 auerre que nul tiel warrant fuit a luy direct. Et in assise nient attache per  
 15. iours, poet estre auerre, & in præcipe, que ne fuit summon solonque  
 le ley, est bon auerment in mesme le action; mes nemy nient attach ou  
 nient summon.

3.E.4.20.

Trespas sur Pone, biens fuer' retorne attache, & quant le def. appare,  
 il ad brieve al vicount a deliuer a luy ses biens arere, & le vicount re-  
 torne que redeliueravit, icy le defendant ne poet auerre le contr'. Mesme  
 le ley in retorne de seisin in dower, ne poet auer auerment al contr'  
 car le vicount est officer a que credence serra done &c. mes ou vn est  
 sans remedie, & destre disinherite la est auter: come si le vicount in  
 præcipe vers vn, retorne que il est mort, le demaundūt poet auerre que il est  
 in vie: Isint poit dire nient attach per 15. iours, que nest direct auer-  
 ment mes sur habere facias seifinam, si le vicount retourne habere  
 feci seifinam, lauter ne poit auerre le contrarie 3.E.4.20.

Home nauera auerment directement encontre le retorne del vi-  
 count sinon que son person est destre charge, Ou que son inheritance a  
 tous iours est destre per dus & ne poit per le ley auer remedie de lauer  
 mesme le inheritance.

## Returne of Writs.

*Ou le vicont sur Capias retourne non est inventus, homme ne poet auer auerment encounter cest retourne.* 2.H.4.15.

*Ou sur Corpus cum causa, hors del common banke, le vic' retourne que le party est lye al peace (que est pur le roy) & nient obstant que soit faux, ne poit auer auerment in ceo brieve, al contrarie.* 9.H.6.44.

*Ou le vic' retourne Mandavi ballivo libertatis Archiepi Ebor', que* 34.H.6.3.  
*retourne summ' le defendant ne poet auerre que le terre est deins le franchise de Richmond.*

*Brieve de Disceit est retourne per vic', & le def. auerre que les summoners ore retourne ne fuer' les summ' in le Præcipe, & ne poet auer cest auerment enconter le retourne del vic'.* 5.E.4.7. & 33.H.6.11.

*Ou vic' retourne un vilage, ne poet auerre que ne fuit Exactus forsq; treis ou quatuor foits (ou que ne fuit proclame forsq; 3. ou 4. foits) mes pur son remedie est dauer son action sur le case vers le vic',* 10.H.7.23. *Br. Action sur le case 122. See hic tit' Proclam.*

*Mes in appeale le partie poet auer tiel auerment.* 10.H.7.23.

*In brieve de Enquir' de wast, ac in brief de Rediffisin le vic' est Judge,* 30.aff. p.35.  
*Et pur ceo in ceux briefes si le vic' fait faux retourne, le partie ne auer auerment enconter son retourne: ne le partie ne poet auerre que le vic' ne ala al lieu &c.* 10.H.7.28. & *Br. Rediff. 4.6.* 7.H.7.4.

### Si retourne del vicount seruer pur Indictment.

*Rescous de felon.*

**N**ota que coment que est communement dit, que encounter retourne del vicont il ny ad ascun trauese, auerment, ou respous; vncore si le vicont retourne un Rescous fait a luy, dun que fuit arrest per luy (ou per ses officers) pur felonie, & que est prise hors de son possession; icy non obstant que ceo retourne soit matter de record &c. vncore nest sufficient de seruer come un indictment vers cestuy que fist le rescous, come appert. *Fitz. Coron. 48.* 1.H.7.

*Mesme le ley est, si le vic' retourne que le prisoner est escape &c. Vide* 2.E.3.  
*Fitz. Coron. 149.*

*Old sherife.*

**The returne of the old sherife shall not conclude the new sherife.**

**And therfore where the sherife returned a Jurie de visnet' de D. afterwards the new sherife returned upon the Distingas, quod non fuit tale visnet' de D. in dicto comitatu, and this returne of the new sherife was holden to bee good.** 3.H.6.56. Br. 5.

**Upon a Fierifacias the sherife returned quod caput bona ad valenc' x. l. ad quem non invenit emptores, whereupon there went out to the new sherife a Vendic' expon, who returned that his predecessor non caput bona, Ideo &c. and it was holden to be good.** 34.H.6.

And



And yet if the old Sherife returneth a Juroz in issues; and the next Sherife returne the same Juroz nihil, the last Sherife shall be amerced, for hee cannot returne nihil, contrarie to the former returne of his predecessor, but hee ought in such case to pursue the last returne, and if any Juroz hath sold his land, or that it bee recovered from him, or that the Juroz was seised in the right of his wife, who after died without issue, or if the Juroz had an estate conditionall, and the condition be performed, and thereupon the feoffor hath reentred, or the like, in these cases the Sherife ought to returne the speciall matter, and to conclude, Et sic nihil habet: 19.H.6.38.Br.49.

And if the Sherife shall returne a man sufficient, vpon the venire facias, who is not (nor ever was) sufficient, where- by the next Sherife is charged with the issues, hee shall haue an action of Disceit vpon the case against his predecessor, for that hee cannot returne nihil contrarie to the former re- turne of his predecessor, by the opinion of Paston in the for- mer booke and case of 19.H.6.

19.H.6.

And yet by the opinions of Fort. and Markeham (in the same case) if the old Sherife hath returned the defendant sufficient, and the next Sherife shall returne him nihil, this is good, for that the plaintife may haue a Capias and an Exigent against him; but otherwise in case of a Juroz: Br. 49.

Now it followeth to shew and set downe the vsuall forms of Returnes, &c.



Returna Summon' Afsif.



I **V**irtute istius præcepti mihi directi venire feci coram Iusticiarijs infra scriptis, ad diem & locum infra contentum, omnia brevia Assisarum Iuratorum & certificationum in com C. infra sc' (coram quibuscunq; Iustic' tam per diversa brevia dominæ Elisabethæ, nuper Regina Angliæ, quam per diuersa breuia domini Regis nunc) vna cum pannellis, attachiamētis, reattachiamētis, & omnibus alijs adminicul' Assisarum Iuratas & certificationes illa qualitercunque tangent'. Venire feci etiam coram præfat' Iusticia-  
rijs

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## Retorna Brevium.

rijs ad Gaolum dicti Domini Regis Castri sui Cantabr' de  
prisonibus in ea existentibus deliberãd' assignãd' ad præfat' diem,  
omnes prison' in gaola prædicta existent', vna cum eorum atta-  
chiamētis, reattachiamētis, & omnibus alijs adminiculis pri-  
son' illos qualitercunque tangent', & de Vic' cujuslibet villæ  
& loci ibidem felon' vnde ijdem prilonarij indictati appell'  
siue arrestat' existunt sc' fuerunt tam infra libertates quam  
extra xxiiij. probos & legales homines quibus rei veritas melius  
scieri poterit & inquiri: Et qui prisonar' illos nulla affinitate  
3 attingunt, vna cum quatuor hominibus & præponit' villæ &  
loci eorum ad faciend' ea quæ tunc ibidem hijs ex parte domini  
Regis nunc injung' : Publicè etiam proclam' feci per totam  
ballivam meam, quod omnes illi qui sequi voluerint versus pri-  
son' illos, quod tunc sint ibi versus eos prout justum fuerit pro-  
secutur'. Scire feci etiam omnibus Coron' Iustic' pacis, Se-  
4 neschall' dominorum & magnat', & ballivis libertat' & hun-  
dred' com' predicti, quod tunc sint ibidem cum rotulis, re-  
cordis, indictamentis, & alijs memorandis suis, ad facien-  
dum ea quæ ad officia sua pertinent, prout interius mihi præ-  
cipitur.

Residuum executionis istius præcepti patet in quibusdam  
scedulis huic præcepto annexatis.

A. B. Armig'. Vic'.

**And the Warrants which the Sherife must make by  
vertue of this Precept (for the summoning of the Assises)  
to the Baylives of Liberties, and Bailives of Hundreds,  
must containe in them the whole substance of this Precept:  
but whether it be in Latin or English it is not materiall, so  
that it be made in due forme: and it is needfull that the she-  
rife keepe for himselfe a particuler note of the names of such  
persons as he nominateth in his Warrant, to be summoned  
to serue in or vpon the grand Jurie, and not to leaue it to  
the discretion of Baylives to put in and out whom they list  
in that seruice.**

*The forme of the Warrant made by the Sherife or Vndersherife.*

**A.** B. miles Vic' committatus prædicti (ballivo libertatis de Cantabr'  
C. vel) ballivo Hundred' de A salutem, Virtute cujusdam  
præcepti mihi directi, tibi mando \* Quod venire facias coram  
Iacobo

Set downe  
cheir titles  
at large.

*Jacobo Ley Milit' & Barronetto, & Johanni Doddridge Milit' &c.*  
Iusticiarijs Assis. in comitatu prædicto ad Assisas apud Ca-  
strum Cantebridg' in comitatu prædicto decimo die August'  
proxim' tenend' (or thus, die Lunæ existent' vicesimo die  
M. proxim' futuro) omnia brevia, &c. Necnon, &c. seperal.  
person' script', ad faciend' ea quæ tunc & ibidem ex par-  
te domini Regis eis iniungentur; Publice etiam proclamari  
facias per totam ballivam tuâ q̄ omnes illi qui sequi voluerint  
versus prison' in gaoli (domini Regis) comit. prædict', quod  
tunc sint ibi versus eos provt iustum fuerit profecuturum: Scire  
facias etiam omnibus Iustic' pacis, Coronat', seneschallis Domi-  
norum & Magnatum, Escheatoribus, ballivis libertatum, & om-  
nibus capitaf Constabular' infra hundred' tuū quod tunc sint ibi  
cum rotulis, recordis, indictamentis, & alijs memorandis suis,  
ad fac' ea quæ ad seperalia officia sua pertinent. † Et quod tuipse  
sis ad tunc ibidem ad faciendum omnia ea quæ ad officium tuū  
pertinent: Et habeas ibi nomina prædictoꝝ Iustic' Coronat', Se-  
neschallium, Escheatorum, ballivorum libertat': Necnon ca-  
pitalium Constabular' vnà cum hoc præcepto sub periculo in-  
cumbente dat' sub sigillo officij mei tali die & Anno, &c. Anno  
Domini 1622.

A. B. Miles Vic'.

Subscriptio:

Tibi etiam mando quod capias *T. C. de I.* (or has perso-  
nas subscript') Ita quod corpus eius (or corpora eorum) ha-  
beas corā Iustic' prædictis ad diem & locū prædict' ad respon-  
dicto domino Regi de quibusdam transgr' & contempt' vnde  
indictatus existit, (or indictati existunt) & hoc, &c.

Tibi etiam mando quod venire fac' has personas in schedula  
huic warrant' annexa, nominatas, Ita quod sint ad diem & lo-  
cum prædictum ad faciendum ea quæ eis tunc & ibidem iniun-  
gentur.

p *H.S.* subvic'

And file a schedule to the backside of this warrant; in  
which schedule may be set downe the names of such as the  
Baylifes shall warne for the great Enquest by themselves,  
and for the Jurie of life and death by themselves. These  
two last subscriptions or the like, may be written vnder the  
fozmer warrant & then the warrant to be signed vnder the  
sherife or vndersherifes hand & seale of office: Or else at the  
end

## Retorna Brevium.

end of the Warrant (scz. vnder it) the Sherife or vndersherife may set down the names and dwelling places of such as he will haue warned to serue in or vpon the grand Iurie in particular, and he shall doe well to keepe a note of them, that he may be able to shew to the Court, if need require, who hee had determined to haue returned for that seruice, if they had come, and if the fault fall out to bee in the Baylife, then hee shall be punished and the Sherife excused.

### *Retorna Summon' Sessio' pacis.*

*The forme of the summons of the sessions, see Lambt. §99. & 367.*

**R**etorn' dicti brevis aliquando vtitur sic, scz. Executio istius brevis patet in quibusdam pannel' huic breui consut', vel annexis.

A. B. Armig' Vic'.

*Or thus.*

Virtute istius brevis mihi directi, venire feci coram Iusticiar' infra script', apud castrum Cantabr'; infra specificat' die, Anno, & loco infracontent', omnes Constabularios, & Ballivos hundred' infra com' specificat'; Nec non de quolibet dictorum Libertatum & Hundred', viginti quatuor Iurator' ad faciend' ea, quæ eis ex parte Dñi Regis ad tunc & ibidem injungentur. Ac etiam Scire feci omnibus Constabularijs & Ballivis Hundred' com' infra script', quod tunc sint ibi habentes omnia nomina Artific' laborat' & servient' husbandriæ, infra hundred' prædict', vad' contra formam statuti inde excessivè capiend': ac insuper sufficient' proclamari feci infra Ballivam meam quod omnes illi qui tam pro Dño Rege, quam pro seipsis versus huiusmodi artifices, laborator', & servient', aliquas querelas iuxta formam statuti ordinationis prædict' conqueri vel prosequi voluerint, quod tunc sint ibi billas suas prosequi, Iusticiamq; ibidem subitur' si sibi viderint expediri, prout interius mihi præcipitur.

A. B. Ar' Vic.

**The Warrant must begin in the same forme as the other,** (hic fol. prædict' ad not' \*) Quod venire facias coram Iustic' Dñi Regis ad pacem in com' prædicto apud, &c. omnes Constabular' &c. according to the substance of the matter contained in the writ, and to conclude it as the other is concluded; (vide pag. prædict' ad not' †.)

*Or*

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*Or thus.*

Cantebr.

A. B. Armig' vic' com' prædict' ballivo Hundred' de Radfeild & Chevelye salutem; virtute brevis Domini Regis mihi directi, tibi mando quod non omittas propter aliquam libertatem in balliva mea, quin eam ingred', & venire facias coram Iustic' Domini Regis ad pacem in com' prædict' conseruandam, necnon ad diuersa felonias, transgr' & alia malefacta in dicto comitatu perpetrata, audiendum & terminandum assignat', apud castrum Cantebr' in com' prædict', die Iovis proximè post clausum Paschæ proxim' futur': omnes constabular' &c. vt supra.

*Retorne de Accedas ad Curiam.*

Virtute istius brevis mihi direct', in forma infra script' accessi ad curiam infra script' & in plena curia illa recordari feci loquelam infra scriptam: Et recordum illud (prout patet in schedula hic huic brevi annex') habeo coram Iustic' infra script' ad diem & locum infra content' sub sigillo meo, & sigillis I. B. C. D. E. F. & G. H. quatuor proborum & legalium hominū de balliva mea, ex illis qui record' ill' interfuer': Et partibus infra script' diem illum præfixi quod tunc sint ibi in loquel' illa prout justum fuerit prosecutur' prout interius mihi præcipitur.

*Accedas ad Cur.*

A. B. Ar' Vic.

*The stile of the Court*

Ad cur' Baroñ Egidij Alington Militis ibidem tent' .vj. die Februarij Anno, &c. (*reciting le stile del Roy.*) *Horsheath.*

*Io. S.* quæritur versus *W. W.* de placito captionis & injustè detentionis averiorum suorum. *Quærela.*

*The Bailifes Retorne of his Warrant to the Sherife.*

Virtute istius præcepti mihi direct' accept' mecum C. D. E. F. G. H. & I. K. quatuor discret' Milit' hundred' de Ch. prædict', accessi ad cur' Eg. Al. Militis, & recordari feci loquelam quæ est in eadem curia inter I. S. quærent' & W. W. deff. Et record illud parat' habeo sub sigillo meo & sigill' prædict' quatuor milit' eiusdè curiæ ex illis qui record' ill' interfuer'. Et partibus prædictis eundem diem præfixi prout mihi præceptum fuit: In cuius rei testimonium tam ego R. F. ballivus hundred' prædict', quam præ-

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diſt' C. D. E. F. G. H. & I. K. quatuor legal' milit' hundred' prædict' præſentibus ſigilla noſtra appoſuimus.

*Aliter.*

Nulla curia infraſcripti Eg. Al. militis (vnde infra fit mentio) tenta fuit poſt receptionem hujus brevis, & ante diem Retorn' ejuſdem, per quod executio iſtius brevis ad præſens per me fieri poteſt.

*Aliter in Curia Baron', vel in Hundred'.*

Virtute brevis Dñi Regis huic ſcædulæ annex' (aſſumptis mecum: B. C. D. E. F. G. H. I. quatuor legales milites de dicto com' meo) in propria perſona mea acceſſi ad talem hundred', vel ad talem cur', & in plena curia illa, ſive in pleno hundred' loquelam coram Juſtic' infraſcript' ad diem & locum interius contentum ſub ſigillo meo & ſigilla quatuor legalium hominum ejuſdem curiæ qui recordo illi interfuert habeo parat' huic brevi annex' juxta tenorem ejuſdem brevis: Et partibus in eodem brevi nominatis eundem diem præfixi quod tunc ſint ibi in loquæla illa prout juſtum fuerit, proceſſur' ſecundum quod iſtud breve in ſe exigit & requirit, &c.

*Aliter.*

Virtute brevis Dñi Regis huic ſcedulæ annex' (aſſumptis mecum quatuor diſcret' & legal' milit' de com' C.) acceſſi ad hundred' vnde in dicto brevi fit mentio, tent' apud B. tali die & Anno, & in plena hundred' illo loquælam vnde in dicto brevi fit mentio, recordar' volui: Et J. S. ballivus ad tunc & ibidem in plena curia ſedens (viſ. & audit' brevi prædict') libros ſuos loquælam prædict' tangent' immediate clauſit, ſurrexit, & feſtinans ab hundred' illo, vna cum omnibus libris illis, & omnibus ſect' ejuſdem hundred' ad tunc & ibidem exiſten' aſſumpſit ſecum, & indilatè recessit; Et præcept' dicti Dñi Regis in dicto brevi ſpecificat', ad tunc & ibidem fieri executum omnino denegavit & contradixit, & libros prædict' indilatè ad tunc & ibid' à viſu meo vi & armis manu fort' abſtulit & reſcuſſit per quod executionem iſtius brevis ad præſens facere non poſſum.

**Note that in this writ de Accedas ad Curiam, the Sherife must take with him foure men, but they need not to be knights; and hee must returne this writ vnder his owne ſeale, and the ſeales of foure ſuitoꝝ of that Court.** Fitz. 18. c.

*Admeaſurement de dower.*

**In a writ of Admeaſurement of dower, the Sherife returneth that the wife hath moze than ſhee ought to haue, by foztie** 44. E. 3. 11. c. 1  
Br. Reg. 119.

foztie s. p annum, and this was holden to bee no good re-  
turne; for he ought to returne two parts by it selfe, and the  
third part by it selfe, and their yearely values, and to leaue to  
the Court to adiudge of the value.



Retorn' de Sum' de Assise.

Assise.

Pleg' de prosequend' { Iohan' Doo.  
Ric. Roo.

Vi. Plo. 415. Infranominatus, W. L. nihil habet in balliva mea per quod  
attach. potest, nec est inventus in eadem.

Infranom. W. C. & I. H. nihil habent, nec eorum alter aliquid *Aliter.*  
habet in balliva mea, per quod possunt, seu eorum alter potest  
attacharij; Nec habent ballivum, neque ballivos, nec eorum al-  
ter habet ballivum neque ballivos, nec sunt inventi, nec eorum  
alter inventus est in eadem balliva mea.

*Aliter ubi est Attache.*

Infranominat. W. L. attach. est per vnam vaccam præcij. *Aliter.*  
XXX. S.

Vide hic  
Anachmēt.

Note that if the partie appeare not, his Cow is forfeit  
(to the King) and the Sherife shall bee answerable for the  
value thereof.

Residuum executionis istius brevis patet in quodam pannel-  
lo (or in quadam schedula) huic brevi annexa.

A. B. Miles vic'.

Nomina recog. Assise, nove disseisinæ inter M. C. querentē  
& T. C. tenent. A. B. C. D. E. F. & c. (ad numerum xxiiij.)

28. aff. 40.  
Br. 68. 70.

Summon. Iurat. (siue recog.) prædictorum — { I. D.  
R. F.

Manu captor. sum. recog. prædict. { I. H. } & { W. P.  
R. S. } { I. Q.

Nota que les recognitors de assise, sont les xij. homes que sont impan- *Recog. quid-*  
nell sur le assise.

Vii. Plo. 73. b  
& 415.  
26. aff. 33.

Assise vers A. & le vicount retourne, que le bayly del A. attach. *Ret. Attach.*  
est, & ne dit que A. non est inventus, vncor le retourne agard bon: mes *& Ret. Nihil*  
ou le vicount retourne que le defend', nihil habet, & c. il dira plus, quod *difference.*

P

non

## Retorna Brevium.

non habet ballivos, nec ballivum, nec est inventus in eadem &c. 26. aff. p. 33. Br. Rotorū brevium 68.

*Affise*, le vicount retourne le bailif del defendant attache per pledges, & ne retourne que le defendant non est inventus, & pur ceo que le vic per son retourne suppose que le bailife vst estre attache, ideo le retourne a-gard bon, car in ceo est include que le party nē troue : et ideo videt hic que attachement ne serra per pledges, vide 28. Aff. p. 40. Br Retor 70. vide plus apres tit. attachement.

*Affise vers E. Venor*, le br'e fuit retourne sic, pledges E.V. infranominat. A.B. & C.D. ou le retourne serra E.V. infranominat. attach. est per pleg. A.B. & C.D. (et non vt supra) 3. ou 4. presidents fuer' monstres que le primer retourne fuit bien ; mes 40. presidents fuer' m'e al contrarie, & per lauter voy, et ideo optima opinio fuit, que le retourne nest bon, pur ceo que cest parol attach. fault ; car la est nul parol in le retourne que proue le brieve serue per ascun attachement fait del defendans 5. E. 4. Br. Ret. 93.

*Aliter.*

Pleg' de prosequend'. I. D. & R. R.  
Infrascript' I. S. & R. B. attach. sunt, & quilibet eorum Attach. est p Pleg. I. D. R. R.

Residuū executionis istius brevis patet in pannello huic brevi confut'.

*Pannello.*

Affise Nov. diff. inter M. C. quær. (seu pteent') & T. C. tenent' (seu defend') in placito, &c.

A. B. C. D. E. F. & c. ad numerum, xxiiij.

Nomina Recog. I. P. & T. W.

Summon' (Iuratorum prædict' & eorum cujuslibet) I. D. & T. B. (vel plusors.)

Manucaptor' sum' prædict' & eorum cujuslibet, I. S. & I. D.

*Aliter.*

Executio istius brevis patet in quodam pannello huic brevi annex'.

Nomina recognitor' in Affiss. nov. diff. inter A. B. quer. & I. M. deff. I. D. I. S. E. F. & c. ad numerum xxiiij.

Quilibet recognitor' prædict' per se seperatim attachiat' est p pleg. I. D. & R. R.

Exitus eorum cujuslibet. v. s.

Nomina recog' de novo apposit' juxta formam Statuti. A. S. & c. ad numerum x.

Quilibet recog' prædict' de nova apposita attachiat est seperatim per pleg. I. D. R. R.

*Retorns*



# Retorna Brevium.

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*Retorn' de summons in Attaint:*

*Atteynt.*

Pleg' de prof. } *Iohan' Den'.*  
                  } *Richard' Fen'.*

Sum' infranominat' } *I. N.*  
                          } *Iohan' S.*  
                          } *Richard' G.*

Resid' executionis istius brevis patet in quodam pannello huic brevi annex'.

*A. B. Ar Vic.*

Nomina Vigint' & quatuor milit'.

*Le pannel.*

*Richardus M. de N. Ar'.* } ad Numerum xxiiij.  
*T. B. de A. Ar', &c.* — }

Sum' Iur' prædict' *H. H. S. S.*

Nomina Iur' primæ Inquisitionis in brevi huic pannello annex. *Le petit. Iury*  
spec'.

*E. M. Gen.*

*H. E. Gen. &c.*

Pleg. prædict. Iur' primæ } *Thomas Pitt.*  
Inquisitionis. ————— } *Gulielm. Fitt.*

Pleg. de prof. } *Io. D.*  
                  } *Ri. R.*

*Aliter.*

Sum' infranominat. } *R. F.*  
                          } *I. D.*  
                          } *Ri. F.*

Manuapt. sum. prædict. & vtriusque eorum : *N. P. I. L.*  
*I. D. Ri. R.*

Resid' execution' istius brevis patet in quodam pannello huic brevi annex'.

Nomina xxiiij milit' inter *R. S.* quer' & *R. F.* defend'.

*A. B. C. D. E. F.* ad numerum xxiiij.

Sum' Iur' prædict' & eorum cujuslibet, *I. D. R. F.*

Manuapt' sum' prædict' & eorum vtriusque, *I. P. R. C.*  
*F. D. E. G.*

Nomina Iur' primæ Inquisitionis vnde in brevi huic scedule annexo fit mentio, *I. B. D. C.* ad numerum xij.

Sum' Iuratorum primæ inquisitionis & eorum cujuslibet.  
*I. D. R. R.*

## Retorna Brevium.

Manu capt' summonit' prædictorum, & vtriusque eorum. *I. L.*  
*H. P. R. S. T. V.*

**In an attaint the Sherife cannot returne that the Defen-** 18.H.8.5.  
Br.1.  
**dant is dead, for there are no words in the writ to warne**  
**the defendant.**

**In an attaint the Sherife returned that hee had summo-** 46.E.3.18.  
Br.22.  
**ned the Jurie, as in an Assise, and for that no mainprise of**  
**the Summoners and Pledges was indorsed, &c. There-**  
**foze a summon, sicut alias, was awarded.**

**In an attaint, the writ is, diligentur inquir' qui fuer' Iu-** 48.E.3.15.  
Br.115.  
**ratores primæ Inquisitionis, and therefore there if the She-**  
**rife shall happen to returne eleven of the first Jurie, and an-**  
**other which was none of them, yet hee shall not bee amer-**  
**ced, for he may mistake some in his inquirie of them: but in**  
**such case at the surmise of the partie, Processe shall goe out**  
**against the twelfth, quod nota.**

### *Attachment.*

*Attachment*

Pleg' infranom' *I. D.*     $\left\{ \begin{array}{l} P. R. \\ I. W. \end{array} \right.$

*I. D.* infranominatus Attach' est per vnam patellam præcij  
x. d. vel per vnam vaccam præcij xxx. s.

Infranom', *I. D.* nihil habet in balliva mea per quod attachi- Nihil.  
ari potest.

### *Attachment sur Appel.*

*Plegij de pro-*  
*sequend.*

*I. F.* quæ fuit vxor *D. F.* infranom' non invenit mihi pleg' de  
proseq': Ideo ad executionem istius brevis nihil per me ac-  
tum est.

**Note that in euerie writ, which hath therein this clause**  
**expressed (sc. si A. fecerit te securum de clamore suo proseq.)**  
**the Sherife may delay the plaintife by making this returne**  
**following; Infranominatus A. B. non invenit mihi pleg' de**  
**prosequendo istud breve, Ideo ad executionem ejusdem nihil**  
**per me actum est.**

**Note also that the Sherife is not to returne the names**  
**of any as pledges, except they consent and agree thereto:**  
**Stat. 27. E. 1. cap. 2. and if hee doe hee shall bee grievously pu-**  
**nished.**

**Also note that the King, nor Queene (in regard of their** Co. 8. 61.  
Fitz. 197. h.  
**dignitie and prerogative;) neither infants shall find any**  
**pledges, de prosequendo, &c.**

**Also**

# Retorna Brevium.

Also in a Quid juris clamat, Scire fac. or per que servitia, the  
plaintiffe shall find no pledges, Co. 8. 16.

## Retorne de Capias, Alias, & Pluries.

**I**nfranominate A.B. non est inventus in balliva mea. *Capias in de-*  
Alit. Infranominate A.B. & C.D. nec eorum alter, inventus est in *bito.*  
balliva mea.

Alit. **If there be three or more, then thus:** Infranominate A.B.  
et ceteri defend' infranominate non sunt inventi in balliva mea.

† Quere how it can stand with their oath not to serue it, or not to indeavour it, to their best power &c.  
**These writs may be returned in diuers manners, as followeth; first if the sberife will † not, or cannot serue or execute the writ, then thus,** A.B. infrascr non est inventus in balliva mea post receptionem istius brevis, vel, post advent. hujus brevis.

*And if the partie be taken then thus.*

Virtute istius brevis cepi I.W. infrascriptum cujus corpus coram Iustic' infrascript' ad diem & locum interius content. habeo parat. prout breve istud exigit et requir' &c.

Aliter. Infrascript. I.W. captus est per corpus suum, cujus corpus ad diem &c. habeo paratū prout interius mihi præcipit' vel secund' exigent' huius brevis

Alit. Virtute istius brevis mihi directi capi corpus infranominate I.S. cujus quidem corpus coram Iusticia' infrascript. ad diem et locum infracontent. parat' habeo prout interius mihi præcept. fuit; vel prout istud breve in se exigit & requirit.

Alit. Infrascript. Io. S. captus est per corpus suum cujus corpus ad diem et locum infracontent. paratum habeo prout &c.

Aliter ball' libert'. R.S. infranominate non est inventus in balliva mea, & quoad capiend' I.F. infranominate mandavi R.S. ballivo libertat. de S. qui plenum returu' habet omnium brevium & execut. eorund' cui executio istius brevis totaliter pertinet faciend', extra qua' libertat. nulla executio istius brevis inde per me fieri potest, qui quidem ballivus mihi sic respondet, quod cepit corpus pd' I.F. cujus corpus pdict. coram Iusticia' domini regis infrascript' ad diem & locum infracontent. paratū habebit; vel sic, qui quidem ballivus null' mihi dedit responsum.

I.D. infranominate fugit ad libertat. I.E. Armig. & continuè ibidem morat, Ideo vt ipsum capere non possum.

## Retorna Brevium.

- Sanctuariam* Ante adventum istius brevis mihi directi, *I. S.* infranominat' intravit Sanctuariam sancti *Petri* Westm in com' Midd', & in eadem adhuc moratur per quod corpus prædict' *I. S.* coram Iustic' infra script' ad diem & locum interius specificat' habere non possum, prout &c.
- Aliter.* Virtute, &c. capi corpus *A. B.* infranominati & ipsum ad gaolam Dñi Regis castri sui de *C.* commiss. ibidem salvo custodiend' &c. Qui postea prætextu cujusdam alterius brevis dicti Domini Regis mihi directi, & huic brevi annex' à prisona illa deliberari feci.
- Aliter.* Virtute, &c. capi corpus. *A. B.* infranom', &c. Et ipsum ad gaolam, &c.  
Posteaq; viz. tali die & anno prætextu cujusdam alterius brevis dicti domini Regis mihi directi, cujus transcript' vobis mitto huic brevi annex' prædictum *A. B.* à prisona illa deliberari feci; Et ideo corpus prædict' *A. B.* coram Iustic' infra script' ad diem & locum infra content' habere non possum, prout interius mihi præcipitur.
- Lal'* Virtute, &c. capi corpus *I. C.* infranominat' cujus corpus coram Dño Rege ubicunque tunc fuerit in Anglia ad diem & locum infra content' parat' habeo, prout interius mihi præcipitur.  
*Et si le defendant que est issint prise, soit malad' en prison: On si le vicount ne voit faire ascuns expens. den costag' par luy amesner ab Westm' devant les Iustic', selonque le purport del briese,* tunc sic;
- Languidus.* Virtute istius brevis *A. B.* infra script' captus est per corpus suum, & in tali prisona siue gaola adeo languidus detentus, quod corpus ejus ad diem & locum interius content' habere non possum absque mortis periculo.
- Aliter.* Virtute istius brevis mihi directi capi corpus infranominati, *I. S.* qui quidem *I.* est in prisona Dñi Regis de *C.* adeo languidus, quod ob metum mortis ipsum coram Iustic' infra scriptis ad diem & locum infra content' habere non possum prout interius mihi præcipitur.
- Aliter:* Qui quidem *I.* tantis vexat' infirmitatibus, quod ipsum sine magno mortis periculo propter corporis sui debilitatem coram Iustic' infra scriptis, ad diem & locum infra content' habere non possum prout interius, &c.
- Aliter pro felonis.* *R. D.* infranominat' captus fuit per *I. C.* constabularium ville de *D.* apud *T.* in com' *D.* pro suspectione felon', & ea de causa in gaola prædict' sub custodia mei detentus fuit, & in eadem gaola adeo languidus est, quod nullo modo laborare siue curari potest: Vel sic, cujus corpus paratum habeo coram vobis ad diem, &c. infra content', ad faciend' quod istud breve in se exigit & requirit.

Virtute

Virtute istius brevis vobis certifico quod postquam istud bre mihi liberat' fuit ad capiend' R.T. & alios defendentes in isto brevi specificat', idem R. & alij infranominati protulerunt mihi breve domini regis de supersed' quod huic brevi est consut', virtute cujus supersed' omnino.

*Supersed. sut Capias.*

Virtute istius brevis mihi directi Cæpi corpus infranominati B.C. qui postea protulit mihi breve domini regis de supersed. mihi directi, & huic brevi consut'; Ideo corpus suum coram Iustic' infra sc' ad diem & locum infra content' habere non possum prout interius mihi præcipitur.

*Supersed. post capi corpus.*

And yet these writs are seldome or neuer used to be returned by sherifes; for attornies doe vse to returne them themselues, but that must be done with the leaue and suffe-  
rance or consent of the sherifes, otherwise the attornies cannot iustifie the setting of the sherifs name to their writs.

3.H.4.21.  
Br.34.

Upon a Capias, the sherife returneth quod breve adeo tarde sibi venit, quod illud exequi non potuit propter brevitatem temporis, and it was holden to be a good returne.

*Tarde.*

Br.125.

Upon a Capias the sherife returneth that the partie is dead, quære if this be a good returne.

*Mortuus.*

7.H.4.11.  
Br.107.

Upon a Capias the sherife returneth quod cæpi corpus, and yet hath not the bodie in court at the day of the returne hee shall be amerced: and if it were vpon a Capias ad satisfaciendum, the plaintife might haue his action against the sherife for the escape, for by such returne the sherife hath concluded himselfe.

Br.100.102.

Upon the Capias the sherife returneth cæpi corpus, & quod est languidus in prisona, this is a good return, if it be true that the partie is sicke indeed; and yet vpon such a returne quod languidus est in prisona, a Duces tecum may be awarded to the sherife to bring in the prisoner, or els the def. if he will appeare shall be receiued so to do.

*Languidus.*

11.H.6.  
Br.123.

The sherife vpon a Capias returned mandavi ballivo, & quod ipse cæpit corpus, sed illud hic habere non potest quia languidus est &c. And the court being informed that he was not sicke, a writ was directed to the bailife to returne the bodie, and to appeare; and vpon examination it was found that the partie was not sicke, whereupon the bailife was fined, and committed to the fleete.

# Retorna Brevium.

## Retorn' de Capias ad satisfac'.

*Capias ad  
Satisfac'.*

**V**irtute istius brevis mihi directi capi corpus infranominat' *A.B.* cujus quidem corpus, coram Iustic' infra-script' (vel coram domino rege) ad diem et locum infracontent' parat' habeo ad satisfaciend' infranominat' *C.D.* de debito et dampnis infra-specificat' prout interius mihi præcipitur.

*Aliter.*

Virtute istius brevis mihi directi capi corpus infranominati *A.B.* cujus corpus ad diem et locum infracontenta paratum habeo. *Plø. 441.*

*A.B. Armig' Vic'.*

**But let the sherife take heed, if herein he returne capi corpus, that he hath the bodie in court at the day, otherwise he is chargeable for the whole debt by reason it is an escape &c. See hic antea.**

*Capias ut  
lagat'.*

Virtute &c. capi corpus *A.B.* infranominat' cujus corpus coram Iustic' infra-script' ad diem & locum infracontent' parat' habeo prout interius mihi præcipitur; residuum vero exec' istius brevis patet in quadam inquisitione huic brevi annex'.

Multis modis potest dici captus et detentus, scz. pro debito x. s. versus ipsum recuperatam in tali curia.

Vel captus est per præceptum dñi regis.

Vel captus est super recog' fact' in Cancellar'.

Vel captus est super appell' pro morte hominis.

Vel de roberia &c.

*Rescous.*

Infrascriptus *R.V.* captus fuit apud D. decimo die Maij anno infrascripto, per *T.P.* ballivum domini regis, et mei, virtute cujusdam warranti, prætextu hujus brevis per me facti, et sibi directi: Et super hoc prædict' *R.V.* cum alijs ignotis vi et armis, viz. baculis &c. in dictum ballivum insultum fecerunt, et seipsum a custodia prædict' ballivi rescuss. et nunquam postea eundem *R.V.* in balliva mea invenire potui.

*Aliter:*

Executio istius brevis patet in quadam scedula huic brevi annex'.

*Scedula.*

Virtute brevis domini regis mihi directi, et huic scedulae annex', feci quoddam warrant' meum cuidam *I. M.* ballivo meo itinerant', ad capiend' et arrestand' *E. G.* in dicto brevi nominat', sec' in exigen' ejusd' brevis, Qui quid' ball' meus virtut' warrant' mei præd' nono die I. anno regni dñi *Jacobi* regis infra-script' xx. apud D. in com' pd' caput et arrest' corpus pd' *E. G.* Et ad tunc

adtunc & ibidem ipsa *E. G.* in custodia sua fuit, super quo *F. G.* de *D.* prædict' in comitatu præd. gener, & *T. M.* de eisdem villa & com' gen, adtunc & ibidem vi & armis &c. in præd' ballivum meum insultum fecerunt, & ipsum ball' meum adtunc & ibidem contra legem & consuetud' regni dicti domini regis Angliæ, & contra voluntat' ipsius ballivi mei imprisonaver, & ipsum ballivum meum in prisona ibidem per spacium vnus horæ adtunc detinuer, & viginti denarios in pecunijs numeratis, de bonis, cattallis, & denar' ipsius ballivi mei adtunc & ibidem præd' *T. M.* cepit, ac præf. *E.* vi & armis præd. adtunc & ibidem a custodia dicti ballivi mei cepit & recusser: Necnon eadem *E.* seipsam adtunc & ibidem a custodia ejusdem ballivi mei rescussit contra voluntat' dicti ballivi mei, & contra pacem dicti dñi regis nunc &c. Et postea eadem *E.* non est inventa in ball' mea.

Aliter.

Virtute istius brevis mihi directi feci quoddam warrant' cui- *Rescom.*  
dam *R. P.* ballivo meo hac vice itineranti, ad capiend' & arrestand' infranom' *T. L.* secundum exigentiam istius brevis, qui quidem *R. P.* virtute warrant' prædict', postea scilicet secundo die Maij anno regni domini regis infra script' vicesimo, apud *B.* in comitatu prædicto cepit corpus infranom' *T. L.* de *B.* præd. in dicto comitatu Canteb', Qui quidem *T.* die, anno, & loco supra dict', vi & armis in præf. *R. P.* ball' meum prædict. insult' fecit, & ipsum verberavit, vulneravit, & malectravavit, Ita quod de vita ejus desperabatur. Et idem *T.* adtunc & ibidem a custodia p'd' ballivi mei, & contra voluntatem suam recessit, escapiavit, & recessum fecit contra pacem dicti dñi regis nunc &c. Et postea idē *T. L.* non est inventus in ball' mea.

Aliter.

Virtute istius brevis feci quoddam warrant' meum *W. H.* ballivo hundred' de *H.* qui mihi sic respondet, quod vbi ipse virtute warrant' præd' decimo die *S.* anno regni dñi regis infra script' vicesimo apud *C.* cepit quandam *I. S.* & ipsum vsq; in castrum dñi regis de *C.* ducere voluisset, ibidem salvo custodiend', illuc vener' quid' *I. T.* & *R. S.* cum pluribus alijs ignot' vi & armis, arriat' modo guerrino, & a custodia dicti ballivi mei apud præd' *W.* p'd' *I. S.* cepit & abduxit, Et sic ob metum mortis sui ipsam *I. S.* evadere permisit, Et ea de causa corpus *I. S.* præd' coram dño rege ad diem & locum infra content', vbicunq; &c. habere non possum, prout interius mihi præcipitur, Et vltterius vobis certifico, quod post præd. decimum diem &c. prædict. *I. S.* non fuit invent' in balliva mea.

Aliter de  
Rescuss. &  
Riot.

Virtute istius brevis mandavi *I. S.* ballivo meo libertat' de *D.* in com' præd' (qui habet plenum retorn' omnium brevium, præcept', & warrant' sibi inde direct') Qui quidem *I. S.* tali die et anno apud *P.* in comitatu præd' *T. S.* in brevi huic scedulæ annex' nominat',

## Retorna Brevium.

nominat. et virtute ejusdē warrant. sibi direct. cæpit et arrestavit, et ipsum *T.S.* in custodia sua occasione prædict. adtunc et ibidem habuit et tenuit ac quidam *Iohan' C.* nuper de *S.* in comit. prædict. *L.* (aggregat. eis quam plur' alijs malefactor' ignotis, pacisq; dñi regis perturbator' ) ad numerum viginti personar' modo guerrin' arraiat. vi et armis viz. glad' pugionibus scut. et bacc. in ipsum ballivum meum adtunc et ibidem riotose insultum fecerunt et ipsum verberaver' vulneraver', et malectraver' ita quod de vita ejus desperabat. et prædict. *I. C.* et alij &c. ipsum *T.S.* extra custod. dicti ballivi mei adtunc et ibid. cæperunt et rescusser', et ad sui juris ad largum ire permisser' ; ac idem *T.S.* seipsum extra custod. dicti ballivi adtunc et ibidem similiter rescussit contra pacem dicti dñi regis &c. Et postea idem *T.* non est inventus in balliva mea.

*Aliter.*

Ego *I. H.* miles vic' virtute istius brevis feci quoddam warrant' *I. B.* et *P. D.* ball' meis hac vice itinerantibus ad arrestad' et capiend' *R. F.* ad satisfaciend' infranominat' *W. P.* de debit. et damñ infraspacificat. prout interius mihi præcipit. virtute cujus warranti *I. B.* et *P. D.* ball' tali die et anno apud *H.* in com. prædict. arrestaver' prædict. *R. F.* prout per warrant. illud eis præcipiebatur, ac idem *R. F.* ac quidem *G. F.* de *G.* in com. prædict. cum alijs ignotis vi et armis videlicet gladijs, baculis &c. in prædictos *I. B.* et *P. D.* cisdem die et anno apud *H.* in com' prædict' insultum fecer' et ipsos malectraver', et adtunc et ibidem rescussum fecer', virtute cujus recuss. idem *R. F.* a custod' illa adtunc et ibidē contra arrestationem supradictam rescussit evasit et escapiauit qua propter præf. *R. F.* ad diem et locum infranomiñ habere non possum, et vltterius vobis certifico, quod post eundem diem prædict. *R. F.* non fuit inventus in balliva mea.

*Aliter.*

Virtute istius brevis quoddam warrant' meum feci & direxi cuidam *T. C.* ballivo meo ad attachiand' infranomiñ *I. C.* prætextu cujus idem *T. C.* nono die I. anñ regni domini regis infrascript' vicesimo apud *B.* in com' infrascr' cæpit & arrestavit p' d' *I. C.* eum coram me ducere volens & intendens, ad faciend' & recipiend', prout in isto brevi mihi præcipitur, Et postea videlicet dicto nono die I. anñ vicesimo supradicto, prædictus *I. C.* apud *B.* præd' in com' præd' in præd. *T. C.* ballivum meum insultum fecit, Et ab eodem ballivo adtunc & ibidem fugit, evasit & rescussum fecit, Et postea eundem *I. C.* in balliva mea invenire non potui.

**Note that if a rescous be made to the sherifes servant or officer, it shall bee returned as done unto the sherife himselfe; for the arrest is the act of the sherife himselfe, and there**



## Retorna Brevium.

84.

therefore the rescous to the seruant is a rescous to the she-  
rife himselfe, Br. Retor. 66.

Vide plus hic postea tit' Retorne del habeas corpus.

### *Cessavit per bienium.*

**V**irtute &c. Iustic' infra script' certifico quod die Maij *Cessavit per*  
anno regni &c. Cæpi in manus domini regis 3. messuag' *bienium.*  
&c. infra script' per visum A. B. C. D. E. F. & G. H. proborum  
& legalium hominum de balliva mea, prout interius mihi præ-  
cipitur.

### *Retorna brevis ubi Clericus non habet laicum feodum.*

**V**irtute istius brevis mihi directi Iustic' infra script' certifico, *Clericus non*  
quod infranominatus T. H. clericus est beneficiatus in Epif- *habet laicum*  
copatu Londoni, nullum habens laicum feodum in balliva mea *feodum.*  
ubi potest summoni.

A. B. Armig' Vic'.

Retorni de Distringas versus Clericum. Vide hic Retorni de *Distring.*  
Distring' fol. *Clericum.*

Br. 124.

**I**n a Scire facias against a Chapleine vpon a recouerie in  
a Quare impedit, the sherife ought not to returne quod Cleri-  
cus est beneficiatus nullum habens laicum feodum &c. for this  
is not to be returned, but where a Distring. or Capias goeth  
out, which are a cohercion: But in a Scire facias the sherife  
hath nothing to do but to warne the partie. And yet if in a  
Scire facias the sherife returnes, quod est Clericus beneficia-  
tus, nullum habens laicum feodum &c. Et quod non est inven-  
tus &c. this is a good returne, for then he cannot be sum-  
moned, if he can neith. r be found. noz hath laie fee.

The sherife returneth that the Parson befoze the returne  
of his writ had resigned his benefice &c. Et quod non habet  
nec habuit bona neque catalla infra &c. it seemeth a good re-  
turne, See 2. E. 4. fo. 1. Br. 94.

Como-

# Retorna Brevium.

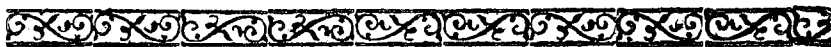


## Comorans in alio Com'.

*Comorans in al' com'.* **I**nfranomatus *E.S.* est vic' com' *E.* et est comorans in dicto comitatu *E.* et non est inventus in balliva mea.  
*A.B. Armig' Vic'.*

## Corpus cum causa.

*Corpus cum causa.* **U**pon a Corpus cum causa, it is a good returne that the partie is dead. 32.H.6.27.Br.125.  
**See more hereof in the returne of Habeas corpus.**



*Covenans.*

## Retorna brevis orig' in conventione.

Pleg. de prof.  $\left\{ \begin{array}{l} \text{Io. D.} \\ \text{Ri. R.} \end{array} \right.$

Sum' infranominat.  $\left\{ \begin{array}{l} \text{R. F.} \\ \text{I. D.} \\ \text{Ri. F.} \end{array} \right.$



*Deb.*

## Retorna brevis originl. in Debito.

Pleg' de prof.  $\left\{ \begin{array}{l} \text{Iohan' Den'}. \\ \text{Richard' Fen'}. \end{array} \right.$

Sum' infranominat'  $\left\{ \begin{array}{l} \text{I. N.} \\ \text{Iohan' S.} \\ \text{Richard' G.} \end{array} \right.$

*A.B. Ar Vic'.*

**And if the Defendant be insufficient, then thus:**

Pleg' de prosequend. *I.S. R.M.*

Infranominat' *A.B. nihil habet in balliva mea per quod summon' potest.*

*Or thus.*

**Aliter.** Infranominati *A. B. & C. D.* (and if there be moze Defen-  
dants than two, then you must name but one, & cæteri def.  
infranominati nihil habent, nec eor' alter nihil habet in balliva  
mea per quod summoñ possunt.

*A. B. Armig. vic'.*

**Br. 84.** In debt it is no returne, that the defendant hath paid the  
debt, 2.H. 7.

*Decies tantum.*

**I**ustic' infrascr' certifico, quod infra nominatum *A. B.* ad diem *Decies tantum*  
& locum infra content' coram vobis parat' habeo, ad faciend'  
& recipiend' quod curia domini regis infra script' de eo con-  
sideraverit iuxta formã istius brevis.

**Br 89.** In a writ ad deliberand' &c. in Detinue, it seemeth to be *Detinue.*  
no good returne that there are no such goods.

**22.H. 6. 41.** In Detinue where it is awarded that the plaintife shall  
recouer the thing demanded, he shall haue a Distring' ad de-  
liberand' &c. and the sberife may thereupon returne issues, or  
nihil, as the trueth is, Br. Charters de terr' 34.



*Retorn' de Devastavit vers executors.*

**V**irtute istius brevis mihi directi, cepi in manus meas diver- *Devastavit.*  
sa bona & catalla quæ fuerunt infranominat' *H. S.* tempo-  
re mortis suæ, in manibus infranominat' *R. O. & K.* uxoris ejus  
execut' testamen' præd. *H.* administrand' existen', ad valenc' 37. l.  
parcell' deb. infra script', quæ quidem bona & catalla remanent  
in custodia mea pro defectu emptorū, Et ulterius Iustic' infra scr'  
certifico quod præd' *R. O. & K.* diversa bona & catalla quæ fuer'  
præd' *H.* tempore mortis suæ ad valenc' resid' deb. & dampn'  
infraspacificat' vendiderunt, & devastaver', & denarios inde pro-  
venient' ad vsus suos proprios converter', Ita quod resid' deb. &  
dampn' infrasp'ec' de bonis & catallis cujusdam *H. S.* levati seu  
fieri facere non possum, Et ulterius Iustic' præd. certifico quod  
Q prædict.

## Retorna Brevium.

prædict. R.O. & K. vxor ejus nulla habent bona seu catalla de bonis & catallis suis proprijs in balliva mea vnde resid' deb. & dampnū infraspēficat', aut aliquam inde parcelā fieri facere possum prout interius mihi p̄cipitur.

### Disceit

Disceit.

**I**n a writ of Disceit if the sherife returneth the one summoner to be dead, it is good, and yet the other summoner shall be examined &c. And if it be found that the sherife made no summons &c. the partie shall bee restored to his land. F.N.b. 98. d.

### Distringas.

Dist'.

Manu capt' infranom̄ I. F. I.D. R.R.

Exit' 3.s. 4.d.

I.F. infranominat' nihil habet in balliva mea per quod, nec ubi potest distringi.

xl.d. xl.d.

Vers plures.

T.D. A.R. &c. district' sunt, & quilibet eorum districtus est, per terr' & catali' sua secund' formam hujus brevis, vnde exitus prout patet superius in eorum capitibus & manu capti sunt, & quilibet eorum manu captus est per se, viz. per I.D.I.S. & P.H. quod sint, & eorum quilibet sit ad diem & locum infrasci iuxta tenorem hujus brevis &c.

xl.d.

Vers execut'.

A. quæ fuit vxor B.R. infrascript' executrix testamenti p̄f. xl.d. xl.d.

B.R. I.S. alius executor testamenti prædict. B. & T.S. tertius execut' testamenti præd. B. districti sunt, & eorum quilibet per se seperatim dist' est, iuxta formam huj' brevis vnde exit' prout patet superius in capitibus eorundem, Et eorum quilibet manu captus est per se, viz. per quatuor manucaptos nomine A.B. C.D.E.F. & G.H. Et non sunt plures executores testamenti ejusdem B. nec hæredes ejus fuerunt in comitatu C. \* prout aliquo modo ad p̄sens constare mihi potest.

Pleg. de proseq. I.D. R.R.

Sur le 2<sup>o</sup> ou  
3. distr'.

A.B. infrasc' nihil habet in balliva mea ultra exirum prius per me forisfactum, per quod nec vbi distringi potest, prout mihi

\*Quere de  
est retorne  
hic fol.

mihī aliquo modo \* constare potest ad presens.

*W. D.* Archidecanus *R.* nihil habet in balliva mea de laico feodo per quod, nec vbi distringi, præmunire, seu attachiari potest aliquo modo prout ad presens mihī constare potest. *Vers. Cler.*

Quoad distringendū infra script' *A. B.* essendi coram Iustic' infra script' ad diem & locum infra content', istud breve adeo tarde mihī deliberat' fuit, quod propter temporis brevitatem executionem inde facere non potui. *Tarde.*

Br. 84.

**Note that in a Distr' per omnes terras suas, Ita quod habeas corpus ejus &c. the Sherife must returne issue.**

**Returne** de Distring. Iurat'. See hic postea Retorn' de Venire *Distr' Iur.* facias.

*Dower.*

Admeasurement de Dower. Vide hic antea tit. Admeasurement. *Dower.*

*Retorne de summ. in Dote.*

Pleg. de prosequend'  $\left\{ \begin{array}{l} I. Doo. \\ R. Roo. \end{array} \right.$

Sum' infranom'  $\left\{ \begin{array}{l} I. H. \\ I. W. \\ W. C. \end{array} \right.$

Et ad ostium Ecclesiæ parochialis de *P.* vbi infranominat' *A. B.* super diem Dominicum, scilicet quarto die Iulij, anno infra script' immediate post divinum servitium, nulla prædicatione ad tunc et ibidem existē, publice proclam' feci secundum formam statuti, prout istud breve in se exigit & requirit.

*A. B. armig' Vic'.*

*Retorne de Petit cape in Dower.*

**V**irtute &c. tali die & anno cæpi in manus domini regis infra script' tertiam partem tenementorum infra spec' cum pertiñ prout interius mihī præcipitur.

*A. B. armig. Vic'.*

## Retorna Brevium.

### *Retorna brevis de visu in Dower.*

**I**ustic' infra script', certifico quod virtute istius brevis mihi directi habere feci infranom' *A.B.* visum de tertia parte tenementorū infra spec' in præsent' *N.C. R.D.W.B. & C.D.* quatuor milit' ex illis qui vis. illi interfuerunt, Et ulterius certifico quod dixi quatuor milit' præd. quod sint coram Iustic' infra scri' ad diem & locum infra content' ad testificand' visum illum pro ut per breve præd. mihi præcipitur.

*A.B. Armig' Vic'.*

### *Retorna brevis de seifina in Dote.*

Executio istius brevis patet in quadam scedula huic brevi annex'.

*Seifina in Dower.*

**I**ustic' domini regis certifico quod virtute brevis dñi regis mihi directi & huic scedula annex' decimo die *A.* anno & c. habere feci, *P.B.* vid. in brevi præd. nominat', plenar' seifinam de tertia parte manerij de *B.* cum pertineñ in eodē brevi spec', viz. de una aula & coquina, de duob' shopijs in tenui dicti *I.* cū liber' ingressi. & regressi. ad & ab eisdem, nec non superiori parte domus mansional' in tenura *E.C.* ab introitu versus Australi, ac de vno clauso seperali voc' *H.* contineñ per estimac' quinque acr', ac de quatuor acr' pasturæ jaceñ in boreal' fine, vnius clausi voc' *B.* & de vna acr' pasturæ voc' *C.* in brevi præd. spec', tenend. p̄f. *P.B.* in seperali per metas & bondas, nomine totius dotis ipsius *P.* ipsam *P.* contingen' de toto manerio in dicto brevi spec' put per breve p̄dict. mihi præcipitur.

*A.B. Armig' Vic'.*

*Aliter.*

Executio istius brevis patet in quadam scedula huic brevi annex'.

**V**irtute & c. & huic scedulae annex' tali die & anno habere feci *I.B.* vid. in præd. bñi nomiñ plenariam seifinam de tertia pte manerij de *B.* cum pertin' in eodē brevi specificat', viz. & c. (*& reberse les particulars* ut in brevi) tenend. p̄f. *I.B.* in seperal' per metas & bondas nomine totius dotis ipsius *I.* ipsam *I.* contingen' de toto manerio in dicto brevi specific' put per breve p̄d. mihi præcipitur.

*Retorna*

*Retorn brevis ad inquirend' de dampnis in Dote, ubi tenens obiit seifitus.*

Executio istius brevis patet in quadam Inquisic' huic brevi annex'.

*Inquir. de dampnis in dote. Cantabr.*

Inquisitio indentata capta apud Cantebri in com' præd. duodecimo die Ian., anno &c. coram me A. B. armig. vicecom. com. præd. virtute brevis domini regis mihi directi, et huic inquisitioni annex' per sacramentum C. D. E. F. G. H. &c. (ad numerum duodecim ad minus) qui dicunt super sacrament. factum quod infranominat. W. K. quinto die Ianuar., anno &c. apud K. in com. p'd' obiit seifitus in dominico suo ut de feodo, de et in testis infrapec', Et quod tenement' præd. sunt clari ann' valor' in omnibus exit. vlti repris. xx. s. Et quod sex anni et tria quarteria vnus anni delabuntur, à tempore mortis præd. W. K. Et quod infranom. I. D. sustinuit dampna occasione dotis suæ infrapec' ad valenc' x. s. In cuius rei testimonium tam ego præf. vic' quam Iur' prædict. huic inquisic' sigill' nostra alternatim apposuimus, die, ann', & loco supradict. &c.

A. B. armig' Vic'.

7.H.4.  
Br.106.

**A writ of Right, the writ went to the sherife to returne foure knights, to chuse the grand Assise, returnable such a day, and the sherife returned that there were no knights but burgesse: whereupon another writ went out ac. & the foure knights were demaunded, who came to the barre with their swords girt about them ac. And so it seemeth (by the opinion of Master Brooke) that the sherife may returne them knights, although they be no knights. See the like hic antea fol.**

*Briefe de droit.*

39.E.3.2.  
Br.121.

**In a writ of right the sherife returned two knights, and two serieants to chuse the grand Assise: and it was holden a good returne of two knights and two serieants, for that there were no more knights within the same county: but to returne two knights and two serieants for that there were no more knights within the same countie which were not of kindred to the parties was holden to be an insufficient returne, for that should haue come in by the challenge of the parties.**

*Eiectione firmæ.*

Infranominatus A. B. attach. est per centum oves, præcij viginti librarum.

*Eiectione firmæ.*

Q 3

Infra-

## Retorna Brevium.

Infranominati *C.D.* et *B.F.* nihil habent in balliva mea per q̄ attachiari possunt.

### *Eligend' Coronator'.*

*Eligend'  
Coronator'.*

**A**D com' meum tent' (tali die & anno) in pleno com̄ prædict', virtute istius brevis, de assensu ejusdem com̄ loco *P.H.* infranominat' (qui diem clausit extremum) elegi Coronat' viz. *I.W.* qui (prout moris est) sacrum præstitit corporaꝝ, quod ipse ea faciet, et conservaverit quæ ad offic' coronæ in com' p̄t' pertinefi faciend', prout interius mihi p̄cipitur &c.

### *Eligend' Milit' Parliament'.*

*Eligend' mi-  
lit. parlia-  
ment'.*

**E**Legi feci duos milites gladijs cinctos majus idoneos, et discretos de com' meo præd', viz. *W.F.* et *I.S.* qui quidem milites plenam et sufficient' potestatem pro com' præd' habeant, ad faciend' & consentiend' hijs quæ ad diem et locum infracont' de communi consilio regiñ reg. Angl' ordinari contiger, & prædict' *W.F.* & *I.S.* manucapt' sunt per *I.P.W.B.* *I.D.* et *R.N.* ad essend' ad parliament' dom' regis apud Westm. ad diem infracontent', ad faciend' prout istud breve in se exigit et requirit. Feci etiam præceptum virtute hujus brevis *I.P.* et *W.S.* ball' libertat' villæ de Canteb̄, quod burgo de C. elegi fecerent duos burgenfes de discretioꝝ et majus sufficient', quod sint ad parliamentum dicti domini regis ad diem infracontent', ad faciend' et consentiend' ut præd' est: qui quidem ballivi sic mihi respondent quod elegi fecerunt de præd. burgo de C. duos burgenfes discretos, et magis sufficient' ad essend. ad parliament' prædict'. viz. *S.W.* & *R.W.*

### *Eligend. Burg. Parliament'.*

*Eligend.  
Burg. Parle-  
ment'.*

**V**irtute &c. ad proxim. com. meum post receptionem ejusdē tent. apud C. tali die & anñ in pleno comitat. illo proclam' feci omnia in isto brevi content. secundum formam et effectum hujus brevis prout &c. Resid. vero executionis istius brevis patet in quibusdam Indentura huic brevi consut'.

Hec



Hæc Indentura facta tali die & anno inter *A. B. vic. com. C.* *Indenture*  
 ex vna parte & *I. D. & C. B. & c.* ex altera parte Testat. quod se-  
 cundū formam brevis, huic Indentur. conf. (fact. proclamat. in  
 pleno com. tent. apud C. tali die & anno prædict.) *I. D. & C. B. & c.*  
 qui proclamac. prædict. in pleno com. prædict. interfuer. secun-  
 dum formam statutorum in brevi prædict. specific. & exigen.  
 brevis illius, elig. *A. D. & I. A.* essend. Burgens. ciuitatis prædict.  
 ad parliamentum in eodem brevi specificat. qui plenam & suffi-  
 cientem potestatem pro se & com. ciuitat. prædict. habent ad  
 faciend. & consentiend. prout breue illud in se exigit & requi-  
 rit. In cuius rei testimonium partes prædict. hijs Indent. sigilla  
 sua alternat. & c.

*Eligend' virid. forestæ.*

**D**omino Regi certifico quod infra nominatus *I. H.* ante ad- *Eligend' vi-*  
 vent. istius brevis mihi directi mortuus fuit, quodque ego *rid. forestæ.*  
 post receptionem istius brevis mihi directi, in pleno com. meo  
 tent. apud C. in com. meo 29. die Maij anno infra script. ex af-  
 sensu eiusdem com. loco prædict. I. legi feci quendam. *N. S. Ar-*  
*mig. viridiarium forestæ de B. infra script. ad faciend prout breue*  
 istud in se exigit & requirit.

Executio istius brevis patet in quadam inquisitione huic bre-  
 vi annexa.

Inquisitio indentat' capta apud C. in comit' Cantebrig. tali *Enquie de*  
 die et anno, coram *A. B. Armig. vic'* eiusdem com. virtute cu- *dampnis.*  
 iusdam brevis dñi regis eidem vic. direct. et huic inquisitioni  
 confut. per sacrament. *R. S. M. G. & c.* (ad numerum 12. Juratorū)  
 qui dicunt super sacramentū suum quod *A. P.* in brevi huic inqui-  
 sitioni confut. nominat. sustinuit dampna occasione transgress.  
 per *I. H.* in prædicto brevi nominat. prout in eodem brevi fit  
 mentio ad xl. s. Et pro misis et custagijs ipsius *A. P.* per ipsum  
 circa sectam suam in hac parte appositis ad xl. s. In cuius rei & c.

*Retorne de Elegit.*

**E**xecutio istius brevis patet in quadam inquisitione huic brevi *Elegit.*  
 annexa.

*A. B. Armig. vic'.*

Inqui-

## Retorna Brevium.

Inquisitio Indentat' capta apud *L.* in com' prædict' decimo die Iunij anno, &c. coram me *A. B. Armig' vic' com' prædict'*, virtute brevis Dñi Regis mihi direct' & huic inquisitioni annex', per sacrament' *T. B. &c.* ( & sic xij. plur' ad minus ) qui dicunt super sacrament' suum, quod *B. C.* in brevi prædict. nominat. tali die et anno, &c. fuit seisit. in dominico suo vt de foedo, de & in vno messuag' vocat. &c. cum pertiñ iacent', & existent' in *L.* in com' prædict. modo in occupatione *A. I.* vid'. clari annui valoris in omnibus exit. vltra repris. xl. s. Ac etiam de & in vno gardino cum pertinen. vocat. &c. in *L.* prædict. clari annui valoris in omnibus exit. vltra repris. xx. s. Ac etiam de & in vno alio messuagio cum pertineñ in *L.* p̄d' scituat. jaceñ & existeñ prope &c. nuper terr' cujusdam *R. A.* defuncti modo in occupatione *B. C.* vel assign' suorum, simul cum omnibus gardinis & edificijs eidem messuagio spectant. siue pertiñ, clari annui valoris in omnibus exitibus vltra repris. v. li. Ac etiam de & in vno alio messuagio vocat. &c. in *L.* prædict' in tenura præd' *B. C.* clari annui valoris in omnibus exitibus vltra repris. decē solid'. Quæ omnia et singula, præd' *B. C.* nuper perquisiuit sibi et hæred' suis de quibusdam *N. S.* et *Al.* vxore ejus (vnius filiarum et cohæred. præd' *R. G.* ) Quod quidem messuag. in tenura prædict. *C. D.* vna cum gardino eidem. messuag. jaceñ et spect. cum omnibus et singulis suis pertineñ pro medietate omnium terr' et tenementor' præd' ego præfat. vic' deliberari feci *R. S.* in brevi prædict. nominat. tenend. sibi et assignat. suis juxta formam statuti inde provis. vt liber. teñt. suum quousque debitum suum. *C. f.* vna cum xv. s. pro dampnis suis in brevi prædic. mentionat', plenar. inde levaverit, prout breve prædic. in se exigit et requirit: Et vltèrius Iurat. prædic. super sacramentum suum prædict. dicunt quod prædict. *B. C.* nulla alia siue plura habet seu die recog. deb. prædict. habuit, bona aut catalla, terras siue teñta in com. prædict. ad eorum noticiam. In cujus rei testimonium, tam ego præfat. vic. quam Iurat. prædict. huic Inquisitioni sigilla nostra alternatim apposuimus die, anno & loco, supradict. &c.

Canteb.

*A. B. Armig. vic.*

*Aliter.*

Virtute istius brevis ego *A. B. vic. com.* infrascript. (tali die et anno) liberavi *I. B.* medietatem maneriorum in inquisitione huic brevi consut. specificat. cum pertinet. per extent' in dicta Inquisitione fact', tenend. sibi & assign. suis, vt liberum tenementum suum quousq; idem *I. B.* debitū et damp. sua infrascript. levaverit, prout interius mihi præcipitur.

Virtute

Virtute istius brevis (tali die & anno) liberari feci infranominat. *Aliter.* A.B. medietat' maner' de S. cum pertinentijs, extent' ad annum valorem quatuor librarum sterlingorum in omnibus exitibus ultra repris. p 12. Iur' in Inquisitione huic brevi consut' nominat', de quo quidem manerio cum pertinen' B. G. & E. vxor ejus fuerunt inde seifiti vt in iure ipsius E. in fœdo vt de libero tenemento, die captionis Inquisitionis prædict', prout in eadem compertum est, Habend' et tenend' eandem medietatem manerij prædict' cum pertinen', sic extentam, prædict' A. B. et assign' suis vt liberum tenement' suum, quousq; infraspec' 4. libras inde levaverit juxta formam istius brevis, Resid' verò execut' istius brevis patet in quadam Inquis. huic brevi consut. &c.

*Deliberat' post extentam factam super obligat'  
statuti stapule.*

Virtute, &c. liberavi infranominat' B. S. maneria, terras, et tenementa infras. habend' sibi et assign' suis, vt liberum tenentum suum quousque sibi de debito infra scripto, vna cum dampnis, misis, et expensis suis plenarie fuerit satisfact', prout, &c.

Fitz. 266. c.

Upon an Elegit the Sherife returneth, that the Com= soz hath made a feoffment of diuers parcells of his lands to diuers tenants, &c. and of all the residue that he hath infeoffed the King, the Kings lands are to bee discharged, &c. But vpon a Scire facias to warne the other tenants to come at a certaine day to shew cause why their lands shall not bee put in execution, if the Sherife returneth them, Garnie, if they shew not cause to barre the execution, their lands shall bee extended, &c.

*Retorn de Extent sur Recog. ou Stat.*

Virtute istius brevis mihi directi capi corpus infranominat. *Extent.* W.W. cuius quidem corpus, ad diem et locum infra content. parat. habeo, prout interius mihi præcipitur.

Resid' execut. istius brevis patet in quadam inquisitione huic brevi annex.

A.B. Armig. Vic'.

Inqui-

## Retorna Brevium.

Inquisitio indent. capta apud C. in com. prædict' xij. die Ianuarij Anno &c. coram A. B. Armig. vic' com. præd. virtute brevis domini regis mihi direct. et huic inquisitioni annex. per sacrament. T. B. &c. (vt sup' : ) Qui dicunt super sacrament. suū, quod W. W. in brevi præd' nominat. die recogn' debet. in eodē brevi spec' fuit seistus in dominico suo vt de feodo, de et in manerio de A. in com. præd. clari annui valoris in omnibus exitibus vltra repris. C. li. Ac de et in manerio de C. in com. præd. clari annui valoris vltra repris. C. li. Et vltorius Iurat. prædict. super sacrament. suum prædict. dic' quod prædict. W. W. die recogn' debet. prædict. seu vnquam postea, nulla habuit bona seu cattall', neque al' siue plu' ter' siue tenementa in com. prædict. ad eorum noticiam quod extend' appreciari aut in manus dicti domini regis capi aut seifiri possint: Quæ quidem maneria ter' et tenementa prædict. cum pertineñt ego præfat. vic' die captioñ hujus inquisitionis capi in manus dicti dom' regis per extent. prædict. In cuius rei testimoniū tam ego præfat. vic' quam Iurat. prædict. huic inquisitioni sigilla nostra alternatim apposuimus, die, anno et loco supradict', &c.

A. B. Ar. vic'

*Aliter.*

Virtute, &c. domino regi in Cancellaria sua, ad diem & locum infracontent. vbicunq; tunc fuerit certifico, quod tali die & anno seisinam & possessionem de et in mannerijs terris et tenementis infra spec' infranominat' W. C. liberaui secundum exigen' istius brevis, ac infranom. H. M. non est inventus in balliva mea.

*Aliter.*

I. M. infra. non est inventus in balliva mea, Ideo ipsum capere non possum ad præsens, Sed quoad extendend' & appræciand' omnia terras & catt' ipsius, I. M. juxta formam istius brevis, Execut. inde patet in quadam Inquisitione huic brevi confut. Quæ quidem terr' & cattall' in dicta inquisitione content', in manus domini regis seifiri feci.

*Aliter infra libertat.*

A. B. infranominat' non est inventus in balliva mea, Et ideo virtute hujus brevis mihi direct. extendi & appreciari feci omnia terras et tenementa, bona et catalla p'd' A. in dicta balliva mea: Quæ quidem extent. huic breui est annex'; ac etiam omnia terras & ten' prædict. in eadem extent. specific', vna cum dampnis & custag. suis rationabilibus levavi, juxta formam statuti inde editi & provisi, & secundum formam hujus brevis.

Quod

## Retorna Brevium.

90

Quod distrinxit partem per frumentum, vel per alia cattalla, *Aliter.*  
ad quod non invenit emptores, *see bon Retorne Fitz. 133. b.*

### *Retorna de Exigent.*

**V**irtute istius brevis mihi directi, ad com̄ meum tent' apud *Exigent.*  
castrū Canteb' in com̄ Canteb' infra script' die Lunę videlicet decimo die I. anno regni dñi regis infra script' xix. infranominat' *I. C.* & ceteri defend' infranominat', (*if there be above two*) primo exacti fuer' & non comparuer', ad com̄ meum ibidem tent' die Lunę videlicet vicefimo die A. anno supra dict' prædictus *I. C.* & ceteri defend' infranominat' secundo exact' fuer' & non comparuer'; Ad com̄ meum ibidem tent' die Lunę videlicet decimo die S. anno prædict', prædict'. *I. C.* & ceteri defend' infranominat' tertio exact' fuer' & non comparuer': Ad com̄ meum ibidem tent', videlicet duodecimo die O. anno prædict', prædictus *I. C.* & ceteri defend' infranominat' quarto exact' fuer' & non comparuer'; Et ad com̄ meum ibidem tent' die Lunę videlicet tertio die N. anno prædict', prædict' *I. C.* & ceteri defend' infranominat' quinto exact' fuer' & non comparuer'. Ideo prædict' *I. C.* & ceteri defend' infranominat' per Iudicium *I. W. & W. Ri. gen' Coron' dicti domini regis com̄ prædict', secundum legem & consuet' regni dñi nostri regis Anglię vtlagat' sunt & quilibet eorum vtlagat' est.*

Virtute istius brevis mihi direct', ad com̄ meum tentum apud *Aliter.*  
C. in comitatu C. infra scripto, die Iovis vid. decimo die I. anno regni domini regis infra script. xix. *I. C.* & alij defendentes infranominati primo exacti fuerunt & non comparuer': Et ad com̄ meum &c. (vt antea,) secundo exacti fuer. & non comparuerunt, Et ad com̄ meum tent. &c. (vt antea) tertio exacti fuerunt, & non comparuerunt: Et ad com. meum tent. &c. (vt antea) quarto exacti fuer. & non comparuerunt: Et ad com. meum &c. (vt antea) quinto exacti fuerunt & non comparuer. Ideo prædict'. *I. C.* & ceteri defendentes infranominat, p Iudicium Coronatorum dicti dñi regis comitatus prædicti, secund. legem & consuet. regni Anglię, vtlagati sunt, & quilibet eorum vtlagatus est.

### *Retorn' de breve de Exigend' cum Superfed'.*

**V**irtute &c. ad com. meum prædict. ibidem tentum die Iovis *Aliter cura*  
viz. xx. die A. anno prædict. prædictus *I. C.* quarto exact. *Superfed'.*  
fuit, et comparuit, et protulit mihi breve domini regis de superfed',

## Retorna Brevium.

sed, et est huic brevi annex. per quod ad executionē istius brevis ulterius faciend. supersed. omnino, prout mihi in eodē brevi de supersed. præcipitur.

A.B.Armig.vic.

*Retorne de Exigent vbi vnus reddit  
se, & alij non comparuer'.*

**V**irtute &c. Ad com. meum ibidem tentum die Iovis viz. x. die A. anno prædict. prædict. I. C. et cæteri defend' infranominat. quinto exacti fuer', ad quem diem prædict. I. C. comparuit et se reddidit prisona domini regis castri sui Canteb' : cuius quidem corpus coram Iustic. infrascr' ad diem et locum infracontent. parat. habeo prout interius mihi præcipitur, sed cæteri defend. infranominat. non comparuer' Ideo &c. vt supra.

*Languidus in prisona.*

**A**d com. meum &c. prædict. I. B. comparuit, et se reddidit prisonæ dñi regis castri sui C. infra com. prædict. et in eadē prisona modo remanet, languidus varijs infirmitatibus detent. Ita quod propter corporis sui debilitat. et mortis periculum carriari non potest, et ea de causa corpus præd. I. B. coram Iustic. infrascript. ad diem et locum infracontent, ad presens haberi non possum juxta formam hujus brevis.

*Retorni de Exigent vbi, vnus reddit se, alter  
proferit Super sed, tertius mortuus est &c.*

**V**irtute &c. ad com. meum ibidem tent. die Iovis viz. x. die A. anno prædict. præd. I. H. S. R. A. C. & D. P. quinto exact. fuer' & præd. S. R. se redd' prisonæ dñi regis castri sui Ca. in com. præd. cuius corpus coram Iusticia' infrascript. ad diem et locum infracontent. parat. habeo, ad faciend. id quod breve p'd' in se exiget et requirit, Et p'd. D. P. comparuit et protulit mihi breve dñi regis de supersed. huic brevi annex. Ideo quoad eum ulterius procedere non potui : Et p'd' I. H. mortuus est : Et p'd. A. C. waviat. est. Ideo per iudicium I. W. et W. R. Coron' dom. regis com. præd. præd. I. H. vtlagat. et præd. A. C. waviat. est.

A.B.Armig.Vic.

And

**And yet vpon an Exigent, the Sherife returned that the partie was dead, and it was doubted whether it were a good returne: Br. 125.**

*Retorna de Allocat.*

**A**llocat. illi quatuor com̄ ad quos infranominat. T. C. exact. fuit & non comparuit. Et vltius virtute istius brevis ad com̄ meum tentum apud castrum Canteb. in com̄ C. infra script. die Iovis viz. Octavo die N. anno regni dñi regis infra script. Angliæ, &c. xix. prædict. T. quinto exact. fuit & non comparuit, Ideo per iudicium coronator, &c. (vt supra) vtlagat. est.

**And if it be a woman, then thus: Ideo secundum legem & consuetudinem, &c. prædict. A. R. waiviata est**

*Retorn' de Exigent inter duos Vic'.*

**V**irtute istius brevis mihi directi ad com̄ meum tent. apud castrum Canteb. (in com. Canteb.) infra script. die Iovis viz. x. die A. anno regni domini regis Angliæ, &c. infra sc. xix. infranominat. R. K. primo exactus fuit & non comparuit: Istud breve sic superius indorsat' mihi deliberat' fuit, per I. C. Armig. nuper Vicecom. comitatus infra scr. proxim' prædecessorem meum in ejus exit. ab officio suo, vt superius in dorso hujus brevis. Et ad comitatum meum, &c.

Istud breve prout indorsatur, mihi deliberat. fuit per A. R. *Aliter.*  
Ar. nuper Vic. com. infra scr. proxim' prædecessor meum in ejus exit. ab officio, Et ad com. meum tent. apud castrum C. prædict. in com. prædict. die Iovis viz. x. die D. anno prædict. prædic-

tus R. K. secundo exact. fuit & non comparuit, &c. (vt supra.)

Et si deficiunt Coron' ad com. ad reddend. iudicium, tunc Vic. retorn. brevia sua sic, viz. Et quod ob defect. I. W. & W. R. *Pro defectu Coronatorũ.*  
coron. dñi regis comitat. prædict', vltius procedere non potui.

**And then vpon this returne, the Cozoners will be fined for euerie writ, vnlesse they can make a good excuse,**

A. B. Mil'. Vic'.

Istud breve sic superius indorsat. vna cum breve dicti domini Regis de superfed' sibi annex. mihi liberat. fuit per A. B. nuper *Aliter cum Superfedea.*  
Vic. com. prædict. prox. prædecessor meum.

R

Virtute

## Retorna Brevium.

*Pro defectu  
Coronat.*

Virtute, &c. Et ad com̄ meum tent' ibidem iij. die N. dicto anno xx. domini regis infrascript', p̄d' T. C. quinto exactus fuit, et non comparuit, et pro defectu, W. B. et R. C. coronator' com̄ prædict' vlt'ius inde prosequi non potui.

*Pro defectu  
Comitat'.*

Virtute, &c. Et ad com̄ meum, &c. Et quod non fuerunt plures comitat' in com̄ prædict' tent' a die receptionis hujus brevis prædict', vsque ad diem retorn' ejusdem, per quod nihil actum est ad præsens; vel sic, Et ideo in executione istius brevis vlt'ius faciend' nihil actum est.

### *Retorna brevis de proclam'.*

Virtute istius brevis mihi directi, ad com̄ meum tent' apud castrum Canteb. in com̄ C. infrascript. xxj. die Marcij anno 19. infrascript', primo proclam' feci, et ad maximè vsuale Ostiū Ecclesię de B. infrascript' super diē dominicū sc. x. diem Aprilis anno regni domini regis infrascript' Anglię, &c. xx. immediate post divinum servic', nulla prædicatio eadem ecclesia ad tunc ibidem existens, vno mense ad minus antequam infranominat' I. S. quinto exact' fuit proclam' feci; Et ad general' Sesson' pacis tent' apud castrum Canteb. prædict' in com̄ prædict' iij. die Maij anno xx. supradict' (in partibus de B. prædict') al' proclam' feci, quod infranominat. I. S. se reddat mihi prout interius mihi præcipitur

W. W. Mil' Vic.

*Aliter.*

Virtute istius brevis mihi directi, ad com̄ meū tent' apud C. in com̄ C. infrascript' die Iovis xxj. die M. anno regni domini regis infrascript' xx. primo proclamari feci, Et ad com̄ meum tent' apud C. prædict' in dicto com̄ C. I. xx. die I prædict' anno xx. dñi regis infrascript' secundo proclam' feci; Necnon ad generalem sessionem pacis tent' apud C. in dicto C. (in partibus de M. infrascr') die Iovis scilicet iij. die O prædict' anno xx. dñi regis infrascript', publice proclam' feci, q̄ I. C. et ceteri omnes defendentes infranomin' se reddant infrascript' vic' Ita q̄ ijde Vic' habeat corpora eorum coram Iustic' infrascript' ad diem et locum infracontent. prout istud breve in se exigit & requirit.

### *Retorna Brevis de falso Iudicio.*

*Falso Iudicio*

Virtute istius brevis (assumptis mecum, P. M. &c. quatuor legalibus milit' de com̄ meo) in propria persona mea accessi ad curiam E. tent' apud. N. (tali die & anno.) Et in partibus curiæ illius ab A. B. &c. sectator' ejusdem curiæ, & R. H. Senesch'



Senesch' ibidē, petij Recordum loquelæ q̄ est in eadem curia, per parvum breve dñi regis de Recto, inter I. P. petent' & N. S. tenēt' fieri, et mihi liberari: Qui quidem Seneschallus, et Sectator' Recordum illud inde mihi liberare noluerunt, ob quod execut' dicti brevis minime facer' potui.

Fitz. 18. c.

Upon the writ of false Judgement, which is an Accedas ad curiam, the Sherife must take with him foure men, but it is not needfull that they be knights: Fitz. 18. c.

This writ must be returned vnder the seale of the sherife, and the seales of foure of the suitors of the same Court.

Ibid.

In this writ, it is a good returne for the Sherife to say, that after the receipt of the writ, and befoze the returne thereof, no Court was holden, so as hee could not execute the writ, &c.

Also it is a good returne ( in the writ ) that the Sherife hath required the lord to hold his Court, and the lord would not, so as he could not execute the writ: And vpon such returne the Justices will award a distresse directed to the sherife, to distraine the lord to hold his Court.

Fitz. 19. c.

In this writ, if the sherife returneth, Quod breve adeo tarde venit, quod executione ejusdem facere non potuit, this is a good returne: and vpon such returne the partie may haue a Sicut alias directed to the sherife; and if the sherife doth not returne this at the day, then shall the partie haue a Pluries directed to the same sherife, &c.

Tarde

Also in this writ, if the sherife returneth, that he went to the said Court of, &c. and there prayed the lord to hold his Court, that so hee might make execution of this writ, and that the lord refused to hold his Court &c. by reason whereof he could not doe execution of this writ, &c. then a distres shall bee directed to the sherife out of the Court of Common Pleas, commanding him to distraine the lord to hold his Court at a certaine day to be limited him by the sherife; and that the sherife taking with him foure discreet knights, &c. of the Countie, &c. shall come to the same Court, &c. and that he returne the same such a day, &c. and also that he haue then and there the said record, &c. and that hee summon the aforesaid lord that he be there to heare the same record, &c.

vi. Fitz. 19. c.

Retorn' de fieri feci sur fieri fac'.

Virtute istius brevis mihi directi, fieri feci de bonis et catal-  
lis infranominat' I. H. quandam dimissionem et concessio-  
nem eidem, I. H. per quendam T. G. gen' per Indentur' suam fact',

Fieri fac'

## Retorna Brevium.

pro termino xxxj. annoꝝ incipiendꝰ à primo die Iulij anno, &c. infraſcriptꝰ prout per Indenturam illam gerenꝰ datꝰ eiſdem die et anno plenius liquet et apparet, de et in vno meſſuagio ſiue firma cū pertinentijs ſcituatꝰ jacenꝰ et exiſtentꝰ in L. in parochia de F. infra ballivā meā, vocatꝰ ſiue cogꝰ per nomen de B. ſimul cū omnibus et ſingulis terrꝰ pratis paſcuis boſcis ſubboſcis aquis et paſturis cū omnibus ſuis ptinentijs, ſcituatꝰ jacenꝰ et exiſtenꝰ infra villā parochiā et Campos de F. pꝰdꝰ et O. ſcilicet in balliva mea; Et pꝰdꝰ dimiſſionē, ac omne et totū jus ſtatꝰ titulū terminꝰ annorꝰ poſſeſſionē et demāꝰ quæ pꝰdꝰ I. H. modo habet, de et in prædictꝰ præmiſſis, virtute ſiue vigore eiſdem dimiſſionis et conſeſſionis, aut aliter, venditionꝰ expoſui et vendidi cuidā P. H. genꝰ pro ſumꝰ lxxvj. li. xiiij. s. iiij. d. Ac etiā fieri feci de alijs bonis et catallis prædictꝰ I. H. ad valentiā lxxv. li. vj. s. viij. d. quas quidē denariorū ſummas, ſic in forma pꝰdꝰ pꝰ me levatꝰ, in toto ſe attingūt ad ſummā cxxxij. li. xij. d. Et eaſdem ſummas corā dño rege ad diem et locum infracontentꝰ paratꝰ habeo ad reddendꝰ infranominat. E. P. et I. vxori eiſdem in parte ſatiſfactꝰ dampnorū infraſcript. prout per breve iſtud interius mihi præcipitur, Et qꝰ prædictꝰ I. H. nulla alia ſiue plura bona aut catalla. in balliva mea habuit, vnde reſid. prædictꝰ. debit. clxv. li. vj. s. ij. d. fieri ſiue levar. poſſum ſecundum exigentꝰ huius brevis.

A. B. Arꝰ Vicꝰ.

*Aliter.*

Virtute iſtius brevis mihi directi fieri feci infraſcript. x. li. de terris et catallis infraſcript. R. W. Quas quidem x. li. coram Juſtic. infraſcript. ad diem et locum infracontent. parat. habeo, prout iſtud breve in ſe exigat et requirit.

*Aliter ſicut  
deſtaſt.*

Virtute, &c. fieri feci C. s. de bonis et catallis infranominat. W. H. quos quidē C. s. corā Juſtic. infraſcript. ad diem et locū infracōtent. parat. habeo, prout, &c. Et ulterius eiſdem Juſtic. certifico qꝰ executor. infraſcript. bona et catalla infranominat. W. H. teſtat. penit. deſtaſtaverꝰ. ſic qꝰ ſummā x. marcarum infraſcript. nec aliquam inde percellam fieri facere non poſſum ad præſens.

**The ſherife' vpon a fieri fac. againſt executoꝝ) returneth that the executoꝝ had ſold the goods, or that all the execu- toꝝ but one, had nothing: theſe are no good returns: ſee hic f.**

*Aliter.*

Virtute, &c. fieri feci de bonis et catallis. terr. et tenemētis infranominat. R. B. ad valenc. CC. li. & illis de die in diem venditionē expoſui, et inde vendidi ad valenc. C. li. Quas quidē centū libr. ad diem et locum infracontent. parat. habeo, ad reddendꝰ infranominat. I. W. prout interius mihi præcipitur, et reſidꝰ bonorū et catallorū pꝰdꝰ adhuc penes me remanent invendit. ob defectu emptorum.

A. B. Arꝰ Vicꝰ.

Vir-

## Retorna Brevium.

93

Virtute, &c. capi bona & cattalla infra script<sup>o</sup> *A. W.* ad valentiam 4. s. de infra script<sup>o</sup> Octo libris, quæ bona & cattalla penes me remanent invendita pro defectu emptorum, quodque prædict<sup>o</sup> *A. B.* nulla alia neque plura bona seu cattalla, nec aliqua terr<sup>o</sup> seu tenement<sup>o</sup> habet in balliva mea vnde residuum prædict<sup>o</sup> octo librar<sup>o</sup>, seu aliquam inde parcelam, ad præsens fieri facere possum, nec est inventus in eadem.

Adhuc illa bona & catalla, quæ nuper de bonis & cattall<sup>o</sup>, fir- *Aliter.*  
mar<sup>o</sup>, occupat<sup>o</sup> & tenent<sup>o</sup> manerij de *W.* ad valentiam, &c. in manus dñi regis capi, pro defectu emptorum remanent invendita, Sed de die in diem venditioni expon<sup>o</sup>, et de denarijs inde provenient<sup>o</sup> quam citius poterò, vobis respondebo.

Virtute, &c. vendidi bona et cattalla infra scripta per me prius *Aliter.*  
capta, Ac etiam fieri feci de bonis et cattallis *R. S.* infranominati residuum debiti infra contenti, Ita quod omnes denarios illos paratos habeo coram dño rege ad diem et locum infra content<sup>o</sup> infranominat<sup>o</sup> *H. W.* solvend<sup>o</sup>, prout interius mihi præcipitur.

Quoad fieri faciend<sup>o</sup> denarios infra script<sup>o</sup> virtute cujusdam *Superfed<sup>o</sup>.*  
brevis dñi regis de superfed<sup>o</sup>, mihi directi omnino superfed<sup>o</sup>, quod quidem breve de superfed<sup>o</sup>, huic brevi annex. vobis mitto; Et ulterius certifico, quod dictus, *I. C.* non aliqua alia vel plura bona seu cattalla, terras seu tenementa in eadem balliva mea habet, vnde denarij aliqui ad præsens levare possunt, &c.

*Aliter sur nihil habet.*

*Nihil.* **I**nfranominatus *R. B.* Miles nulla habet bona seu cattalla terr<sup>o</sup>. *Aliter.*  
aut tenementa in balliva mea vnde denar<sup>o</sup> infra spec. fieri facere possum, prout interius mihi præcipitur.

*A. B.* Armig<sup>o</sup> Vic<sup>o</sup>.

Infranominatus *R. B.* nulla habet bona seu cattall<sup>o</sup> terr<sup>o</sup> seu tenementa in balliva mea, vnde denarios infra specificat. fieri facere possum, prout interius mihi præcipitur; Nec dictus *R.* est inventus, neque est aliqua talis persona in balliva mea. *Aliter.*

*A. M.* infra scriptus nulla habet bona seu catalla infra ballivam meam de quibus executionem istius brevis facere possum, prout &c. Nec est inventus in eadem, nec aliqua terr<sup>o</sup> seu tenementa habuit infra eandem quinto die I. nec unquam postea prout patet in quadam scedula huic brevi consut. *Aliter.*

**And yet where there is found Assets by a Jury, There, upon a fieri facias directed to the Sherife, he cannot returne a nihil habet, &c. contrarie to the verdict of the Jury: see hic fol.**

# Retorna Brevium.

## *Restitutio sur Fieri fac'.*

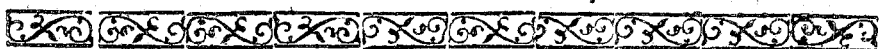
**I.** G. & alij infranominat. nihil habent, nec eorum aliquis nihil habet in balliva mea, vnde restitutio bonorum & cattal. infra script. infranominat. *W. M.* habere facere potui; Necnon xxiiij. f. infra script. eidem *W. M.* fieri facere potui prout &c.



## *Retorn' de Formedon.*

*Formedon.*

**I**n a Formedon, the Sherife returneth, quod nihil habet, &c. nec est inventus, &c. **this is no good returne, for in this writ the Sherife may summon him in (or vpon) the land demanded, whether he be tenant thereof or no.** Br. 62.



## *Retorn' de Grand Cape.*

*Grand Cape.*

**V**irtute istius brevis x. die M. anno infra script. per visum *R. H. & T. H.* proborum et legalium hominum de com' meo, capi in manus domini regis, terras infra script. prout interius mihi præcipitur.

Summon' *I. D. R. F.*

**And if this writ bee directed to the Sherife, and the place where it ought to be executed bee within a franchise, which hath full returne of all writs, then it must be thus.** Infra libertatem.

Executio istius brevis patet in quadam scedula huic brevi annex.

*Schedula.*

Ego *A. B.* Vicecom. com. Canteb. mandavi *I. W.* ballivo libertatis de *R.* in com. prædict. Qui habet plenum retur. omnium brevium, & executionem eorundem infra libertatem prædict. in com. prædict. Et ad quem execut. istius brevis totaliter pertinet faciend', pro eo quod dicta executio inde alibi in balliva mea extra dictam libertatē fieri non potuit, qui mihi sic respondet, &c.

*Aliter.*

Virtute, &c. capi in manus dñi regis per visum *R. H. & T. H.* probor. & legalium homin. de com. meo, de terris & tenemen. *I. M.* infranominat. ad valenc. \* vnus Messuagij, &c. vt in brevi infra content. (tali die et anno) juxta formam hujus brevis (vel, prout interius mihi præcipitur, vel prout istud breve in se exigit & requirit) vel

*Aliter.*

\* Tertiam partem messuagiorū, gardinorum, & cæterorum præmissorum, prout interius mihi præcipitur.

*Retorn'*



*Retorn' del Habeas Corpus, & Corpus cum causa.*

**V**irtute istius brevis vobis certifico, quod ante adventum istius brevis, virtute alterius brevis mihi prius directi, *A. B.* infra scriptus in prifona Castru domini regis de Canteb' extit', ac ibidem languidus & infirmus iacebat, et in eadem prifona adhuc languidus & infirmus iacet, ita quod ipsum ob mortis metum curare non possum, ideo corpus dicti *A. B.* ad diem infra content' habere non possum &c.

*Habeas corpus.*

*Languidus.*

Iustic' domini regis certifico, quod infranominat' *I. B.* adeo languidus in prifona domini regis Castru sui Canteb' in comit' *C.* varijs infirmitat' detent', Ita quod propter corporis sui debilitat', & mortis periculum, ipsum tute remove non possum, Ideo corpus ejus coram Iustic' infra script', ad diem et locum infra content', ad præsens habere non possum, juxta formam hujus brevis.

*Aliter.*

*Languidus.*

*A. B. armig' Vic'.*

*In these Writs there be diuers other manner of returnes,  
and diuers of them are in manner following.*

**V**irtute istius brevis vobis certifico, quod ante adventum istius brevis *W. B.* infra script' captus fuit in alio loco, et prifon' domini regis de *N.* commissus, virtute cujusdam alterius brevis mihi prius directi, cujus transcriptum vobis mitto huic brevi confut': Attamen corpus ipsius *W.* coram vobis prompt' habeo ad diem & locum infra content', prout mihi interius præcipitur &c.

*Aliter.*

*In prifona.*

Nos vic' præd. vobis significamus, quod ante adventum istius brevis domini regis nobis directi, & huic brevi confut', *I. F.* de *T.* in dicto brevi nominat' captus fuit in tali loco, & prifonæ domini regis de *C.* commissus, pro *xx. s.* de dampnis *T. C.* de *N.* in placito trñs, in cur' domini regis in dicto civitate *C.* coram nobis dict. vic' tent' adjudicat', Et similiter idem *lo.* detentus est in prifona præd. ad sectam *W. S.* in placito trñs corā nobis dict. vic' in cur' præd. habita & profecut': Attamen corpus &c. (vt in prox' returna ante &c.

*For trespass.*

Virtute istius brevis vobis significo, quod ante advent' ejusd'

*For felonie.*

*BREVIS*

## Returna Brevium.

brevi domini regis *R. A.* in dicto brevi nominat. capt. fuit in L. et prisonæ dñi regis de C. pro suspectione communis latronis commiss. Et ulterius idem *R.* detentus fuit in eadem prisona, pro eo quod ipse pro diuersis felonijs per ipsum factis et perpet. apud D. in hundred de A. indictatus est vt informatus sum; Et alia vice captus armatus apud I. in com' (tali) duct. fuit prisonæ domini regis, dictusq; *A.* eandem prisonam domini regis felonice fregit et ab ea recessit ut dicitur, Attamen corpus ipsius *R.* (vt supra &c.)

*Execution*

Virtute &c. vobis certifico quod ante adventũ ejusdem brevis *A. W.* infranomiñ per censuram ecclesiasticam, in ecclesia de N. (tali die et anno &c.) propter suam contumat. (vel similia) excommunicatus existit. ipseque *A.* per ordinarios sancti Martini Ecclesiæ instituc' in præmiss. adhuc restat in eadem cu' excommunicatus; Et hæc est causa captionis et detentionis p'd' *A.* attamen corpus ipsius *A. W.* coram domino rege ad diem et locum infracontent. ubicunque fuerit, habeo parat. prout &c.

*Counterfeit  
moneta*

Ante advent' istius brevis *C. D.* infrascript. fuit in tali loco et prisonæ dom' regis de R. commiss. p' suspectione contrafactioni monetæ regis, et ea de causa, et non alia in eadem prisona detentus est. Attamen ipsum *C. D.* coram vobis, ad diem et locum infracontent. prompt. habeo, prout mihi interius præcipit'.

*Murder*

*A. B.* captus fuit apud D. in com. E. per *H. S.* seneschallum *T. F.* et cor' præfat. seneschall' Hundred' tent &c. indictatus fuit pro morte *I. T.* per prædict' *B.* occisi, et per præf. seneschall' missus fuit prisonæ dñi regis de R. quod quidem indictament' reman' præf. seneschall'. Attamen corpus ipsius *B.* coram dom. rege in Cancell' sua ad diem in brevi isto content. ubicunque fuerit &c. habeo parat. prout istud breve in se exigit et requirit &c.

Sequuntur hic diversæ causæ super return' hujus brevis de corpus cum causâ inferend' &c.

*Si necesse fuerit causa captionis, et detention' A. B. de D.  
infrascript. hic subsequitur.*

*Felonie*

**A.** de *B.* captus est pro suspitione latrocinij, et quia non potest invenire sufficient. secun' ad legē dñi regis expectand', prisonæ domini regis de *B.* commiss. fuit et in eadem causa præmiss. detinetur: Attamen corpus dicti *A.* coram vobis &c.

*Account.*

*W. D.* infrascriptus captus fuit ante adventum istius brevis (in tali loco) et in prisona domini regis ibidem sub mea custodi' detinet'

detinet' pretextu cujusdam quærelæ in curia domini regis ibid' coram me præf. vic' super ipsum per nomen *W.* &c. ad sectã (ralis) in placito compot' affirmat', vnde in eadem cur' coram me dict' vic' partes præd. placitaveñ. et posuer' se super Iurat' patriæ in eadem cur', Et postea dictus *W.* de *D.* pro suffic' manucap' ad respond. præfat' (tali) de placito præd. dimiss'. fuit ad largum à prifona prædict'. Et quia dictus *W.* post manucapt' prædict'. ad judicium non reveñ custod', corpus ejus ad diem & locum infracotent' habere non possum.

Ante adventũ istius brevis *A.H.* & *S.* Auditores compotorũ *Aliter.*  
*W.* de *B.* mihi per indent' deliberaveñ corpus *R.S.* infra script', salvo et secure custodiend', quousq; satisfec' *W.* de *B.* de 200. l. arreñ super fiñ compoti *R.S.* per dictos Auditores invent' &c. Et hec est causa captionis & detentiõ ipsius *R.S.* attamen corpus &c.

Infrac' *J.C.* appellatus fuit apud *C.* coram (tali Iudice) per *Treason.*  
*W.* probatorẽ (tali die & anno) p diuersis pditionibus per ipsum perpetratis, & ex illa causa captus fuit in *C.* & commissus prifonã dom' regis de *N.* attamen corpus &c. ad diem & locum infracotent' prompt' habeo, put interius mihi p'cipitur &c.

*A.* filius *A.* de *B.* per nomen *A.* de *B.* ante adventum istius brevis vtlagatus fuit de felon' coram *P.S.* *R.T.* et soc' suis Iustic' dñi *Vilag'.*  
regis ad pacẽ in tali libertat', vel in com', conservand' : Et postea per pceptum dictorum Iustic' mihi modo direct' idem *A.* capt' fuit apud *D.* & causa p'põsita commissus prifonæ dñi regis de *C.* attamen &c.

Virtute istius brevis vobis certifico, quod *A.W.* infra script', *Supplicavit:*  
capt' fuit virtute cujusdam alter' brevis dñi regis vocat' supplicavit ad sectam *D.P.* diu ante adventũ istius brevis, & commissus prifonæ dñi regis de *C.* p eo quod non potuit suffic' invenire securitatẽ de pace gerend' erga dict'. *D.* et hac de causa & non alia in dict'. prifona detinet', attamen &c.

Aliter potest dici quod condempnat' in tali curia, ex cog- *Regula.*  
nit' sua propria, vel per taxationem suam per consuetudinem curiæ.

Ante adventum istius brevis, virtute cujusdã alterius brevis *Cap. vtlag'.*  
voc' *Cap.* vtlag. mihi directi, cujus transcr' vobis mitto præsentibus annex' : Cæpi *C.D.* infranom', ipsumq; prifona dñi regis de *C.* commisi & adhuc in eadẽ detinetur prifonã causa p'miss. attamen corpus &c.

# Retorna Brevium.

## *Other speciall returnes upon a Habeas Corpus.*

*Captus a  
satisfac.*

**E**GO *A. B.* armig' vic' com' Cant. domini regis ad diem & locum in brevi huic scedula annex' content' certifico, q' ante adventum ejusdem brevis *A. O.* in dict. brevi nominat' capt' fuit infra com' prædict. per *W. V.* armig. nuper vic' comit' prædict. & in prison' dicti domini regis Castri sui Canteb' in comitat. p'd' salvo custod', ejusdem nuper vicec' detent', virtute cujusdam brevis dicti domini regis de capiend. versus dict. *A. gen.*, teste apud Westmonasterium nono die Octob. anno regni &c. retorn' coram Iustic' dicti domini regis apud Westmonasterium à die sancti Martini in 15. dies tunc proxim' sequen' ad satisfaciend. *T. D.* gener', tam de quodam debit' de 40. l. quam de 30. s. pro dampnis, vnde idem *A.* coram præfat. Iustic' apud Westm' convictus fuit, cujus quidem corpus, sic capt. & in prisona præd. sub custod. dicti nuper vicecom. ea occasione existen' detent', ego præf. *A. B.* nunc vicec. com. præd. recepi de præd. nuper vic. in ejus exitu ab officio suo, & corpus ejus per me de præf. nuper vic' sic recept. in prisona præd. salvo custod. feci, quousque postea scilicet decimo die Decemb. anno &c. recepi quoddam breve dicti dñi regis de supersed. mihi directi, cujus quidẽ breve tenor sequitur in hæc verba *Iac.* &c. Virtute cujus quidẽ breve de supersed. p' eo quod non fuit aliqua alia causa detentionis p'd. *A.* dict. *A.* ad largum ire permisi, dict. breve de capiend. ad satisfac' in aliquo non obstante, p' per dict. breve de supersed. mihi inde p'cipitur, Ideo corpus p'd. *A.* corã p'f. dño rege ad diẽ & locũ in dicto breve huic scedula annex. content', parat. habere nõ possum, p' idẽ breve in se exigit & requirit.

*Superfed.*

*A. B. Armig' Vic'.*

*Captus in  
executione.*

**E**GO *A. B.* armig. vic. com. Cant. dño regi certifico quod corpus infranom. *R. T.* iacet sub salvo custod. mea in executione ad sectã *T. B.* p' 100. l. ret. corã Iustic. dñi regis apud Westm. à die sancti Mich. in vnum mens. Ideo corpus ejus ad diẽ & locũ infracontent' habere non possum, p' interius mihi p'cipitur.

*A. B. Armig. Vic'.*

**If a man be condemned in any court, and his body taken in execution, and then he procures any writ to the Sherife to remoue his bodie æt. the Sherife vpon such writ, ought to retorne**



turne the truth, sc. that his prisoner is condemned by judgement, or in execution, that so at the last the prisoner may be remanded. See Stat. 2. E. 5. ca. 2.

Ante adventum istius brevis mihi directi. infranominat' *H. H.* *Impris. per warr. del Iust. de P.* commissus fuit gaolæ domini regis Caltri sui Cantebri in comitat' infrascr' sub custod' mea. virtute cujusdam Warri *F. C. & I. W.* duorū Iustic' dicti domini regis ad pacem in com' prædict. conservand', necnon ad diuers. felon' transgri' & al' malefact. in eodem com' perpetri audiend' & terminand' assign', gereñ dat' tertio die A. anno infrascript', pro quibusdam transgressioñ & contempt' contra formam statuti pro punitione vagabond. & pro pauper' & impotent' edit', & hæc est causa captionis & detent' ipsius *H.* Corpus tamen prædict. *H.* ad diem & locum infracont' parat' habeo, prout interius mihi præcipitur.

*A. B. armig' Vic'.*

Ego *A. B. armig' vic'* com. *C. Iustic' infrascr'* certifico, quod *Captus per corpora R. T. et cæter' defend' infranominat' per me non capt' dar' vic'.* fuer', sed per *W. V. armig. nuper vicec' com. pd. p'decess. meum,* et mihi per ipsum minime deliberat' in exit' ab officio suo, Ideo corpor' eorum corā Iustic' infrascr' ad diē & locū infracontent' habere non possum, put interius mihi præcipitur.

*A. B. Armig. vic.*

Virtute istius brevis mihi directi mandavi ballivo libertatis *Mandavi ballivo.* *T. Episcopi E. ad capiend' & arrestand' infranominat' I. S. in forma infrascript', qui plenum habet retorn' omnium breviū & pceptoꝝ et executionū eorundē infra libertatē pd. Ac quod nulla execut' istius brevis per me fieri potest infra eandem libertatē; Qui quidem ballivus nullum mihi adhuc dedit responsum; vel sic, qui mihi respondit q' infranominat' I. S. non est invent' in balliva sua; vel sic, quod cæpit corpus infranominat' I. S. cujus quidem corpus ad diē et locum infracontent. parat' habet ad fac', ea omnia quæ istud breve in se exigit & requirit.*

Habeas corpor' Iuratoꝝ. Vide hic Retorn' de Venire *Habeas corpor' Iuratoꝝ.* facias.

Virtute istius brevis mihi directi, Iustic' infrascript. certifico, quod tali die et anno infrascript. habere feci *A. G. plenā seisinā de* *Habere fac. seisinam.*

## Retorna Brevium.

de vno messuag. cum pertiñ in S. infrascr', in omnibus ꝑut istud breve in se exigit & requirit.

**And the sherife in these cases is to put the partie in possession and seisin by a twig, clod, or the like, as it seemeth, Br. Rediff. 5.**

*Aliter.*

Virtute &c. tali die & anno infrascr', habere & assignare feci infranominat' A. G. plenariam seisinam, de manerio & tenemento infrascr. in loco convenienti, viz. de manerio de F. 20. acr' terræ, 100. acr' prati &c. cum pertinen. in F. &c. in com. infrascr', secundū formā & effectum &c.

*Aliter.*

Virtute istius brevis mihi directi 26. die O. anno infrascript. habere feci infranom' N. S. plenā seisinam de & in tenementis infrascr. cum pertinen. ꝑut interius mihi præcipitur.

A. B. Ar Vic'.

**Note that in an Habere facias seisinam, it is no good returne, that there is no such land &c. Br. Ret. 82.**

**Neither is it any good returne, that another is tenant of the land by right. Co. 6. 52.**

*Retorn' de habere fac. possession. cum fieri fac'.*

*Habere fac. possess.*

Virtute istius brevis mihi directi. vicesimo quarto die Maij, anno infrascript. habere feci infranominat. H. H. possessionē termini sui infrascript. de tenementis infrascript. cum pertineñ; ac etiam fieri feci de terris et catallis infranominat. W. W. xx. s. parcel' dampnorū infrascr', et denarios illos habeo coram Iust. infra. ad diem & locum infracontent. ad reddend. præf. H. H. ꝑut interius mihi ꝑcipitur.

A. B. Armig. Vic'.

*Habere fac' visum.*

Virtute &c. Iustic. infrascr' certifico, quod nullus ex parte R. S. venit ad ostendend. mihi visum de messuag. & pratis cum pertinentijs infrascr', Ideo ad executionē istius brevis per me nihil actum est ad præsens.

*Aliter.*

Virtute &c. Iustic. infrascript. ad diem & locum infracontent. certifico, quod tali die & anno, habere feci infra. J. F. & M. vxori

uxorie eius, visum de messuag. &c. infrascriptat. cum pertinen.  
Et dixi *A. B. C. D. E. F. G. H.* quatuor milit. de com. meo, qui  
visui illi interfuer, quod sint coram Iustic. prædict. ad diem et  
locum infrascriptat. ad testificand. visum illi, prout interius mihi  
precipitur.

Virtute &c. domini regis huic scedulæ annex. habere feci *I. Aliter.*  
*G.* in eodem brevi nominat. visum de lx. ac̄r pastur̄ cum pertin.  
in *G.* quas *H. F.* in cur̄ dom. regis coram Iustic. suis apud West.  
clam. ut jus & hæreditat. suam versus præd. *I. G.* per breve dñi  
regis in forma donationis in discend̄ : Et dixi quatuor milit. qui  
visui illi interfuer quod sint coram Iustic' dict. dom. regis apud  
Westm. ad diem in dicto brevi specificat. ad testificand. visum  
illi, put in eodem brevi mihi precipitur.

Nullus venit ad me ex parte infranominat. *R. F.* ad monstrād. *Aliter.*  
mihi visum de pastur̄ infrascriptat, ob quam causam visum de  
pastur̄ illi infrasc. *R. F.* habere facere non potui.

See plus hic postea tit. Bre de View.

**Note that upon a writ of View, it is a good returne,**  
Quod nullus venit ex parte petentis ad demonstrandum, (or  
ostendendum) sibi terrā, for the sherrife is not bound to know,  
nor to seeke the land. 14. H. 6. 20. et 32. H. 6. 27.



*Homine replegiand'.*

**V**irtute istius &c. domini regis interius nominat. certi- *Homine*  
fico quod nullum aliud breve, vel mandat' dict. do- *repleg'.*  
mini regis de repleg. infrascript. *I. C.* quam *W. S.* in-  
franomin. cæpit & capt. tenet, prout interius specifi-  
cat. quam istud breve de plu' repleg. præd. *I.* ad manus meas de-  
venit, nec mihi liberat. fuit, Nihilomiñ Iustic. dicti domini regis  
ulterius certifico, quod statim post receptionē ejusdem brevis ac-  
cessi ad prædict. *W. S.* de repleg. faciend. prædict. *I.* quam præd.  
*W.* mihi ostendere noluit, sed præd. *I.* ante adventum istius bre-  
vis ad loca mihi incognita elongavit, et post receptionem ejus-  
dem brevis, ipsa *I.* non est invent. in balliva mea, sic quod ali-  
quam repleg. ipsius *I.* juxta mandat. hujus brevis vlllo modo fa-  
cere non potui, put interius mihi præcipitur.

Nullum aliud breve præter istud de replegiand. infranomiñ *Aliter.*  
*D. G.* ad manus meas hucusque devenit, Et ulterius Iustic. in-  
frascript.

## Retorna Brevium.

frascript' certifico quod prædict' D. elongatus est ad loca mihi ignota, per infranominat' I. T. I. B. & T. R. per quod prædict' D. repleg' non possum, prout interius mihi præcipitur.

In a writ de Homine Replegiando, it is a good returne for the sherife to say, that the defendand claimeth the plaintife to be his villaine, per quod ipse ulterius facere inde non potest, &c. 8. H. 4. fol. 2.  
Br. 104.

And yet vide Fitz. fol. 66. f. & 68. b. that upon sureties found by the plaintife to yeeld his bodie, &c. hee shall have a speciall writ to the sherife to deliuer the plaintife, &c.

If the defendand claimeth the plaintife to bee his ward, (in a writ de Homine Repleg') it seemeth to bee a good returne for the Sherife, to say so; and the plaintife may have a speciall writ, &c. shewing that he holds the same land of the defendand in Socage, and not by knight service, commanding the Sherife to deliuer the plaintife, &c. and to take pledges of the defendand for his appearance, &c. and to answer the plaintife, &c. Fitz. 67. a.

In a writ de Homine Repleg' if the sherife returne that the defendand hath esloigned (or conueyed away) the body of the plaintife, so as he can not make deliuerance, &c. Then the plaintife shall haue a Capias in Withernam to take the body of the defendand, and him to detaine, &c. untill, &c. (be he a Peere of the Realme, or other common person:) And if the sherife returne non est inventus vpon this Capias in Withernam for the body; then the plaintife shall haue a Capias in Withernam of the goods of the defendants. Cap. in Withernam.

Retorn' brevis ad Inquirend' de Dampnis in breu' de Dote,  
vbi tenens obiit seistus: see hic antea Retorn' de Dote.

### *Retorn' brevis ad Inquirend' de Dampnis in breu' de Transgress.*

Executio istius brevis patet in quadam Inquisitione, &c.

Inquisitio indentat' capta apud W. in com' C. (tali die & ann') coram R. W. Armig' Vic' ejusdem com' virtute cuiusdam brevis dñi regis eidem Vic' direct', & huic inquisitioni consut', per sacrament' R. S. &c. (ad numeros 12. Juratoꝝ, Qui dicunt sup sacrament' suū, q' A. P. in breui huic inquisitioni consut' nominat', sustinuit dampna occasione transgressionis p I. H. in prædict' breui nominat', prout in eodē breui fit mentio, ad xl. s. Et pro misis & custagijs

custagijs ipsius *A.P.* per ipsum circa sectam suam in hac parte ap-  
positis ad xl. s. In cuius rei &c.

Executio istius brevis patet &c. (vt supra.)

Inquisitio &c. Qui dicunt super sacramentum suum, quod *Aliter.*  
*W.B.* in dicto brevi nominat', sustinuit dampna occasione trans-  
gres. in eodem brevi spec' ad viginti solidos, & pro misis & cu-  
stagijs suis per ipsum circa sectam suam in illa parte apponit' vi-  
ginti solid', In cuius rei testi'm &c.

Inquisitiones {  
 Upon an Elegit. See hic tit. Elegit.  
 Upon an Extent. hic tit. Extent.  
 To enquire of Damages. hic supra.  
 Upon a Partition. hic tit. Partition.  
 Upon a Recog. hic.  
 Upon a writ of Waste. hic tit. Waste.  
 Also see hic Proces retorn' out of the Exche-  
 quer.

Languidus in prisona. See hic antea fol.

*Languidus  
in prisona.*

*T.F.* infra scriptus nulla habet bona sive catalla in balliva  
mea de quibus denarios infra scriptos, aut aliquam parcellam in-  
de levare possum, prout interius mihi p'cipitur &c.

*Levari fac'.*

Virtute &c. capi in manus domini regis quoddam hospicium  
cum tribus shopis (in tali loco) ipsius *I.T.* infra script', quæ valent  
per annum ultra repris. x. s. Et quod prædict. hospicium cum  
shopis prædict. salvo custod', donec aliud a vobis inde habeo in  
mandatum.

*Aliter.*

Upon a Levari fac', if the sherife returneth, that hee hath  
levied x. s. of the summe &c. the which hee hath deliuered to  
the partie &c. this seemeth to be a good returne: and vpon  
this returne the partie may sue a Sicut Alias levari fac' Direc-  
ted to the sherife to leuie the residue, Fitz. 2 65. h.

*I.D.* infranominatus fugit ad libertatem *I.E.* arm', & conti-  
nue ibid. moratur, Ita quod ipsum capere non possum, this is a  
good returne. *Libertie.*

See plus hic.

## Retorna Brevium.



### *Retorn de Mandavi Ballivo libertatis.*

*Mandavi  
ballivo.*



Virtute istius brevis mihi direct. mandavi ballivo libertatis T. Episcopi E. ad capiendū & arrestandū infranominat. I. S. in forma infra script. qui plenum habet retornū omnium brevium & præceptorū, & executionū eorundē infra libertatem p̄d. Ac quod nulla execut' istius brevis per me fieri potest infra eandē libertat' : qui quidem ballivus nullum mihi adhuc dedit responsum, vel sic, qui mihi respond. quod infranominat' I. S. non est inventus in balliva sua; vel sic, quod caput corpus infranominat' I. S. cujus quidem corpus ad diem & locū infracontent' parat' habet ad fac' ea omnia quæ istud breve in se exigit & requirit.

*A. B. Armig. vic'.*

*Mesne.*

In a writ of Mesne the proces at the common law was only a Distri infinite, in the same countie where the land lyeth; but at this day the pl̄ may chuse whether he will sue by proces at the common law, scz. Distri infinite; or by proces which is given by the statute of 13. E. 1. scz. summons, attachment, and the great distresse, which shall have day of returne by such time, that two counties may be holden, in which two counties the sberife shall cause to be proclaimed solemnely that the Mesne do come at the day contained in the writ, to answer the plaintife &c. and if he come not, and the sberife returneth the writ accordingly, then the Mesne shall lose the services of the plaintife &c.

*Fitz 137. b.*

*13 E. 1. c. 9.*

### *Retorn' super breve de Ordine Militari recipiend'.*

*De ordine  
milit' recipi-  
end'.*

Virtute istius brevis tam infra libertates quā extra, per totā ball' meā, publicè p̄clam̄ feci, q̄ omnes & singuli p̄son̄ terit' & redd' ut infra script' est habent', (quorū nomina in quad' scedula huic brevi annex. sunt script') ad præsentia dñi regis circa festum infra spec' personaliter compareant, & accidant ad p̄f. ordinē recipiend. prout interius mihi præcipitur,

*Milit' par-  
liament'.*

Eligend. Milit' Parliamenti. See antea fol. & hic postea fol.

**This**

Fitz. 78. a

This writ may goe out to the Sherife to hold plea of the matter in his countie, or it may be returnable in Banco. *Nativo habendo.*

Fitz. 77. a. c

Upon this writ sued out by the Lord and directed to the Sherife, the Sherife may seise the villeine (if he can) & may deliuer him to the Lord, if the villeine shall confesse to the Sherife that he is a villeine; but if the villeine shall alledge to the Sherife that he is a free man, then the Sherife may not seise him, but then the Lord must sue out a writ called a Pone, to remoue the plea before the Justices of the common Bench.

Fitz. 77. d

Also where the villeine shall purchase a writ de Libertate probanda, the Sherife is to proceed no further in the writ de Nativo habendo, for the writ de Libertate probanda, is as a Superfedas, and to adiozne the record &c.

Admeasurent de } Dower, the plaintife shall haue the like  
                          } or } judgement, as if the writ had  
                          } Pasture } beene returned serued.

Affise, the Affise shall be taken.

Briefe de Gard, the plaintife shall haue judgement as if the writ were serued.

Briefe de Mesne, Proces shall goe out to foreiudge the Mesne.

*Sur Nihil  
retorne  
in*

Quare impedit, Vide hic, Returne of a Quare impedit.

Scire facias, Two Nihils returned doe counteruaile Scire feci.

Upon a Scire facias to execute a judgement in Debt, *2.H.7.3 a*

Trespasse, or Annuitie, if at the first day the Sherife shall returne Nihil, the pl<sup>r</sup> shall haue execution.

In an Accompt, the defendant was outlawed, and obtained his pardon, and had a Scire fac' against the plaintife, who was returned Nihil, and the pardon was allowed vpon one Nihil returned &c, *21.E.3. Br. Retor<sup>r</sup> 109.*

Scire fac' vers executors, sur deux Nihils retorne, ils ferra con- demne, & charge de leur proper biens. *Co. 5. 32.*

Briefe de Wast, The plaintife shall haue judgement, as if the writ were serued.

# Retorna Brevium.

Retornū brevis si defend. sit insuffic' &c.

Pleg' de proseq. *I.D. R.R.*

*In Det* Infranominati *A. B. & C. D.* nihil habent in balliva mea per Nihil.  
quod suū possunt, **(if it be in Debt.)**

*In trespass.* Infranominati *H. B. & C. D.* nihil habent in balliva mea per q̄  
attachiari possint **(or potest, if but one defendant.)**

**Note if there be no mo defendant's than two, then you  
must name but one,** & ceteri defend' infranominati, nihil ha-  
bent &c.

*Sur Distr'.* Infranominatus *A. B.* nihil habet in terris, tenementis, & here-  
ditariā infrascript', per quod ipsum distringere possum.

**Or thus;** Nullum tale maneriū, neq; vlla terr' sive tenēta cog-  
nita per nomen de *E.* iac' in com' Cantabr. vnde tenentes inde  
distringere possum, ꝑut interius mihi præcipitur.

*Sur Fieri  
fac'.* Infranominatus *R. B.* miles nulla habet bona seu cattalla, terr',  
aut tenēta in balliva mea, vnde denar' infrasp' fieri fac' possum,  
ꝑut interius mihi ꝑcipitur.

*Sur Scire:  
fac'.* Infranominatus *A. B.* nihil habet in balliva mea per quod ei  
scire facere possum, neq; est inventus in eadem.

*A. B. Ar Vic'.*

Plus hic fol.



*Partitio.*

*Retorna brevis originalis in partitio.*

Pleg. de proseq.  $\left\{ \begin{array}{l} I.D. \\ R.F. \end{array} \right.$

Summ' infranominat' *B. R.*  $\left\{ \begin{array}{l} W.H. \\ & E. vxoris ejus \end{array} \right. \left\{ \begin{array}{l} H.F. \end{array} \right.$

*A. B. Armig. Vic'.*

**Note that such a returne may be made in all other acti-  
ons reals, if the defendant be insufficient.**

*The returne of a Writ of Partition.*

*Partitio.* Executio istius b̄ris patet in quadam inquisitione huic brevi  
annex'.

Virtute



Virtute brevis dñi regis mihi direct', et huic particioñ Indentat' annex', Ego, *I. D.* miles Vic. com. prædict' xx. die *A. an.* &c. xx. assumptis mecum *I. S.* &c. xij. liberis & legalibus hominibus de com. meo, ac de visnet' infra. in præsentia *H. F.* in brevi prædict' nominat', in propria persona mea accessi ad tenementa in dicto brevi nominat', et ibid' p. eorū sacrament' (habito respectu ad verū valorē eorund' tenemētorū cū pertiñ) eadē tenemēta in pticionē in tres partes equales partiri feci, et vnā partē eorundē triū partiū, viz. xij. pedes in longitud', et xvij. pedes in latitud' messuagij in prædict' brevi specificat', extend' ad terī *F. G.* vocat' *B.* versus le West, et xxxiiij. pedes in latitud', et xij. virgat' in longitud', et vnus Gardini in breve p̄d. specificat' eidem messuagio adiaceñ abbut' versus le West ad terī p̄d. *F. G.* vocat' *B.* et terī gleb' rectoř de *S. Necnon*, &c. Et ego præfat' vic' p̄d. xx. die *A.* anno, &c. ea deliberari et assignari feci *H. F.* in dicto brevi nominat', tenend. ei in separalitate, secundū formā & effectum brevis p̄d'. Ac prout idein brève in se exigit et requirit.

Quæ quidē integra tertia pars p̄d. tenementorū in p̄d. brevi specificat', p̄f. *H.* in forma p̄d. deliberat' et assignat' est, et quo ad duas partes residuū p̄d. tenementorū in brevi p̄d. specific'. *I. F.* in eodē brevi similit' nominatus, ad particionem p̄d. deliberād' et assignand', Iustic' dñi regis in brevi p̄d. specificat' certifico, q̄ nullus ex parte ipsius *I.* venit ad recipiend' de me præfat' vic' easdem duas partes. Ita q̄ duas partes illas præfat' *I.* liberare et assignare non potui, prout breve prædict' in se exigit et requirit. In cuius rei testimonium tam sigillum mei præfati vic. quam sigilla prædict. xij. Iuratoř, huic particioni Indentat. sunt appens. dat. die & anno supradicto.

*Aliiter.*

*Retorn' de Summon' Parliamenti.*

**E**Xecutio istius brevis patet in quibusdam Indenturis huic *Parliamenti.* brevi annex'.

*Retorn' de Summon' Milit' Parliamenti.*

**V**irtute, &c. sum feci *A. B.* Militem, vnum Milit' de com. meo gladio cinctum p. *B. T.* & *C. B.* quod sit coram Iustic' infra script' ad diem & locum infranominat', prout istud breve in se exigit et requirit.

Manu capt' infranominat' *A. B. B. T.* et *C. B. I. D. R. R.*  
Exitus cujuslibet eorum, xx. s.

*Retorna*

## Retorna Brevium.

Retorna Eligend' Milit' Parliamenti & Burgeff. See hic antea.

*Præmunire.*

**V**irtute istius brevis tali die et anno per I. S. T. W. R. T. et E. F. probos et legales homines de balliva mea, præmunire feci W. R. clerico infranominat', quod sit corā dño rege ad diem infracontent' vbicunque, &c. ad faciend' & recipiend' prout istud breve in se exigit et requirit; Et I. B. et ceteri defend' infranominat' nihil habent in balliva mea per q̄ eis præmunire facere possum ad præsens, nec sunt invent' in eadem.

*Precipe quod reddat.*

**In a præcipe quod reddat, it is a good returne for the Sherife, to say that the tenant is dead: 32.H.6.27.** Br. 125.

**In a præcipe quod reddat, the tenant auoucheth, and the Sherife returneth (vpon the summons ad warrantizandū) that the vouchee, nihil habet, nec est inventus, &c. this is a good returne: but otherwise it is in a Formedon, for that in a Formedon the Sherife may summon him in the land demanded, whether he be tenant thereof or no.** 14.H.6.20.  
Br. 62.

**In a præcipe q̄ reddat, it is no returne to say, that the tenant hath peelded the land: 2.H.7.Br. Retorn' 84.** Br. 84.

**In a præcipe q̄ reddat, if the Sherife shall returne the tenant summoned, where indeed hee was not summoned, whereby the tenant loseth his land by default, vpon the Grand Cape returned, the tenant shall haue his action against the Sherife for such his false returne.** Fitz. 97.c.

**Note that in a præcipe quod reddat, there ought to be two summoners, Plo. 393.a.**

*Proces.*

Returne de Proces Originall: scz. Capias, Alias, & Pluries: see hic antea Retorn' de Capias.

Retorn' de venire facias: see hic postea.

### Retorn' de breve de Proclam'.

*Proclamaas'.*

**V**irtute istius brevis mihi direct', ad comit' meum tenent' apud castrum C. in com' Canteb. infrascript xxj. die Martij anno xix. infrascript' proclām feci, Et ad maxime vsuale Ostium ecclesie de B. infrascr' super diem dominicū: scz. decimo die Aprilis anno regni dñi regis infrascr' Angliæ, &c. Vicesimo, immediate post diuinū servic', nulla p̄dicatio eadem ecclesia ad tunc ibidem existens, vno mense ad minus antequam infranom' W. quinto

## Retorna Brevium.

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quinto exact. fuit proclam feci ; Et ad general' Sessionem pacis tent. apud castrum Cantebri præd' in com. prædict. 4. die Maij, Anno vicefimo fupradiçt. in partibus de B. prædict. al' proclam feci quod infranominat' A. B. fe reddat mihi prout interius mihi præcipitur.

Vide Retorne de Proclam'  $\left. \begin{array}{l} \text{in Dower} \\ \text{fur Exigent} \\ \text{in Wast.} \end{array} \right\} \begin{array}{l} \text{hic antea fol.} \\ \text{hic poſtea fol.} \end{array}$

R.M. mil. Vic'

*Retorne de Pone, ſc. de remoue plee &c.*

*Pone.*

Pleg. de proſequend' I.D.R.F.

Infranominat. H.E. attach. eſt per pleg. N.F.R.D.

R.M. mil. Vic'

Infranomin. I. H. nihil habet in balliva mea per q̄ attachiari poteſt.

*Nota que cheſcū Pone eſt forſque ſummons.*

Virtute iſtius brevis mihi direct. poſui coram Iuſtic' dñi regis de banco apud weſtm. loquelā quę eſt in com. meo per breve dicti dñi regis, inter T.W. & H.B. de auerijs ipſius T.W. capt. & injuſte detentis vt dic' prout patet in quadam ſcedula huic bre-  
*Pone ſur re-  
pleg'.*

Summon' T.P.I.D.

Ad com. meum tent. apud C. 12. die A. anno regni dñi regis nunc &c. 20. T.W. queritur verſus H.E. de placito captionis & injuſte detentione auerioꝝ; Et ſunt pleg. de proſequend' et retorna habend. ſi ret. inde adjudicet' viz. I.M.W.F. In cuius rei teſtimonium I.K.B.C.D.G. & R.S. quatuor legales homines ex illis qui recordo illo interfueꝝ in plena curia illa eidem record' ſigilla ſua alternatim appoſuerunt die et añi ſupradiçtis.

*Scedula.*

12. E. 4. 11.  
Br. 103.

**In a Replevin a pone went out, and the plaintife was nonſuit in the Countie, yet by Cataſby, the ſherife may ſerue the Pone, but Maſt. Brooke maketh a quære thereof, for that by the nonſuit it ſeemeth there reſteth no thing (or plee) to be remoued ; But the ſherife may retoꝝne, quod ad proxim. comitatum &c. le plaintife ſuit nonſue, & ſic nul parol la.**

In

## Retorna Brevium.



### *Quare Impedit.*

*Quare Impedit.*

**I**n a Quare impedit, the Sherife returned nihil, vpon the summons, and vpon the attachment, and vpon the distresse, and it was holden that the plaintife should recouer, by the intendment of the statute made Anno Tamen Martin contr', and that the Sherife might haue summoned the defendant in the Church: vide

11. H. 6. 3.  
Br. 101.

**I**f the Sherife returne vpon a Quare Impedit, Quod quærens non inuenit plegios, then the plaintife may find pledges in the Common place, and shall haue a new Writ of Quare Impedit, and if the Sherife returne thereupon, Tarde, and the defendant appeare, and the plaintife bee demanded and comes not, the defendant shall not haue a Writ to the Bishop, for that no Writ was serued vpon the defendant.

Fitz. 38. o.

**I**f the defendant comes not at the distresse returned against him, the plaintife shall haue a Writ to the Bishop, without making any Title.

Fitz. 38. n.

*Quo Iure.*

Virtute, &c. tali die & anno, &c. Cæpi in manus dñi regis tenementa infra script' cum pertinent': Et vltorius eisdem die et anno scire feci, tam A. B. capitali dño immediat' feod' ten' infra script' cum pertinen', quam infra script' H. D. per probos et legales homines de balliva mea, quod sint coram Iustic' infra script' ad diem et locum infra content'; auditur' recogn' infra prout interius mihi præcipitur. Et vltorius eisdem Iustic' certifico, quod non est alius capitalis dominus feod' prædict' mediat', neque immediat', inter dominum regem, et infra script' A. B. cui scire facere potui.

### *Retorn' de Recordare facias Loquel' in Comit'.*

*Recordare.*

**V**irtute istius brevis mihi directi in pleno com' meo tent' apud C. in com' C. infra script' tali die et anno, recordare feci loquælam quæ est in eodem com' inter partes infra script', vnde interius fit mentio, quæ quidem loquæla patet in quadam scedula huic breui annex'. Et record' illud habeo coram Iustic' infra script' ad diem & locum infra content' sub sigillo meo, et sigill', W. H. T. R. &c. quatuor proborū et legalium milit' ejusdem com', ex illis qui record' illo interfuerunt. Et partibus infra script' diem illum præfixi, quod tunc sint in loquæla illa, prout iustum fuerit prosecutur', prout interius mihi præcipitur.

Ad

Ad com̄ meum tent' apud C. in com̄ p̄d̄ tali die & anno, co- *Scedula.*  
ram W, H. S. S. T. V. & A. B. quatuor sectator' curiæ p̄d̄, inter  
alia sic continetur.

R. S. quæritur versus I. T. de placito captionis & injuste deten- *Loquela.*  
tionis averiorum suorū contra vad' & pleg' &c. Et sunt pleg' de  
prof. Necnon de returū habend' si returū adjudicet'.

Pleg' de prof. I. D. R. E. In cujus rei, &c.

Virtute istius brevis mihi directi recordari feci loquælam quæ *Aliter.*  
fuit in com̄ meo, inter partes infra script', & eisdem partibus  
diem præfixi, essendi coram Iustic' infra script', ad diem & lo-  
cum infra content', prout istud breve in se exigit & requirit:  
Quæ quidē loquæla patet in quadā scedula huic brevi consuta.

A. B. quæritur versus C. D. de placito captionis, & injuste de- *Querel.*  
tentionis averiof suorū.

Plegij de proseq' &c. (vt supra.)

Virtute istius brevis recordari feci loquælam, quæ est in com̄ *Aliter.*  
meo sine breve domini regis, inter W. H. & A. D. de averijs  
ipsius W. H. captis & injuste detentis, vt dicit. Et record' illud  
habeo coram Iustic' infra script' ad diem & locum infracont'  
sub sigillo meo, & sigillis A. B. C. D. E. F & G. H. quatuor lega-  
lium militum de com̄ meo ex illis qui recordo illo interfuerunt,  
prout patet in quadam scedula huic brevi annex', secundum exi-  
gentiam istius brevis, &c.

Ad com̄ meum tent' &c. vt supra.

Virtute istius brevis mihi directi in pleno com̄ meo tent' a- *Querel.*  
pud castrum C. in comitat' Canteb. infra script' (tali die & ann') *Aliter.*  
recordari feci loquælam vnde interius fit mentio, quæ quidem  
loquæla patet in quadam scedula huic brevi annex'. Et recordum  
illud habeo coram Iustic' infra script' ad diem & locum infra-  
content' sub sigillo meo & sigillis W. H. E. R. &c. quatuor pro-  
borū & legaliū militum ejusdem com̄ ex illis qui record' illi in-  
terfuer' & partibus infra script' diem illum præfixi quod sint sibi-  
dē in loquæla ill' prout justum fuerit prosecutus, prout interius  
mihi præcipitur.

Residuū executionis istius brevis patet in quadā scedula huic *Scedula.*  
brevis annex'.

R. S. quæritur versus T. E. de placito captionis & injuste de- *Querela.*  
tentionis averiorum suorū.

A. B. Armig. vic.

Fitz. 18. c.

Note that in the writ de Accedas ad curiā, the sherife must  
take with him foure men: But in this Recordare fac' loquæ-  
lam, the sherife needs not take any with him: But both  
these

## Retorna Brevium.

**These writs must be returned vnder the seale of the Sheriffe, and the seales of foure of the suitors of the same Court,**

*Redessie fin.* **The Sherifes dutie in executing this writ : see hic fol.**

*Retorn' de Replevin sur Retorn' habend'  
Averiorum.*

*Repleg'.* **P**Leg' de prosequend' & de retorn' inde habend', si retorn' inde adjudicetur, I.D.R.R.

Virtute, &c. Repleg' feci infra scripto R. averia infra script', prout in isto brevi mihi præcipitur : Et vltorius infranom' dño regi certifico, quod nullum aliud breve de infra scriptis averijs repleg' vnquam præter istud breve mihi liberat' fuit, &c. **Quære if this last clause be good : see hic infra 28. H. 6. ad not' t.**

*Aliter.* Virtute, &c. ( tali die & anno ) repleg' feci R. B. infranominat' averia sua infraspecificat', quæ infranominat'. T. M. & R. S. cæperunt & injuste detinuer', secundum formã hujus brevis, prout interius mihi præcipitur. Et infra script' T. & R. attachiati sunt per centum oves præcij vj. li. per T. F. ballivum, per placitum, I. T. & R. M. Et infranominat' R. B. attachiat' est per dict' ballivum meum per tres vaccas præcij. iij. li. per plm prædict' I. T. et R. M. Et nullum aliud mandat' five breve dñi Regis præter istud breve de averijs prædict' repleg' ante advent' istius brevis mihi vnquam liber' fuit.

*Aliter.* Virtute istius brevis mihi directi deliberari feci infranominat' I. B. averia quæ T. M. cæpit, et eidem T. M. in curia dñi regis adjudicat' fuer', prout interius mihi præcipitur.

*A. B. armig' Vic'.*

**If the defendant hath retorne awarded him, and he sues a writ, de Returno habendo, and the sherife returns vpon the plur' : quod averia elongata sunt, &c. here hee shall haue a scire facias against the pledges, &c.**

*Plur' Repl'.* Virtute, &c. dño Regi certifico, quod post receptionem hujus brevis, per totam ballivam meam diligenter inquisivi, & nullo modo mihi constare potest, quod aliqua averia infranominat'. W. P. capt' fuer' & injuste detenta per infranominat', I. N. prout in breve supponit' ; Ita quod executio istius brevis secundum tenorem & effectum ejusdem per me fieri non potuit, prout interius mihi præcipitur : Et vltorius dño regi certifico quod nullum aliud breve de plur' repleg' præter istud breve mihi vnquam deliberat' fuit.

28.H.6.

**In a Replevin the Sherife returned (at the plur) q̄ nullus venit ex parte quei ad demonstrand' sibi averia ; And hee returned further quod nulla alia brevia, inde ad suas manus devenerunt, And it was holden an ill returne, and the Sherife was therfore amerced ; for it is a contempt in the Sherife if one writ comes to him, and hee returnes quod nulla alia brevia &c. 28.H.6. Br.9.**

Averia e' longat.

Ante adventum istius brevis, Averia & catalla infranom̄ K. quæ W. C. cepit & injuste detenuit, vt dicitur, Elongata fuerunt per prædict. W. C. Ideo præfat' K. averia & catalla sua prædict. Repleg' non possum &c.

Aliter.

Nullum breve de averijs infrascript' reple' præter istud mihi vnquam liberat' fuit. Et vltorius dño Regi certifico, quod ante advent' istius brevis averia prædict' elongat' fuerunt, & ad loca mihi ignota transmissa per infranom̄ I. T. Ita q̄ ea infrascript' W. nullo modo reple' possum, provt interius mihi præcipitur.

Aliter sur a. deliuerance.

Ante adventum &c. averia infrascripta per infranom̄ T.C. elongata fuer' ad loca mihi incognita ; Ita quod visum eorund' infranominat' A.H. et T.C. retornand' habere non potui, put interius mihi præcipitur.

Aliter in Cancel.

Virtute &c. dño Regi in Cancel' sua certif. q̄ averia & catall' per infranom̄ A.B. prius capt', elongata sunt ex com̄ infrasc' ad loca mihi incognita per infrasc' T. R. Quo averia & catell' pd. infrasc. R. retorn' non possum, put interius mihi præcipitur.

Aliter sur a. deliuerance.

Ante adventum istius brevis, averia infraspecificat' elongata fuerunt per infranom̄ I. M. ad loca mihi incognita sic quod averia illa infrascript' N. M. retorn' non possum, juxta formam hujus brevis.

*Retorn' præcepti sur second' deliuerance in Com.*

**P** Leg' de p̄seq. et de retoñ habend' &c. I.D. R. R.

Virtute &c. ego W. A. vnus ball' infrañ petij de I. T. & R. *Replevin.* N. infrasc' deliberation' de averijs T. B. infrascript' viz. de tribus bobus precij cujuslibet bovis xx.s. & duobus equis precij cujuslibet equi xx.s. & renuere inde facere deliberationem, & prædict. averia elongata sunt ad loca mihi ignota p̄ q̄ inde deliberation' facere non potui, put interius mihi p̄cipitur. Et p̄d' T. I. attach. est p̄ vnã crateram argenti, ad valenc' xx.s.

**Where the Sherife taketh insufficient pledges, de retorno habendo, they are as no pledges, Br. 2.** *Retorn' des Avers.*

**If a man hath a returne adjudged for him, this is no satisfaction for the thing for which it is awarded, but the defendant**



## Retorna Brevium.

endant shall retaine this as a pledge or gage vntill hee bee satisfied: But he hath not any proprietie therein, so that if afterwards sufficient amends shall bee tendred to him, hee ought to accept thereof, otherwise the plaintife shall haue a Writ of Detinue: Br. 6. 17.

*Nota ou le tenant offer le rent, ou amercement, tempore districtionis factæ, ou apres le distresse prise, et le Signeour refuse, il nauera Returne.* Br. 11.

If the Sherife, vpon the Repl' Sicut alias, or plur' shall retorne that hee hath sent to the baylife of the franchise, &c. who hath made no returne to him; or that he will make no deliuerance, &c. Then the plaintife may haue a Non omittas to the sherife, commanding him to enter the franchise, and to make returne: And if then the sherife shall not doe this, the plaintife shall haue an alias, and plur' &c. to the Sherife: And yet it seemeth that these returnes, scz. q. mandavi ballivo libertatis, &c. qui mihi nullū dedit respons. or that the bailife will make no deliuerance, &c. are no good returnes: for by the stat. of Westm̄ 1. c. 17. it appeareth that the sherife, vpon such returnes made to him by his bailife, ought presently to enter into the franchise himselfe, and to make deliuerance of the goods taken, &c. see the stat. 5 2. H. 3. c. 2 1. Fitz. 68. f. 3. E. 1. c. 17.

Note that there bee diuers manner of causes, which the sherife may returne vpon the pluries, for which hee cannot make Repleuie or deliuerance: see the Register, & Fitz. 73. g.

Also note that vpon these returnes following made by the Sherife, the plaintife shall haue a Capias in Withernam directed to the Sherife to take so many of the cattell of the defendant, &c. scz. if the Sherife vpon the Plur' shall Returne. Fitz. 68. g. Witherna.

1 Quod p̄d̄ B. averia p̄d̄ A. cap̄it et ea fugavit, de com̄ p̄d̄ in com' S. per q̄ ea eidem A. Repl' non potuit, &c.

2 Quod mandavit ballivo libertatis, de R. cui retor' breuiū, &c. qui respondit q̄ averia elongata sunt, &c. per q̄ non potest habere visum eorum; *Nec de faire deliuerance.* Fitz. 68. g. vi. Fitz. 69. b. & 74. a.

3 That he himselfe cannot haue the view of the beasts to make deliuerance.

4 That after the taking, &c. the defendant hath esloigned (or conueied away) the cattell out of the bailiwicke, whereby he cannot make deliuerance.

5 That the defendant hath esloigned the cattell to places vnknowne, by reason whereof he cannot haue view of the cattell to make deliuerance.

6 Quod mandavit ballivo libertatis, &c. who answereth that the defendant hath imparked the cattell within the Rectorie



**Rectorie of the Church of C. so as hee cannot make Delive-  
rance, &c.**

Br. 46. 103. **In a Repl' it is a good returne for the Sherife to say, that  
the defendant oz his bailife, oz seruant claimeth proprietie  
in the goods, &c. Sed nota que si le defendant in Repleg. clayme  
proprietie fauxment, et isint est irove in proprietate probanda, il  
serra fine, et imprison: Co. 8. 60. a.**

**In a Repl' it is no good returne to say that there are no  
such cattell, Br. 89. 5. H. 7. 27.**

Br. 89. **But the Sherife may returne, Quod averia sunt elongata,  
5. H. 7. 27.**

**Also the Sherife may returne, Quod nullus venit ex parte  
quærentis ad demonstrand sibi averia: Br. 9. 89.**

Br. offic. 10.  
Br. trns. 104 **The officer which maketh oz serueth a Replevin neede  
not serue it, but only of such cattell, &c. as the plaintife in the  
Replevin shall shew vnto him (as it seemeth:) And the offi-  
cer ought to take notice what and whose cattell, &c. they  
beene which hee shall repleuie at his perill.**

20. E. 4. 11.  
Br. 100. **If the Sherife returnes, Quod averia elongata sunt, ad loca  
incognita, this is a good returne: but if the returne be, ad loca  
incognita infra com meum. the Sherife shall bee amerced for  
such a returne, for he is to take notice of them, if they be  
within his Countie.**

Br. 125. **In a Repl' at the Pluries, the Sherife returneth that the  
cattell are dead, and it was holden to be a good returne.**

Br. 125. **If hee which is distrained, take his cattell againe, and  
yet sueth a Repleuie, the Sherife may returne the speciall  
matter.**

*Retorn' de breve de Rescous.*

**E**Xecutio istius brevis patet in quadam scedula huic brevi *Rescous.*  
annex'.

Virtute brevis domini regis mihi directi, & huic scedulae an-  
nexat', feci quoddam warrant' meū cuidam I. M. ballivo meo  
itineranti, ad capiend' & arrestand' E. G. in dicto brevi nominat.  
secund' exigenc' ejusdem brevis, qui quidem ballivus meus  
virtute warr' mei prædict', decimo die I. anno, &c. apud D.  
in com' C. prædict' caput & arrestavit corpus prædict' E. G.  
& ad tunc & ibidem ipsum E. G. in custodia sua habuit, super  
quo F. G. de C. prædict' in com' prædict' gen', & T. M. de eisdem  
villa & comitatu gen', ad tunc & ibidem vi & armis, viz. gla-  
dijs pugionibus, & baculis, in prædict' ballivum meum insult' fe-  
cerunt,

## Retorna Brevium.

cerunt, & ipsum ballivum meum ad tunc & ibidem, contra legem & consuetudinem regni domini regis Angliæ, &c. ac contra voluntatem ipsius ballivi mei, imprisonaverūt, & ipsum ballivum meum in prisona ibidem per spacium vnus horæ ad tunc & ibidem detinuerunt, & x. d. in pecunijs numeratis de bonis & catallis & denar ipsius ballivi mei à persona ipsius ballivi mei ad tunc et ibidem prædict. T. M. cæpit, Ac præfat. E. vi et armis prædict. ad tunc et ibidem à custod̄ dicti ballivi mei cæperunt et rescusserūt, Necnon eadem E. seipsam ad tunc et ibidē à custodia prædict. ballivi mei rescussit, contra voluntatem ejusdem ballivi mei, et contra pacem dicti domini regis nunc, &c. Et postea eadem E. non fuit inventa in balliva mea.

A. B. Ar'. Vic'.

### *Aliter per ballivum Hundred'.*

Virtute istius brevis feci quoddam warrant. meum W. H. ballivo hundred' de R. qui mihi sic respondit, quod vbi ipse virtute warr. prædict. decimo die A. anno, &c. apud C. in com̄ p̄d. cæpit quendam I. S. et ipsum vsque ad gaolam domini regis castri sui Canteb. ducere voluisset, ibidem salvo custod̄, illuc vener̄ quidam I. C. et R. S. cum plur. alijs ignot. vi et armis modo guerrino arreiat, et à custod̄ dicti ballivi apud, &c. prædict. I. S. cæperunt et abduxerūt, et ipsum I. S. evadere permiserūt. Et sic ob metu mortis sui ipsius I. S. evadere permisit, et ea de causa corpus prædict. I. S. coram domino rege ad diem & locum infracontent. habere nō possum, prout interius mihi præcipitur. Et vltorius certifico q̄ post prædict. decimū diem, &c. prædict. I. S. non fuit inventus in balliva mea.

A. B. Ar'. Vic'.

### *Aliter per ballivum libertatis.*

*Aliter.*

Virtute istius brevis, mihi directi mandavi I. S. ballivo libertatis de D. in com̄ p̄d. qui habet plenum retorñ omnium brevium, præcept. & warrant. sibi inde directi, Et qui tali die et anno apud P. in com̄ p̄d. T. S. in brevi huic scedulæ annex. nominat. et in eodem warr. sibi directo similiter nominat. cæpit et arrestavit et ipsum T. S. in custodia sua occasione prædict. ad tunc

et

et ibidem habuit et tenuit, ac quidam I. C. nuper de S. in com̄  
 prædict. husbandman agregat. sibi quam plur. al' malefact. ig-  
 not', pacisque domini regis perturbat', ad numerum vigint. per-  
 sonarū, modo guerriū arreat', vi et armis viz. &c. in ipsum bal-  
 livum ad tunc et ibidem riotose insult. fecerunt, et ipsum verbe-  
 raverunt, vulneraver' et malectraverunt, Ita quod de vita ejus  
 desperabatur, et quod I. C. et alij, &c. ipsum T. S. extra custođ  
 dicti ballivi, ad tunc et ibidem cæperunt et rescuss. et ad sui juris  
 ad largum ire permiserunt, contra voluntatem prædict. ballivi.  
 Ac idem T. S. seipsum extra custođ dicti ballivi ad tunc et ibi-  
 dem similiter rescussit, contra pacē domini regis nunc, &c. Et  
 postea idem T. non fuit inventus in balliva mea.

A. B. Ar'. Vic.

*Retorna brevis de Restitution.*

**V**irtute istius brevis mihi direct. ( tali die et anno, &c. infra- *Restitutions*  
 script' ) tenementū infra scr. cum partiū reseisivi et infra-  
 nominat. T. et H. plenam possessionem et seisinam inde restitui  
 prout interius mihi præcipitur.

*See* hic antea, habere fac. seisinam, et habere fac. poss.

*Retorna de Resummon.*

**E**xecutio istius brevis patet in quadam scedula huic brevi *Resummon.*  
 annex'.

A. B. Ar'. Vic'.

Nomina Iur'. xxiiij. Milit' vnde in brevi huic scedula annex'  
 fit mentio :

R. M. de N. Ar'.

T. B. de M. Ar'. &c. ( ad numerum xxiiij. )

Quilibet Iur' p̄d. separatim Resum̄ est per H. R. et M. N.  
 bonos summon̄.

A. B. Ar'. Vic'.

## Retorna Brevium.

*Sanctuarie.* Ante adventum istius brevis mihi direct' *I. S.* infranominat' intravit sanctuariã sancti *Petri* Westm̄ in com̄ Midd', et in codẽ com̄ adhuc moratur, per quod corpus prædict' *I. S.* coram Iustic' infra-script' ad diem et locum interius specificat' habere non possum prout, &c.

**Upon a Capias, the sberife returned that the partie was 6.H. 4. f. 3.  
 Uerger in the Church of Sarum, and abode within the pre-  
 cinct of the Church, and being a sanctuarie, he therefore re-  
 turned, non est inventus, and it was holden to be no good re-  
 turne, for that hee might haue serued this pzoelle in the  
 Church.**

### *Retorna de Scire Facias.*

*Scire facias.* **V**irtute istius brevis mihi directi, per *A. B. & C. D.* probos & Scire feci.  
 legales homines de balliva mea, Scire feci infranominat',  
*I. S.* quod sit coram Iustic' <sup>a</sup> domini Regis, (vel coram dño <sup>b</sup> Re- a Com̄  
 ge; vel coram <sup>c</sup> Baron' dñi Regis) ad diem & locum infra-script' Banco.  
 ad ostend' et proponend' si quid pro se habeat, vel dicere sciat, b Banco  
 quare, &c. (**according to the matter contained in the writ,**) Regis.  
 prout mihi interius præcipitur. c Esche-  
quer.

<p><b>Note that the appearãce Coram</b></p>	<p>Iustic' Dñi Regis, Domino Rege, Baron' Dñi Regis, Dño Rege, in Can- cellaria,</p>	<p><b>The court of Com- mon Pleas. The Kings bench, The Eschequer, The Chancerie.</b></p>
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### *Retorn' de Nihil, super Scire Fac'.*

**I**nfranominatus *A. B.* Nihil habet in balliva mea per quod ei Nihil.  
 Scire facere possum, neque est inventus in eadem.  
*A. B. Ar'. Vic'.*

Virtute, &c. Scire feci infranominat' *I. S.* & *I. D.* quod sint Sur appar'.  
 coram Iustic' dñi regis infra-script', ad diem et locum infracon-  
 tent', ad respondend' *R. H.* infranominat'.

Virtute, &c. Scire feci *T. A.* & *E.* vxori ejus infra-script', (per Ad audiẽd'.  
*A. B. & C. D.*) Quod sint coram dño rege, ad diem infra-script' Record'.  
 vbicunq; &c. ad audiend' record', & processum, vnde istud bre-  
 ve facit mentionem; Et vltorius ad faciend' & recipiend' (om-  
 nia & singula) prout istud breve exigit.

Virtute,

Virtute &c. scire feci, *W.B.* administrat' five executori bonorum & catall' quæ fuer' *T.P.* infranomiñ per *W.G. & G.K.* probos & legales homines de ball' mea, essendi coram dño rege, (vel Iustic') ad diem infranomiñ, Neq; sunt plures administr' aliquorum bonorū & catall' quæ fuerunt ejusdem *T.P.* in ball' mea, quibus aut cui ad p̄sens scire facere possum. *Vers Exec.*

Virtute &c. scire feci *T.V.* infranominat. quod sit coram Iust. infra sc̄r, ad diē & locum infracontent' per *I.S. & R.G.* ad faciēd' ea quæ istud breve in se exigit & requirit &c. *Aliter.*

Virtute &c. scire feci *W.C.* militi infrañ quod sit coram dño rege in Cancellar' sua ad diem infracontēt. vbicunq; tunc fuerit in Anglia, ad ostendēd' & p̄ponēd', p̄t istud breve in se exigit & requirit, per *I.M. & W.D.* p̄bos & legales homines ball' meæ, juxta form̄ hujus brevis. *In Cancellar'*

*Co. l. 16. a.* Virtute brevis istius mihi direct' 12. die Aprilis, anno regni dicti domini regis vicesimo supradict. per *I.B. gener' & T.W. gener'* probos & legales homines de balliva mea scire feci eidem *Tho. P. & Marg.* essēd' hic modo ad hunc diem, ad informand' dictum dominum regem & consilium suum, prout breve prædict. in se exigit & requirit, ac prout per breve illud mihi præcipitur fuit.

**In a Scire fac', It is a good returne that the partie is dead.** Br. 125.

**Upon a Scire fac', Two Nihils returned counterbailes** Scire feci. See Br. 101.

Returne de Scire fac' versus Clericū, vide hic fol.

*Retorna brevis de seifina.*

Virtute istius brevis mihi directi vicesimo die Octobris anno infra script', habere feci infranominato *N.S.* plenar' seifin de & in tenement' infra spec' cum pertinentijs prout interius mihi præcipitur. *Briefe de seifin.*

*A.B. Armig. Vic'.*

See plus in Retorn de habere fac' seifinam, hic fol. Et Retorn de Seifin in Dower.

**Note that in such cases, the partie which recovereth Dower**

## Retorna Brevium.

Dower &c. cannot enter, but must first haue seisin deliuered to them by the Sherife. *Pl. 529.b.*

And the sberife may put the partie in possession of seisin of house or land by a twig, clod, or the like.

Also if a man recouer rent, the sberife may put him in seisin thereof by *parol*, or by any parcell of the land out of which the rent is issuing &c. *Fitz. 179. b.*

### *The returne of a Significavit.*

*Significavit.* **V**irtute istius brevis mihi directi, capi corpus infranominat' *A. B.* cujus quidem corpus remanet in prisona domini regis castri sui *C.* sub salva custod' mea, donec Sanctæ Ecclesiæ tam de contēptu quam de injur' ei illat', ab eo fuer' satisfact', put istud breve in se exigit & requirit.

*A. B. Armig. Vic'.*

### *The returne of a Significavit with Proclamation.*

**I**nfranominat' *A. B.* non est inventus in balliva mea, sed virtute istius brevis mihi direct', in pleno comitatu meo tent' apud Castrum Canteb' in comitatu infrascript' decimo quinto die *I.* anno infrascript' publicè proclām feci quod prædict' *A. B.* infra sex dies proxim' post proclamationem illam, corpus suum reddat in forma infrascript' prout breve istud in se exigit & requirit.

*A. B. Armig' Vic'.*

*Secunda superoneratione* **By the Statute** *13. E. 1.* vpon a writ de Secunda super- *13. E. 1. c. 8.*  
oneratione pasturæ, the Sherife in presence of the parties being summoned (if they will come) shall inquire vpon the second surcharge, which if it be found, it shall bee returned (befoze the Justices) vnder the seale of the sberife, and the seales of the Juroz's.

Summons

Summons {  
 De Affises, hic fol.  
 De Sessions del peace, hic fol.  
 Coram Iust. de foresta, hic fol.  
 In Affise, hic fol.  
 In Attaint hic fol.  
 Parliamenti &c. hic fol.  
 In Wast, hic fol.  
 See plus hic tit. proces.

Summons.

*Retorn' de Tarde.*

**I**stud breve adeo tarde mihi deliberat' fuit, Ita quod propter *Tarde.*  
 temporis brevitatem exequi non potui, prout istud breve in se  
 exigit & requirit.

A.B. Armig' Vic'.

**B**ut note that if the Sherife returneth *Tarde*, where  
 he hath sufficient time to serue the writ, hee shall bee pu-  
 nished by force of the Statute of Westmin. 2. cap. 39. See  
 hic fol.

*Retorn' brevis orig. in transgress. si defend.  
 sit insufficiens.*

Pleg. de prosequend'. {  
 I. D.  
 R. R.

Tressas.

Infranominat. H.B. & C.D. nihil habent in balliva mea per  
 quod attach. possunt, (or potest, if it bee but against one de-  
 fendant.)

**A**nd if there be moe defendants than two, then you must  
 name but one, & ceteri defend. infranominat', nihil habent in  
 balliva mea per quod attach. possunt.

*Retorn'*

## Retorna Brevium.

### *Retorn' brevis ad Inquirend. de dampnis in transgress'.*

Executio istius brevis patet in quadam inquisitione huic brevis annex'.

*Cantebr.*

**I**nquisitio &c. qui dicunt super sacramentū suum quod *W.B.* in dicto brevi nominat' sustinuit dampna occasione transgress' in eodem brevi spec' ad xx.s. & pro misis & custagijs suis per ipsum circa sectam suam in illa parte apponit' xx.s. In cuius rei testimonium &c.

### *Retorn' de Venire fac'.*

*Venire fac'.* **I**nfranoninat' *I.B.* nihil habet in balliva mea per quod potest attachiari. *Nihil.*

Virtute istius brevis mihi directi venire feci coram domino rege apud Westmonast. ad diem infracontent' *I.B.* sicut interius mihi præcipitur.

*Nota sur ceo, si le defendant soit retorne Nihil al primes, donque isser Capias, Alias, Pluries, & Exigent.*

*Mes si le defendant soit retorne sufficient, & fait default, donque un Distringas serra agard.*

*Venire fac'  
Iurator'.*

Executio istius brevis patet in quadam pannella (or in quadam pannello) huic brevis annex'.

*A.B. Armig' vic'.*

Iuratoꝝ inter *A.B.* quærent', & *C.D.* defend. in placito transgressionis.

**Then write downe the names of twentie foure Iuroꝝ thus,**

*A.W.* de E. gener } & sic ad numerum 24.  
*F.C.* de W. yeoman }

Quilibet Iuratoꝝ prædict. per se separatim  $\int$  *I.D.*  
attachiatus est per pleg.  $\int$  *R.R.*

*A.B. Armig' vic'.*

**whercas**



37.H.6.f.12 Where the parties shall admit a Visne, although there be none such, the sherife cannot returne that there is none such, but shall make his panell de corpore comitatus.

And yet in an appeale, the sherife returneth Iur de Visnet' de D. and the new sherife returned vpon the Dist' that there is no such visne, and it was holden that he might so do, 3.H. 6.fol.58.

K. Retof 19.

Note that in a Venire facias Iuratoꝝ no issues shall be returned; but otherwise in a Distring', and Habeas corpus, and yet if vpon a Distring' Iuratoꝝ the sherife shall returne no issues, and a full Jurie shall appeare, it seemeth to be no error. See hic postea Issues vpon Iurors.

Vpon a Venire facias 12. liberos &c. the sherife returned Venire feci, & non executio istius brevis: And also he returned but twelue (whereas he should haue returned foure and thowtie) and for both these causes, he was caused to amend the same, 2.H.7.8.Br.84.

*Retorn' de Habeas corpor' Iuratoꝝ.*

Executio istius brevis patet in quodam pannello huic brevi *Hab. corp.* consut', vel annex'. *Iurat'.*

Iuratoꝝ inter A.B. quærent', & C.D. defend. in placito debiti &c.

Then write downe the names of the Iuroꝝ thus,

A.B. de S. gener' } & sic ad numerum 24.  
C.D. de F. gen' &c. }

Quilibet Iuratoꝝ prædict. per se separatim § I.D.  
manu capt' est per ¶ R.R.

In this writ there ought to be returned no issues; nor in a Decem. or Octo tales, there ought to be returned no manucaptors; And yet these things are vsed in diuers places, but are void, Kit. Ret. breuiū fol.20.

Note that vpon a Habeas corpoꝝ Iur', the sherife ought to returne them attached, and not to returne quod habet corpora eorum. 2.H.7.Br.84.

*Retorn'*

# Retorna Brevium.

## Retorn' Distring' Iurator'.

*Distring'  
Iur'.*

Executio istius brevis patet in quodam pannello huic brevi annex'.

And then retorne or set dowone the names of the Jurors, vt supra.

Manu captos Iurat' præd. § I. D.  
& eorum cujuslibet. § R. R.

Exitus eorum cujuslibet — — x. s.

*A. B. Armig. vic'.*

Note that in a Distring' Iurat' per omnes terras & c. the sherife ought to retorne issues &c. 2. H. 7. 8.

Note that in the first Venire fac' Iurat', it is not materiall to set dowone Manu captos, for that by such maineprise, you shall cause the Jurie to loose issues, which is not required at the first time. K. Ret' 208

In a Venire fac' the sherife returned the names of twelve onely, on the backe of the writ, and not in a scedule as the vse is: Also he returned Venire feci, and not Executio istius brevis & c. And it was agreed by all the Justices of both Benches, that they would not change the auncient course, for the mischief which might follow thereon; for if twelve onely shall be returned, no man shall haue a Jurie without a Tales, if any bee challenged; and therefore they caused the sherife to amend the retorne, vpon paine of americiament, and yet the writ is, Venire facias 12. liberos & legales homines & c. 2. H. 7. 8.  
Br. 84.

*Sur le Venire facias, forsque 23. sont retorne, & 12. de eux appare, & done leur verdict, ceo est error, vncore ceo est remedie per les statutes de Ieofailes, scz. de 32. H. 8. & 18. Eliz.* Co. 5. 36. & 37.

*Mes si sur le Venire facias nul retorne est indorse; ou que le vicont ne mit son nosme al retorne del Jurie; ou que le retorne del Jurie est per le Coroner, ou doit estre per le vicont; ou eon-verso: ceux cas ne sont remedie per aucun statute de Ieofailes, mes remaine rien amendable.* Co. 8. 162. & 163.

Upon a Habeas corpus Iuratorum, the sherife may retorne that some of them are dead, and it is good: And if a Distr', or Decem tales, shall goe out, the sherife may retorne that others of them are dead, and so vpon euerie writ. 20. E. 4. 11.  
Br. 114.

The

The Sherife may returne *Tarde*, upon the Distring' Iur' *Tarde*.  
 rat' : and upon the Decem Tales, and then the Jurie shall  
 loose no issues, quod Nota. K. 20.

*As*, Quoad distringend' I. M. & alios Iuratores infra script',  
 essend' coram Iusticiarijs &c. die & loco infra script', vobis sig-  
 nifico, quod istud breve adeo *Tarde* mihi liberat' fuit, quod il-  
 lud propter temporis brevitatem exequi non possum ad præ-  
 sens, Sed de novo apposui decem tales, vel Octo tales, (vt prox.  
 sequent'.) prout in isto brevi mihi præcipitur &c. A.B.C.D.  
 E.F.&c.

Sed quoad decem tam milites quam alios probos & legales  
 homines de visnetto infra content' inter Iuratores infra content'  
 ponend', Executio istius brevis patet in quadam scedula huic  
 brevi consut' &c.

Quoad distringend. R. L. & omnes alios Iurat' infra script' *Aliter*.  
 essendi coram Iustic' infra scriptis, ad diem & locum infra con-  
 tent', Istud breve adeo *tarde* mihi deliberat' fuit, quod propter  
 temporis brevitatem executionem inde facere non potui : Sed  
 quoad apponend' Decem Tales executio inde patet in quodam  
 Pannello huic brevi consut'.

Retor' de habere fac' visum. Vide hic antea. fol.

*Viem.*

Thel. 386.

Where a man (by his writ) demands a Carue of land,  
 the moyetie thereof may bee put in view, and good. 6. E. 3.  
 fol.

11 E. 3. F.  
 Dower 63.

Where a man demands a house, and ten shillings rent,  
 if nothing bee put in view but the house, it is not good.  
 5. E. 3.

If a man demands a Manor, and the tenements put in  
 view are but a house, and a Carue of land of another name  
 than the Manor is, it is not good. 6. E. 3. Fitz. Brief. 727.

Although there be more put in view, than is demanded,  
 yet it seemeth good. 18. E. 3. 22. Fitz. Brief. 357. but quere,  
 for the contrary is holden, 19. Ed. 3. f. Br. 468. 20. Ed. 3. fol.  
 Fitz. Breif. 373. 375.

Fitz. 54 55.

Note that upon the writ De vi Laica Removenda, *Vi Laica*  
 the Sherife ought not to remove the Incumbent, who *removenda*.  
 is in possession of the Church, bee in possession of right,  
 or of wrong; for the Sherife is onely to remove the  
 force, and is to suffer the Incumbent to enjoy his posses-  
 sion. And if the Sherife will remove, or goeth about  
 to remove the Incumbent who is in possession, the Incum-  
 bent

## Retorna Brevium.

bent shall haue a writ directed to the sherife, commanding him that he shall not remoue him &c. and if he hath remoued him, that then he without delay shall make him amends; and if the sherife shall not do this, the partie may haue an Alias, and Pluries, and an Attachment against the sherife.

*Vilariæ.*

*Retorne de Vilariæ. Vide Retorne de brieve de Exigent.*



*Wast.*

*Retorn' de summons in wasto.*

Pleg' de prosequend'  $\left\{ \begin{array}{l} I. D. \\ R. Ro. \end{array} \right.$

Summoñ infranoñ *I.S.*  $\left\{ \begin{array}{l} I. P. \\ W.F. \end{array} \right.$

*Proclama'.*

**E**T ulterius ego *A.B.* armig' vic' comit' infrascript' Iustic' dñi ni regis infrascript' certifico, quod post suñ prædict', scz. decimo die *A.* anno infrascript' existent' die dominico immediate post diuinum servic' in Ecclesia parochiali de *B.* infraspec', nulla prædicat' ad tunc ibidem existeñ, apud maxime vsuale ostium Ecclesiæ parochia' illius, infra quam quidem parochiam tent' infrascr', jacent & existunt, proclama' feci suñ prædict'. secundum formam statuti in hujusmodi casu ædit' & provisi.

*A.B.* Armig. vic'.

*Retorn' de breve de Vasto.*

Executio istius brevis patet in quadam Inquisitione huic brevi annex'.

**I**Nquisitio &c. qui dicunt super sacramentum suum prædictum quod *H.A. & I.* vxor ejus in dicto breui nominat', fecer' vastum, venditionem, & destructionem in omnibus in eodem brevispec', viz. permittend' vnam aulam præcij 40. s. duas cameras præcij 3. s. & vnũ stabulũ præcij 20. s. esse discoopertum pro defect' reparatiõ earundem domorum & per tempestates pluviales super ill' discendent' devener' putrid' & corrupt' &c.  
contra

contra formam provisionis in eodem brevi content'; Et ulterius Iur' præd' super sacramentum suum prædict' dicunt quod prædict' *A. & I.* aliud neque plus vastum, vendicionem, seu destructionem fecer' in domibus prædictis. In cuius rei testimonium &c. vt supra.

*A.B. Armig' vic'.*

Executio istius brevis patet in quadam inquisitione huic brevi annex'.

Inquisitio indentata capta apud G. (quod est locum vastatū) *Aliter* in comitatu C. (tali die & anno) coram *W.L.* vic' com' præd', virtute cuiusdam brevis domini regis eidem vic' inde dirigend' per sacrament' xij. Iuratoꝝ, qui dicunt super sacrament' suum, q' *R.M.* in dicto brevi nominat', fecit vastum & destructionē in bosco in quo in breve præd' fit mentio, & in bosco præd' succidit xx. quercos præcij cujuslibet xx. d. part' inde vendend', & partem inde asportand', in exheredationem *W.F.* infra. & contra formam provisionis in eodem brevi specificat', Et dicunt super sacrum suū q' præd' *R.* nullū majus vastum in bosco præd' fecit, put eis aliquo modo constare potest, In cuius rei &c.

Virtute istius brevis mihi directi, accessi ad locum vastatum *Aliter* in brevi isto content', prout interius mihi præcipitur, Et residuū execut' istius brevis patet in quadam inquisitione huic brevi annex'.

Inquisitio indentata capta apud F. in comitatu C. tali die & anno, coram *A.B.* vic' com' prædict', virtute cuiusdam brevis domini regis ei directi, & huic inquisitioni annex' per sacramentum *A.B. &c.* (ad numerū xij.) qui dicunt super sacrament' suū, quod *I.R.* in brevi præd' nominat' fecit vastū, venditionē, & destructionē, in ten't, terris, & boscis, in brevi præd' spec', viz. in permitteñd' aulam &c. in brevi præd' spec' discoopert', per quod grossum maeremium earundē domoꝝ per tempest' pluviales super illas descendentes, putrid' devenit &c.

27 H. 8. 13.  
Br. 2.

**In a writ to enquire of wast assigned in S. it is no good returne for the sherife to say,** quod accessit ad S. but hee must say, quod accessit ad locū vastarum.

40 E. 3 20.  
Br. 17.

**In a writ of wast, the sherife returned,** q' capit Inquisitionē die Sabbati proxima apud R. And for that he did not shew what Saturday (it was in certaine,) And also for that hee said not, Quod ivit ad locum vastatū, prout breve exigit, therefore the sherife was amerced, and a new writ awarded &c.

## Retorna Brevium.

The Sherife (in a writ to enquire of wast) ought to go to euerie place wasted, lying in severall townes, and there ought to make inquisition, and also ought to find the wast in certaine, scz. succidendo, so many oakes, & hujusmodi ad valenc' &c. Et permittendo vnam aulam & vnam cameram &c. & sic de singulis, and also must find the value. See Br. Wast 17 & Fitz. Wast. 51. 34.H.2.40.  
Br.16.

And yet where the wast is assigned in two or mo townes, the Sherife may cause the Jurie to go and see the wast in each towne, and may make his inquisition in one of the townes onely, or in any other towne twentie leagues from the place wasted, as it seemeth by the opinions of Thirne and Hanke, quære. 12.H.4.  
Fit. Wast 62  
Br. Wast 68.  
Br Rediff. 5.  
Co. 8. 152.

The sherife in this writ (to enquire of wast, which was assigned in two or three townes) returneth, quod virtute brevis prædict' in villa infra content' capit Inquisitionem, or he returneth Inquisitio capta apud A. (being one of the townes) and it appeareth not whether he (or the Jurie) came to all the townes, and therefore such returnes are not good. Br. Wast. 17.

For in such cases the Sherife ought to make his returne, Quod virtute brevis &c. Accessit ad loca or tenementa vastata, scilicet, to all the townes (in which the wast was assigned,) And at A. (being one of the townes) fecit Inquisitionem &c. 34.H.6. 1  
Br. Wast 17.  
Fit. Wast 58

Or the sherife may returne, quod accessit ad ambas villas &c. and that hee caused the Jurie to goe and see the places wasted; but he may returne the Inquisition to be taken at one place only. Br. Retor 39.

Note where the Sherife shall doe his office well in one towne, and not in the other towne (in this writ) a new writ must be awarded, and all shall be enquired of de novo, for all the Inquisition must be made all by one and the same Enquest, and all at one time, by the opinion of Thirne. 12.H.4. fo. 3. Br. Retor 39. & Wast 68.

It seemeth by mast. Fitzh. that the sherife in this writ to enquire of wast, may enquire of wast by the oath of sixe or eight persons, and is not bound to take twelue persons, for that this writ is awarded by office of the court, to enquire &c. Fitz. 107.c.

And yet by the statute made 13.E. 1. cap. 14. in an action of wast, first a writ of Summons shall be awarded, and if the partie (complained of, or against whom the writ is brought) come not in and appeare vpon the summons, hee shall Westm. 1.  
cap. 14.

shall be attached, and after the attachment hee shall be distreyned, And if he comenot in after the distresse, the Sherife shall be commaunded that in his proper person, he taking with him 12. &c. shall goe to the place wasted, and shall enquire of the waste done, and shall returne the Inquisition, and after the Inquisition returned, Judgement shall be given &c.

11. E. 12.  
17. alt. 45.  
51. 6.

11. H. 4.  
Br. Proces.  
37. & Off.  
et c. 34.

Note that by this statute the Sherife is made both a Judge and Officer, quod accedat ad locum vastarium &c. And therefore in a writ to enquire of wast, directed to the Sherife of land &c. within a franchise, the Sherife ought himselfe to enter into the franchise, & to execute this writ himselfe and if therein he shall retorne Mandavi ballivo &c. he shall be amerced.

And if he shall not enter the franchise and execute and serue this writ himselfe, but by the bailife of the franchise, it is erroneous; And yet if the Sherife shall returne, quod accessit ad terram, the other cannot assigne this for error, quod non accessit ad terram juxta returnum suum, for that he cannot contradict the record.

7. H. 7. 4.  
Br. Officer  
41.

Dyer 204.

Upon a Nihil dicit, in wast a writ went out commanding the Sherife, quod in propria persona sua accedat ad terram vastat' to enquire of the damages, and it was holden good (and not to enquire of the wast, for that was confessed) And here it is not necessarie that the Sherife should goe thither in person, according to the statute of Westm 2. for that is onely in vasto inquirendo, where the defendant maketh default at the distresse.

Retorna de Withernam.

Virtute istius brevis, Cæpi duas Ollas erreas, duas patellas erreas &c. de bonis et cattallis *I. H.* in isto brevi nominat' in withernam, et ea *W. B.* infranominat' deliberari feci, habend' eidẽ *W. B.* quousque p̄d' *I. B.* cattall' præd' *W. B.* deliberañ voluer, prout breve istud in se exigit et requirit: Et ulterius vobis certifico, quod præd' *I. H.* in isto brevi nomiñ null' habet alia bonz neque cattalla quæ in Withernam capi possint, aut per quæ attach. potest, juxta tenorem hujus brevis.

*Withernam*

Virtute &c. cæpi in withernam apud D. in com̄ infra. 2. vaccos &c. de auerijis infranominat' *I. D.* Et duas vaccas de auerijis *R. T.* infranominat', Quæ quidem aucria præd' abinde fugere,

## Retorna Brevium.

& duci feci in quoddam locum apud S. in Com'. prædict. salvo & secur' ibidem custodiend', secund' exigent' istius brevis, vbi averia prædict. incumbent, Et prædict. I.H. & R. T. nulla habent plu'r, siue alia averia ad præsens, in balliva mea, quo vlllo modo in Withernam capere possum, prout interius mihi præcipitur.

Virtute istius brevis capi duas vaccas, & duas boviculas, de averijs infranom' R.D. & duas vaccas, & duas boviculas, de averijs T.L. quos deliberari feci I.C. infranom', salvo & secure custodiend', quousque alia averia infra specificat' ipsius I.C. prius capt', & ad loca mihi ignota transmissa, deliberare possum, prout interius mihi præcipitur.

Infrascript' I.H. nulla habet averia in balliva mea quæ in Withernam capere possum, secundum exigentiam hujus brevis.

*Withernam.* **In a Repl. the sherife returned, Averia Elongata, wherupon there went out a Withernam, and the sherife returned, Quod non habet bona seu catalla infra &c. Nec est inventus in eadem, And thereupon a Capias went out, and the sherife returned Capi corpus, & quod languidus est in prisona, and thereupon went out a duces tecum, and the sherife brought the partie into the Court &c. Br. 100.**

*Sur le Withernam agard in le County, si le bailife retourne, que lauter party nad riens &c. il averia Alias & Pluries, & sic infinite, Et nul auter remedy la. Fitz. 74.c.*

*Mes sur Withernam retourne in Bank le Roy, ou Common Bank, si le vicount retourne que le party naver riens &c. il averia Capias agard vers luy, & exigent, & proces, de vtlary. Fitz. 74.d.*

**If a Plea of Withernam be in the County (by pleynt before the sherife, without the kings Writ) and the sherife commaundeth or sendeth to the bailife of a franchise, to make deliuerance or execution of the writ, and the bailife of the franchise, doth nothing therein, Then the sherife ex officio suo, (without any writ) may enter into the franchise or liberty, and make deliuerance of the cattle, and this the shereife may doe by force of the statutes made 52.Hen. 3. cap. 21. & Westmin. 1.cap. 17.**

Register 81  
b. Fitz. 68.f.

**See plus hic antea titulo Repleg'.**

*Retourne*





*Returne of Commissions, Writs, and Proceſſe  
out of the Chancerie.*

**V**irtute, &c. omnia brevia mihi deliberat' seu deliberad', coram Iustic' infrascript', apud Westm' in Octab' Sancti Hill' returnabil' sive returni, habeo coram Iustic' infrascript', apud Westm' die, &c. vna cu' omnibus executionibus eorundem. Et ulterius ad com' meum tent' apud Canteb' (tali die et anno) publice proclam' feci, q' partes in eisdem brevibus nominat', dies suos coram Iustic' apud Westm', ad praefat' terminu' conservarent, prout istud breve, &c. *Adiournmēs.*

*Certiorare.*

Virtute, &c. Omnia et singula indictamenta R. B. infranominat', coram dño rege ubicunque fuerit in Anglia, ad diem infracentent' mitto in quadam scedula huic brevi confut'. *Certiorare.*

*Certior' de Certifier Statt.*

**FIG. 144. c.** *Que il ad anterfois certisye ceo in le Chancery devant cest temps, come appiert per le Inrollment fait devant le maior, &c. cest bon Returne.* *Certior' de Certifier Statt.*

*Certiorare super Protection'.*

Virtute istius brevis domini regis infrascr' in Cancellar' sua, sub sigillo meo distincte et apperte certifico, q' Wil'. T. infranom' sub salvo custod', vitellac' et tuicione villæ castri Marchiar' dñi regis Callic', in obsequio ejusdem domini regis in S. praedict' consanguinij sui W. D. locum tenent' sui generali villæ Castri ac Marchiaru' praedict' juxta formam domini regis litterarum patent', per quas eodem domino rege praefat' W. T. in protectione et defensionem suam nuper suscepit, non moratur, sed moram trahit in Civitate London proprijs negotijs suis intend', &c. *Certiorare super Protection'.*

*Retorn'*

# Retorna Brevium.

## *Retorn' de Commission de Rebellion.*

*Commissio  
de Rebell.*

**D**omino Regi certifico quod tempore receptionis istius Cō-  
missionis, mihi et al' direct', infranominat' W.W. capt' et ar-  
restat' fuit per W.S. Mil' Vic' com' C. virtute diuersorum bre-  
vium eidem Vic' direct' & Gaolæ domini regis castri sui C. per  
eundem Vic' commissus fuit, in qua quidem Gaola ego p̄fat'  
I.W. p̄fat' W.W. virtute istius commissionis attachiari feci,  
prout interius mihi p̄cipitur: sed corpus ejus ad diem et locū  
infracontent' habere non possum quia idem W. in eadem Gaola  
sub salvo custodē dicti vic' ob diversis alijs causis ibidē detinetur.

### *A.B. Commissioñ.*

*Dedimus po-  
test.*

Virtute, &c. domini regis in Cancellariā suam certifico, quod  
A.B. infranominat' coram nobis sacrament' p̄stitit corporale,  
quod litteræ patent' (vnde infra fit mentio) ad manus infrano-  
minat' C.D. testatoris sui devenerunt; Sed per sacrament' suum  
dicit quod nihil de articulis & alijs circumstant' in eisdem lite-  
ris patent' specificat', coram se invent' fuit.

### *Responsum H.L. & I.D. Commis's.*

*Retorne dun  
Commissio.*

Virtute istius commissionis nobis directi, cæpimus responsum  
T.D. infranominat' super sacrament' dei Evangelium, quod om-  
nia in eadem responsione content' sunt vera, Quæ quidem re-  
sponsio sic capta, est huic commissioni annex' vna cum billa no-  
bis similiter in eadem direct', Et omnia alia quæ in eadem com-  
missione content', sive ad eandem pertinent, fieri fecimus secun-  
dum effectum et tenorem ejusdem, prout interius nobis p̄-  
cipitur.

### *The Returne of a Dedimus potestatem to take the Oath of a Sherife.*

**V**irtute istius brevis nobis directi tali die et añ, &c. infra scr' See plus  
hic fol.  
recepimus sacrañ infranominat' A.B. Vic' com' C. de offi-  
cio illo bene et fideliter faciend' juxta formam cujusdam sce-  
dulæ p̄sentibus annex' prout interius nobis p̄cipitur: Ac  
prout breve istud in se exigit et requirit.

*W.S. et } Commiss.  
B. T. }*

De

De Eligend' } Coronator.  
 } Milites Parliamenti.  
 } Burgenses Parliam̄.  
 } Viridar' Forestæ. } See hic antea.

Ante adventum istius brevis, et ante aliquam executionem *Ne Excas Reguū.* ejusdem A.B.C.D.E.F.&c. venerunt coram me I. D. Vicecomite S. et manucæperunt corā me præfat' Vicecom̄ pro L. M. videlicet quilibet manucaptorū prædict', sub pœna decē librarum, ꝓ idem L. citra craftinū animarū proxim̄ futur', versus partes transmarinas, ad aliqua dicti regis aut aliquibus de populis dicti dñi regis præjudicial' sive dampnosa ibidem prosequēd', seu attemptand' se non divertet, Nec quicquam ibidem prosequat', ꝓ in dicti dñi regis, seu populi sui præjudiciū vel dampnū, aut stat' regni nostri Angliæ evertionem cedere valeat, nec aliquem vel aliquos illuc mitter' ex hac causa: Quam quidem summam decem librarum ijdem manucaptores concesserunt, et quilibet eorum per se concessit de terris et cattallis suis ad opus dicti domini regis levar', si idem L. aliquid contra formā manucapc' prædict' fecerit, seu fieri fecerit, vel attemptaver' quoquo modo, Et hæc est tenor securitatis vnde interius fit mentio, Quam dicto domino regi in Cancell' &c. ad diem, &c. mitto.

Retor' super breve de Ordine Milit' recipiend' : See hic antea.

Retorū de breve de Præmunire : See hic antea. *Præmunire.*

*Retorn' de Proclamac' extra Cancellar'.*

**V**irtute istius brevis mihi directi publice proclamañ feci infra *Proclamac'.* ballivam meam quod infranominat' H. B. sub pœna legiancię suæ coram domino rege in Cancellar' sua infra script', ad diem infra content' compareat prout interius mihi præcipitur : Nec non dicto dño Regi certifico ꝓ infranom̄ H. B. non est inventus in balliva mea.

A. B. Ar. Vic.

*Retorn'*

# Retorna Brevium.

## *Retorn' de Recog' extra Cancellar'.*

*Recog'.*

**E**Xecutio istius brevis patet in quadam Inquisitione huic bre-  
vi annex'.

Inquisit' Indentat' &c. (vt ante fol ) Qui dicunt super sacra-  
ment' suū, q̄ E. M. in brevi prædict' nominat' die captionis hujus  
Inquisit' fuit possessionat' de diversis bonis et cattallis subse-  
quen', viz. de frument' vocat' Rye, ad valenc' x. s. de hordio ad va-  
lenc' &c. et de quibusdam vtenfilijs vocat' **houshold stusse** ad  
valenc' &c. Quæ quidem bona et cattalla ego præfat' vic' liberari  
feci prætat' R. per præciū p̄d̄, prout per breve prædict' mihi præ-  
cipitur; Et vltorius Iur' p̄d̄ super sacram' suū p̄d̄ dicunt, quod  
p̄d̄ E. die recogn', deb' in eodem brevi specific', seu vnquam  
postea nulla alia five plur' habuit bona aut cattall' terr', neque  
tenementa, in com' prædict', quæ R. W. in eodem brevi nomi-  
nat' liber' fac' possum. In cuius rei testimonium, &c. vt antea.

A. B. Ar'. Vic'.

## *Retorn' securitatis pacis.*

*Securit' pacis.*

**E**GO I. B. vnus Iustic' domini regis in com' C. de pace con-  
servanda assign' mitto coram domino rege in Cancellariam  
suam, tenorem securitatis pacis, de qua in dicto brevi fit mentio,  
sub sigillo meo, prout istud breve in se exigit et requirit, quæ  
quidem securitas huic brevi est consueta.

## *Retorn' de supplicavit.*

*Supplicavit.*

**E**GO I. D. miles vic' com' infra script', dño regi in Cancellar'  
sua certifico, q̄ ante adventum istius brevis A. B. in franomi-  
nat' capt' fuit in balliva mea, et in prisona dñi regis ibidē sub cu-  
stodia mea detent', virtute cuiusdam alterius brevis huic brevi  
consut', \* pro quo quidē, præfatus A. B. ante adventum istius  
brevis traditus fuit in balliva quibusdam B. B. C. D. E. F. & H. P.  
qui manucæperūt et quilibet eorū manucæpit per se pro præfat'  
A. B. sub poena x. li. quod ipse dampnū vel malū aliquod H. P.  
in dicto brevi de supplicavit spec' infra talem diem proximū fu-  
turum non fac', nec fieri procurabit quovismodo, Quas quidem  
x. li. præfat' manucaptor' concesserunt, et quilibet eorum per se  
concessit

\* Or, p̄ qui-  
bus quidem  
quærelis de  
minis, præ-  
fatus, &c.

concessit de terris et cattallis suis et cujusslibet eorum, ad opus dicti dñi regis levari, si dampnum vel malum aliquod eidem *H.P.* per præfat' *A. B.* aut per procuracionem suam interim eveniet vlllo modo, &c. Et hæc est secur' pacis quæ præfat' *A. B.* coram me invenit, &c.

Sub qua quidem balliva, præfatus *A. B.* permissus fuit ire ad *Aliter.* largū, extra prisonā prædictā, et postea ad custodiam meam non revenit, qua propter corpus prædicti *A. B.* coram dño rege ad diem et locum infracontentos habere non possum.

Ego, &c. Dño regi in Cancellaria sua certifico, quod *A. B.* in- *Aliter.* franominatus nullā mihi invenit securitatem pacis de qua interius fit mentio, sed in prisona dñi Regis sub custodia mea ad præfens residet.



Retorne de Proces, extra Scaccarium.

*Retorna de Capias, extra Scaccarium.*



Virtute istius brevis mihi directi Baroñ infra-script' cer- *Cæpi sã corā*  
 tifico, quod cæpi corpus infranominat' *I. R.* cujus cor- *pus, quã terr'.*  
 pus coram dictis Baronibus parat' habeo ad diem in-  
 fracontent' : Necnon vicesimo die *I.* anno, &c. in-  
 fra-script' cæpi in manus dicti dñi regis, nomine districtio-  
 nis, cert' terr' et tenementa infranominat' *I. R.* jacen' et existent' in *B.*  
 Annuï Valor' *C.s.* prout istud breve in se exigit et requirit.

*A. B. Ar' Vic'.*

*Aliter.*

Virtute istius brevis mihi directi, Baroñ infra-script' certifico, *Cæpi Ma-*  
 q̄ vicesimo die Marcij, anno, &c. infra-script' cæpi in manus dñi *nerium.*  
 regis infra-spec'. Maneriū infra-script' cum pertinent', prout in-  
 terius mihi præcipitur : Et si sit cum Inquisitione pro anni valo-  
 re, tunc sic breve prædict' retorñ est :

Residuum executionis istius brevis patet in quadam Inqui-  
 sitione huic brevi annex'.

*A. B. Armig' vic'.*

Inqui-

## Retorne de Proces,

*Inquisit'.*

Inquisitio Indentat' capta apud C. in comitat' prædict' secundo die Martij Anno &c. Coram A.B. Añ vicec' Com' prædict' virtute brevis dñi Regis mihi directi & huic Inquisitioni annex' per sacram' A.B.C.D. &c. (ad numerum xij. Jurat') Qui dicunt super sacrament' suū, Quod &c. (*as the matter is.*)

*Canteb.*

*Aliter capi corpus.*

Virtute istius brevis mihi directi, cæpi corpus infranominat' I.S. cujus corpus coram Baroñ infrafc' parat' habeo, prout interius præcipitur mihi.

*Capi in manus domini Regis.*

Virtute istius brevis mihi directi Baroñ infrafc' certifico; Quod secundo die M. Anno regni dñi Regis infrafc' &c. decimo nono; Ego A.B. Añ vic' com' C. infrafc' cæpi, resumpsi, & in manus dñi Regis seivivi, Omnia Tenementa, shopas, gardina, & omnia alia pertiñ, virtute brevis p̄d' resumend' quæ patent in Inquisitione huic brevi confut'.

*Retorn' de seisure in Scaccar', nomine districtionis.*

**V**irtute istius brevis mihi directi secundo die M. Anno regni dñi Regis infrafc' decimo nono, in manus dñi Regis seivivi manerium de S. infrafc' cum pertiñ in S. in com' infrafc'; quod quidem manerium est clari annui valoris in omnibus exit' vlti' repris. xx. s. de ter' P.B. in sced' huic brevi annex' nominat'; Ac cæpi etiam in manus ejusdem dñi Regis vnum torment' vocat' a **Pewtronel** cum le flask & touchbox valor' x. s. nomine districtionis, de bonis & catallis I.C. in scedu' prædict' nominat', prout istud breve in se exigit & requirit &c.

*A.B. Ar' Vic.*

Virtute &c. Cæpi de terris & Tenementis infranoñ W. R. ad valenc' lx. s. quos habeo coram Baroñ infrafc' ad diem & locum infracontent', prout interius mihi præcipit', Et vltorius Baroñ infrafc' certifico, quod prædict. W. nulla alia sive plura terras neque Tenementa, bona neque catalla in balliva mea habet, vnde residuum debiti infrafc' fieri facere possum, prout istud breve in se exigit & requirit.

*Terra iacet in alia com'.*

Baroñ infrafc' certifico quod omnia ter' & Tenementa quæ fuer' infranoñ N.F. (aut a' antecessorum suorum) jacent in com' S. & non in balliva mea.

*A.B. Armig' Vic'.*

*Infra-*

Infranominat' *I.E.* non est inventus in balliva mea, nec habet *Scifure* no-  
vlla bona seu cattal' in balliva mea, sed virtute istius brevis mihi mine di-  
directi Baroñ infraſ. certifico, q̄ xv. die Iunij Anno xix. dñi regis ſtrictionis.  
infraſcript' cæpi in manus dicti dñi regis nomine diſtrictionis,  
vij. Meſſuag' ſive tenementa cū pertiñ in M. quę ſunt clari an-  
nui valor' l.s. Et vnum capitale Meſſ. ſive firmar' cum pertinent'  
in W. Annuivalor' quinque Marcarum.

*Aliter.* Infranominat' *A.B.* non est inventus in ball' mea, Et ulterius  
Baroñ infraſcript', certifico, q̄ virtute istius brevis mihi direct',  
tali die et anno infraſcript' cæpi in manus dicti domini regis  
vnū Meſſuag' ſive tenementum cum pertineñ in B. in com' C. in-  
fraſcript' annual' valor' x.li. vt de terris et tenementis infrano-  
minat' *A. B.* Nec non ſex vaccas, vnum Taurum, et vnum ſpa-  
donem præcij in toto viij.li. de bonis et cattallis ejuſdem *A.B.*  
nomine diſtrictionis, prout mihi præcipitur.

Quæ quidem omnia bona & cattalla penes me remanent in-  
vendit' pro defectu empt'. Et idē *A. B.* nulla alia ſive plura bona  
ſeu cattalla, terr' ſeu tñta habet infra ballivam meam, quæ in ma-  
nus dicti dñi regis ad præſens aliquo modo capere vel ſeiſire  
poſſum.

*Aliter.* Baroñ infraſcript' certifico quod virtute istius brevis mihi di-  
recti ij. die M. anno, &c. infraſcript', cæpi in manus dñi regis  
Manerium de S. cum pertineñ infraſ. prout, &c.

*ſcedula.* Reſiduum execut' istius brevis patet in quadam ſcedula (ſive  
Inquiſitione) huic brevi conſuta.

Inquiſitio Indentat' capta apud C. in com' prædict' ij. die *Inquiſitio.*  
Martijanno, &c. xix. coram me *I.H.* milit' vic' com' p̄d', virtute  
brevis dicti dñi regis clauſ. mihi directi, q̄ eſt huic inquiſitioni  
annex' per ſacrañ *I.D.R.R.* &c. proborum & legalium hominū  
com' prædict', Qui dicunt ſuper ſacrañ ſuum q̄ Manerium de S.  
cum pertineñ eſt annui valor' v.li. vltra omnia onera et reprif. In  
cujus rei teſtimonium, &c.

*Aliter.* Manerium de S. infraſp' jacet in com' E. et non in com' C. ideo *In alio Co-*  
tenētes inde diſtringere nō poſſū prout interius mihi præcipitur. *mitat.*

Infranominat' *E. S.* eſt vic' com' B. et eſt comorans in dicto  
com' B. et non eſt inventus in balliva mea.

Baroñ infraſcript' certifico q̄ ego *H.W.* miles modo ſum vic'  
com' C. Ideo meipſum diſtringere non poſſum, prout interius  
mihi præcipitur.

Infranominata dña *I. S.* Nihil habet in manerijs terris, et *Nihil.*  
tenementis infraſ. niſi cum *R.S.* milit' quem ipſa accepit in virū.

# Retorne de Proces,

## *Retorn' de distring'.*

*Aliter.*

**I**nfranominat' R. A. Nihil habet in terris, tenementis & hæreditamentis infra script', per quod ipsum, distring' possum.

*Aliter.*

Nullum tale manerium, nec vlla ter' seu tenement' cognita p nomen de E. Iaceñ in com' Cant' vnde tenent' inde distringere possum, prout interius mihi præcipitur.

*Aliter.*

Infranominat' I K. & R. R. Nihil habent, Nec eorum alter aliquid habet in balliva mea; Et vltorius Baroñ infra script' certifico, quod nulli sunt executor' vel administrat' bono' & cattallorum quæ fuerunt infranominat' M. K. vnde ipsos aut eorum aliquem distringere possum.

*Aliter.*

Baroñ infra sc' certifico, quod A. B. C. D. & ceteri personæ in quibusdam scedulis huic brevi annex' nominat', nulla habent bona seu catall' infra ballivam meam vnde seperialia debita super eos onerat', seu aliquem inde parcel', fieri facere possum. Nec sunt invent' nec eorum aliquis est invent' in balliva mea; Nec sunt aliqui exc' test' siue vltimæ voluntat' prædict. seperialium personarum neque administrat' bonorum & cattallorum quæ sua fuerunt, nec, aliqui hæred' seu tenent' terr' prædict. seperat' personar' siue eorum aliq. infra ballivam meam quæ distringere possum, prout istud breve in se exigit & requirit.

Residuum executionis istius brevis patet in quibusdam Inquisitionibus huic brevi annex'.

*A. B. Armig. Vic'.*

*Nihil.*

Inquisitio Indent' &c. Qui dicunt sup sacram' suū, quod A. B. C. D. &c. in sced' huic brevi annex' nomiñ seperat' diebus et annis quibus primo debitor' devener' dño Regi, seu vnquā postea hucusq; null' habuer' bona seu catalla terr' siue tenem' infra ballivā meam quæ extendi aut apprac' possint ad eorum noticiā. Et quod mortui sunt, quibus die & anno siue diebus & annis, ac vbi penitus ignorant. In cuius rei testimonium &c. vt antea.

*A. B. Armig. Vic'.*

Baroñ infra script' certifico quod P. M. I. S. & T. W. in scedula huic brevi annex' nominat', nulla habent bona seu catalla, terr' siue tenem', infra ballivā meā vnde seperialia debita super ipsos & eorum cujuslibet imponit' fieri facere possum: sed virtute istius brevis mihi direct' fieri feci de bonis et catall' H. L. T. K. & I. B. in dict' scedula nominat' seperat' summas super ipsos & eorum



eorum quilibet onerat', et denarios ill' coram Baroñ infraſcript' ad diem et locū infracontent' parat' habeo, prout interius mihi præcipitur. Et ulterius certifico quod I.B. E.A. et W.B. in dicta ſcedula nominat' alegaver' ſe habere exonerationes ꝑ ſeparat' ſummis ſuper ipſos et eorum quēlibet onerat', et pro eo accepti ab eis ſufficiē ſecuritat', et præfixi eis diem eſſendi hic ad Scaccarium dñi regis infraſcr' ad diem et locum infracontent', prout interius mihi præcipitur.

A.B.Ar'.Vic'.

*Retorn' brevis, de Quis eſt tenens.*

**V**irtute iſtius brevis mihi directi Baroñ infraſcript' certifico, *Quis eſt tenens.* ꝑ W.B. et M. vxor ejus ſunt tenentes tertiæ partis manerij infraſcript' in tres partes dividendū et C.A. M.E. et I.B. filia C.D. defunct', ſunt tenent' ſecundæ partis Manerij ꝑd', in tres partes dividendū, et tertia pars Manerij ꝑd' remanet in custodia dñi regis, ratione minoris ætatis P.D. fil' et hæred' prædict' C.D.

Manucapt' prænominat' W. ꝑ Io. Doo.  
B. et M. vxor' ejus ꝑ Rich. Roo.

A.B. Armig. Vic'.

Infranominat' W.B. et vxor ejus ſunt tenentes tertiæ partis *Aliter.* Manerij infraſcr' in tres partes diviſas: Et C. A. M. E. et I.B. filia C.D. defuncti ſunt tenentes ſecundæ partis manerij infraſcr' in tres partes diviſas, et alia tertiã pars manerij infraſcript', remanet in manu dñi regis ratione minor' ætatis T.B. filij et hæred' prædict' C.D.

Manuc' prænominat' W.B. et M. vxor' ejus I.D.R.R.

*Retorn' de venire fac' extra Scaccarium:*

*Et ceo ſemble deſtre verſus loſſicers del Corone, vel Scaccarij, et eſt in nature de Summons.*

**I**nfranominatus A.B. Nihil habet in balliva mea, ꝑ quod po- *Venire fac'.* teſt Attachiari, vel vbi eum Sum ꝑſſum.

Infranomñ A.B. attachiat' ꝑ I.F.  
eſt ꝑ pleg' viz. ꝑ R.D.

A.B. Armig' Vic'.

*Aliter ſcz.  
lou eſt ſuffic'.*

## Retorna Brevium.

*Si soit Comes  
aut Comitis-  
sa tunc sic.*

Exitus eorum, diñ marc'.

Et vltorius, si hæc verba recitantur in brevi (ne non ad ostendendum) tunc in quovis xx.s.

*Distring'.*

Infranominat' R. A. nihil habet in terr', tenem', & hæreditament' infra script', per q̄ ipsum distringere possum.

Nullum tale manerium, nec vlla terr' seu tenement' cognit' p nomen de E. jaceñ in comitat' C. vnde tenent' inde distringere possum, prout interius mihi præcipitur.

*Retorna de fieri facias ubi null' additio  
datur alijs deff.*

**B**aron' infra script' certifico quod sunt divers. personæ in com' meo nomiñ & cognominis de I. K. viz. I. K. de F. & I. K. de A. quod non continentur in isto brevi, Ita q̄ de cujus p̄d' I. K. & c. bonis & catta' denar' infra sp' fieri facerē Nescio. Ideo ad execut' istius brevis procedere non potui.

A. B. Armig. Vic'.

*Retorna brevis summ' coram Iustic' Forestæ.*

*Forestæ.*

**V**irtute istius brevis mihi directi sum' feci archiepiscop', episcopos, comit', Baron' & omnes alios liberos tenent' qui terr' & tenement' habent infra metas forestæ dñi regis infra script', in com' meo; & quatuor homines, & præposit' de quolibet villat' infra metas ejusdem forestæ, Ac etiam xij. probos & legales homines de quolibet burgo infra metas dict' forestæ tened', qui veni' debuerūt & solebant, quod sint coram Iustic' infra script', ad diem & locum infra content', prout interius mihi præcipitur. Publice etiam p̄clam' feci p̄ totam ballivam meam tam in burgis quam in alijs vil' ac in ferijs; mercatis, et alijs locis publicis quod omnes ill' qui p̄ cartam dñi regis nunc, aut antecess. vel progenitor' suorū, aut aliquo alio modo aliquas libertates seu Franchefias teneant, aut libertat' habere clam', & quo warf; quod sint coram dictis Iustic' ad diem & locū prædict', p̄clam' etiā feci quod omnes attach' p̄ vert' aut venatione in foresta p̄d' post vltimum placit' forestæ prædict' tent', & eorum pleg' & manucapt' qui habuer' diem p̄ manucaptionē prædict' essend' coram præfat' Iustic' ad stand' rect', & ad faciend' ea quæ secundum legem forestæ facere debent.

Reſi-

Residuum executionis istius brevis patet in quibusdam pannell  
huic brevi annex'.

A. B. Ar. Vic.

Le Pannell. *Anton' B. de C. generos. et sic xxiiij. for the grand Jurie,  
and twelue for the petite Jurie.*

Retorn' brevis de Eligend' viridar' foreste ; Vide hic an-  
tea fol.

*Retorn' de venditione expon'.*

Virtute istius brevis mihi directi de die in diem venditioni ex- *Venditione  
exponas.*  
posui illa bona et cattalla ad valentiam C. s. residuum de viij. li.  
quæ nuper de bonis et cattallis terris et tenentis T. F. infranomi-  
nat' capi, et inde vendidi ad valentiam xl. s. Quos quidem qua-  
dragint' solidos parat' habeo ad diem et locum infracontent' ad  
reddend' infranominat' C. D. prout interius mihi præcipitur,  
tunc ibidem solvend'. Et residuum bonorum et cattallorum præ  
adhuc penes me remanent invendit' pro defectu emptorum sed ven-  
ditioni apponam de die in diem, & quando vend' contiger', de-  
nar' inde provenient' coram Baroñ infra script' habebō secundū  
formam & effectum hujus brevis.

*Aliter.* Virtute istius brevis mihi directi de die in diem venditioni  
exposui illa bona et cattalla ad valentiam C. s. residuum de viij. li.  
quæ nuper de bonis et cattall', terris et tenementis T. F. infrano-  
minat' capi et inde vendidi ad valentiam xl. s. quos quidem xl. s.  
ad diem & locum infracontent' parat' habeo ad reddend' infra-  
nominat' C. D. prout interius mihi præcipitur, Et residuum bo-  
norum et cattall' præd. adhuc penes me remanent invendit' pro  
defectu emptorum.

*Aliter.* Illa bona ad valentiam viginti Marcarum infra script', quæ vir-  
tute brevis dñi regis nunc nuper mihi directi capi de bonis et  
cattallis terris & tenementis, quæ nuper fuerunt T. F. infrano-  
minat' venditioni exposui, & vendidi, & denarios illos coram  
Baroñ infra script', ad diem & locum infracontent' paratos habeo  
prout interius mihi præcipitur.

*Aliter.* Baroñ infra script' certifico quod ill' C. Oves in hoc breve *In manus le  
aunc' vic'.*  
spec' venditionis exponere non potui eo quod adhuc remanent in  
manus infranomin' R. N. nuper vic' com' C. & nunquā mihi præ-  
fat' nunc vic' adhuc per præfat' nuper vic' deliberat' fuer'.

*Aliter.* Virtute, &c. Baroñ infra script' certifico q' x. die A. & c. capi *Nondum in-  
veni Empto-  
res.*  
de bonis et cattallis terr' et tenementis infranominat' W. ad  
valorem

## Retorne de Proces,

valorem, &c. Et de bonis et cattall', terris et tenementis I. D. &c. ad valorem, &c. Et illa venditiõ exposui, ad quã nondum inveni emptores, et ideo denarios, &c.

*Mortui sunt.* A. B. & C. D. infranominati mortui fuerunt diu ante emanationem hujus brevis, Nec aliqua habere bona seu cattalla, terras seu tenementa in balliva mea quẽ extendi et appræciar' possum, prout per breve istud interius mihi præcipitur.

*Nihil fact' propter temp. brevii'.* Infranominat' A. B. & C. D. Mortui sunt: Et quoad residuum executionis nihil per me actum est propter temporis brevitatem.

*Scire fac'.* Virtute, &c. Scire feci I. C. infranominat' quod sit coram Baroñ infrascr' ad diem et locum infracontent' per I. S. et R. S. probos et legales homines de balliva mea; prout interius mihi præcipitur.

I. C. et ceteri deff' infranominat' Nihil habent in balliva mea *Aliter;* per quod eis Scire facere possum.

*Nul Exec'.* Nulli sunt executor' de E. infrascript', neque administr' bonorũ & cattallorũ quã fuerunt ejusdem E. nec hæred' neque tenent' terrar' et tenement' quã sua fuer', in balliva mea, quibus aliquo modo Scire facere possum. *Aliter;*

### *Retorn' brevis Collect' xv. 2<sup>o</sup> x. extra Scaccarium.*

*Collect' xv.* **V**irtute istius brevis mihi directi, Scire feci infranoñ A. B. ac etiam quã ex parte domini Regis fierint dedi in mandat' q̄ prædict' A. B. circa levacionem & collectionem sextæ quindecimæ et decimæ sex integrar' quindecimar' et decimar' infrascr'. Ac obligac' secundum formam stat' infrascrip' prædict' A. B. ostendi feci ipsum ex parte domini regis sigilland' & vt factum suum ad vsuñ ejusdem domini regis deliberand' *scz.* dedi in mandat', sed prædict' A. B. omnino eand' sigillare, vel circa collect' prædict' intendere recusavit, et adhuc recusat, in contemptu dicti domini regis, Ideo eandem obligationem ad diem et locum infracontent' habere non possum prout interius mihi præcipitur. Et ulterius certifico quod Scire feci infranominat' C. D. quod ipse circa levacionem & collectionẽ dict', sextæ quindecimæ et decimæ prædict', sex integrarũ quindecimarũ infrascript' diligenter intendat, Et obligationẽ secundum formam statuti infrascript' ab eodem C. D. recepi, et eandem in Scaccar' dicti domini Regis ad diem infracontent' certifico, prout interius mihi præcipitur.

A. B. Armig. Vic.

*Retorna*

*Retorn' brevis de respect' homag' al Distringas  
in Scaccario.*

Manuaptores infrañ A.B. } *10. D.  
R. Ro.*

*Resp. homag.*

Exitus——xx.s. *or according to the value of the land  
more or lesse,*

*A.B.Ar'.Vic'.*

*Quando aliquis ostend' vic' talli sua.*

**V**irtute istius brevis mihi directi baron' infra script' certifico, *Ostendit' vic'.*  
quod firmañ infranominat' post receptionem hujus brevis  
mihi ostend' talli sua, de solutione firmæ suæ interius specific',  
ob quod præfixi eis diem essendi coram baron' infra scri', ad faci-  
end' & recipiend' super tallia præd' juxta tenorem hujus brevis,  
Et ideo levatio sum' interius specific' super sed', prout interius  
mihi præcipitur.

*A.B.Armig' vic'.*

*Retorn' brevis ad proclam' vic' ad reddend' compotum  
suum per Coronatores.*

**V**irtute istius brevis nobis directi baron' infra script' certifi- *Proclam' vic'  
ad Redd'  
compotum.*  
camus, quod in plena com' C. infra script', tent' apud castru'  
C. in comitatu C. præd' vicesimo die A. anno & c. infra script', ac  
etiam in pleno comitatu prædict. apud C. p'd. decimo octavo die  
Septembr' anno & c. Necnon diversis vicibus postea in comitatu  
præd' articulatim proclamari fecimus omnia & singula articula  
quæ in isto brevi continent' & specificant', prout per breve istud  
nobis interius præcipitur.

*I.W. }  
W.R. } Coron.*

*Canteb'.*

Inquisitio & c. Qui dicunt super sacrament' suum, quod qui- *Inquisitio.*  
bus die & anno nuper comes H. obiit, & vbi penitus ignorant',  
quodq; ipse nulla habet bona aut catalla in com' præd' quæ capi  
ec

## Retorne de Proces, &c.

et in manus dicti domini regis extendi possunt : Et ulterius dicunt quod per Comes H. die quo obiit fuit seisis in domini suo ut de feodo, de et in manerio de C. cum pertinenti clari annui valor in omnibus exit' ultra repris. xxv. l. quod quidem maner' cum pertinenti ante advent' istius brevis ego prefas. vic' virtute alter' brevis extra hanc cur' emanent' et ex parte memor' dict' domini regis hujus Scaccarij affilat', seisis feci in manus dicti domini reg' per extent' per d', In cujus rei testimonium &c.

*Alias.*

Vicar' infrasc' cum pertinenti, in manus dicti domini reg' existit, sede Episcopi Eliens. modo vacante.

*Alias.*

Quod maner', terr', et tenita nuper D. domini de la Warr' in manus dicti domini regis existunt, eo quod T. W. miles modo dominus de la Warr', filius et haeres per d' D. non prosecutus est liberationem suam extra curiam dicti domini reg. wardos et liberac', In cujus rei testimonium &c.

*Inquisitio.*

Inquisitio &c. Qui dicunt super sacrum suum quod W. F. in scedula brevi per d' annex' nominat' mortuus est sed quibus die et anno aut ubi penitus ignorant quodque W. M. etiam in eadem scedula nominat' est residens in London, & I. S. est comorans apud B. in com' C. & R. A. in villa et com. H. extra com. C. et reliqui personam in eadem scedula nominat', Ita vagrant et discurrunt in com' predict' quod capi & arrestari non possunt. In cujus rei testimonium &c.

Inquisitio &c. Qui dicunt super sacrum suum quod H. S. in scedula huic brevi annex' spec' nulla alia sive plura habet maneria, terr', neque tenita in com. per d. propter & ultra maner', terr', et tenita in scedula brevi praed. annex' spec' extend', aut quae in manus domini regis seisis possunt. In cujus rei testimonium &c.

Inquisitio &c. Qui dicunt super sacramentum suum, quod I. W. in brevi per d. nominat' die captionem hujus inquisitionis fuit possessionat' de quadam dimissione pro termino viginti annorum unius messuagii &c. in A. in com. praed. cum pertinenti. annui valoris in omnibus exit' ultra repris. 4. l. quam quidem dimissionem ego praef. vic' die captionis hujus inquisitionis capi in manus dicti domini reg'. In cujus rei testimonium &c.

Retorna



*Retorna brevis extra Cur' Wardorū & Liberationū.*

**P**ost receptionem istius brevis, & ante retoriū ejusdem sepe-  
rales denar' summæ infra script' solutæ fuerunt p sepe-  
rales personas infranominat' receptori domini regis cur' suæ war-  
dorum & liberationum : Ideo ad executionem ejusdem brevis  
procedere non potui prout interius mihi præcipitur.

A. B. Ar'. Vic'.



*Returns concerning the old Sherife.*

**A**nte adventum istius brevis, I. C. miles nuper vic' com' C. *Cap. Vilag.*  
infranominat' T. D. cæpit & in prisona dñi regis penes se  
detinuit virtute cujusdā brevis dñi regis dicto nuper vic'  
direct', quæ quidem T. D. dictus nuper vic' vna cum dicto brevi  
ei directo, mihi I. D. mil' nunc vic' com' pd' in ejus exitu ab offi-  
cio suo deliberavit, cujus quidem corpus, ac breve dicto nuper  
vic' direct' Ego præfat' nunc vic' coram Iustic' infra script' ad di-  
em & locū infra content' parat' habeo, ad faciend' & recipiend'  
quod dictum breve in se exigit & requirit.

Istud breve prout superius indorsat' simul cum Inquisic' huic *Testific' res*  
brevis annex' vj. die *Ma.* anno regni dñi regis, & c. liberat' fuit mihi *nuper vic'.*  
A. B. Ar'. Vic. Canteb. infra scr' per *Io. C.* milit' nuper vic' com'  
prædict' prædecessoris mei, in ejus exitu ab officio suo.

*Ceo darein Retor' co'viet este escri en Romaine letters.*

**R**etoriū ad proclamand' vic' ad redd' Compotū : See hic an-  
tea *Retor' de proces hors del eschequer.* fol. 114.

Retoriū de Captus *per darein vic'* & minime deliberat' in exitu ab  
officio : See hic antea *Retor' de Habeas Corpus* 94.

Retoriū de exigent inter duos vicecom' : Vide hic antea *Re-  
tor' de Exigent* : fol. 90.

*Retorne, que les biens ( destre vend ) remayne in les mains del aune  
vic'* hic fol. 117.

Returne

## Returne of Iuries.



## Returne of Iuries.

*For the  
Assises.*



The Sheriffe is to summon and returne (oz to cause to bee summoned and returned) the grand Iurie to the Assises, the forme whereof see antea fol.

*For the  
Sessions.*

The Sheriffe is likewise to summon and returne the Iuries for the Quarter Sessions; the forme whereof see also antea fol.

*Coppies of  
pannellis.*

Sheriffes ought to array their pannells for the speciall Assises six dayes (at least) before the Sessions of the Justices, vpon paine of twentie pound: so that the parties plaintiffes, tenants, oz defendants may haue the view and coppies of the pannells, if they shall demand the same.

42.E.3.c.11  
6.H.6.c.2.

The which coppies of pannells shall bee indented by the Sheriffe, and deliuered to the plaintiffes, tenants, and defendants (vpon their demaund) six dayes before the Sessions, vpon paine to forfeit fortie pound for euerie default.

Also the Bailiffes of Franchises and Liberties ought to make their returnes to the Sheriffe (of the names of such persons as are to bee so impannelled) eight dayes (at least) before such speciall Sessions oz Assises, vpon paine of fortie pound to bee forfeited to the King for euerie default.

Ibid.

*Sans deno-  
mination.*

Jurores in inditements shall be returned by the Sheriffe, oz bailiffes of Franchises, without any denomination to the Sheriffe oz bailiffes before made, by any person of the names, which by him oz them should be impannelled (except it be by the officers of the said Sheriffe oz bayliffes, sworn & knowne to make the same, and other officers to whom it appertaineth to make the same according to the Law:) And if any inditement be made (oz taken) in any point to the contrarie, the same inditement shall be also void, reuoked, and for euer holden for none.

11.H.4.c.9.

Whereas diuers great inconueniences haue heretofore beene



beene, by reason that Sherifes and their ministers haue returned at the Assises and Sessions of the peace, the names of such persons as by labour would bee wilfully forsworne and periured, by reason whereof diuers persons haue beene wrongfully indicted of murders, felonies, and other misdemeaners; And sometimes diuers great felons and murders haue beene concealed & not presented, &c. Therefore by the statute made 3.H.8.c.12. It is enacted that all pannells returned, which be not at the suit of any partie, that shall be made and put in by the Sheriff or his officers, before any Iustices of Gaole deliuerie, or before Iustices of the Peace in their open Sessions, to inquire for the King may be reformed, by putting to, and taking out of names of the persons that be so impannelled by the discretion of the Iustices, before whom such pannells shall be returned: And that the same Justice or Iustices shall command euerie Sheriff, and their ministers (in his absence) to put other persons in the same pannells by their discretions: And the same pannells so reformed by the said Iustices to be good and lawfull. And if any Sheriff or minister doe not returne the same pannells so reformed, then euerie Sheriff or minister so offending shall forfeit twentie pound for euerie such offence, the one halfe thereof to be to the King, and the other halfe to him that will sue for the same.

*Reforme per les Iustices.*

Whereas before (by the statute of 13.E.1.c.30.) none were to be put in, or vpon any Iurie, other than those that were summoned to the same at the first.

27.Eliz.c.6. And if the Sheriff shall returne any Iuroz which was not lawfully summoned, warned, or distrayned in that behalfe, and that such person (for default of his appearance) shall loose or forfeit any issues, then the Sheriff (or his minister, by whose default such person shall be returned summoned) shall forfeit to the partie so returned, double the value of the issues by such Iuroz lost or forfeited for his default of appearance.

*Niet Sumō.*

Note, the law requireth that Sherifes, and other officers, shall be indifferent persons of themselves, & shall deale vprightly in returning of Iurozs for trials, & therefore the law doth not allow that Sheriff, vnder Sheriff, bailife of franchise coroner, or other person, as indifferent or meet to impannell any jury, who is a party to the suit or matter in question; or who doth maintaine either of the parties p<sup>r</sup> or defendant in the same suit, or is of counsell with either of them in that

*Partialtie del vicount.*

*Causes of challenge.*

Suit

## Returne of Iuries.

suit then in issue; Nor who is within the distresse, or receiveth the yearely fee, or weareth the liverie or robe of any of the parties to that suite; Nor who is of kindred by nature, or of affinitie by marriage, to any of the parties to that suit; Nor who doth returne that enquest, or any of the Jurors therein at the denomination, or by the procurement of any of the parties to the same suit, or of any other person whatsoever; Nor who doth impannell that enquest, or any of the Jurors therein, for the favour which hee doth beare more to the one partie than to the other, nor who was an arbitrator in that cause in question, and to bee in triall, and did treat & confer of the same; Nor who is then in suit of law with either of the parties to this question or triall, for any matter of trespassse, malice, or euill will; Nor who did baptise the child of any of the parties to this suit and triall, or any of the parties to the same suit did baptise his child: All which the law doth take as causes of suspicion of favour and affection in the sberife, his vnder sberife, or other officers; and to be mouers to periurie, and therefore vpon challenge of the array so being impannelled, and the same proued, the whole array shall be quashed.

*What manner  
of persons.*

And further, to the end and intent that all trialls might be by indifferent Jurors, therefore the lawes and statutes of this Realme haue provided, That no sberife or bailife shall impannell any enquest, nor put into any Jury, any persons but such as are next neighbours, and which haue best knowledge of the truth, most sufficient and most substantiall people, and worthy of credit, and not suspected, nor procured, nor laboured: And he that doth otherwise, and is attainted thereupon, shall pay vnto the plaintife his damages double, and shall be grievously amerced to the King: and besides the Sberife stands bound thus to doe by his oath:  
Artic. 14.

28. E. 1. c. 9.  
34. E. 3. c. 4.  
42. E. 3. c. 11.

If the sberife or bailife of a libertie shall returne a Iurie contrarie to the forme of these statutes, the parties plaintife, and defendant may haue their action vpon the statute against the sberife or bailife, &c. for that the statute is a prohibition in it selfe; or the partie plaintife may haue a writ, de non ponendis in Assisis, &c. (founded vpon this statute) directed to the sberife, commanding him to returne a pannel according to these statutes; and if the sberife will not doe accordingly, the plaintife may haue an attachment against the sberife, therefore see the forme of this writ, De non ponendis in Assisis: Register 178. et Fitz. 165.

Also

Fitz. 166. d. Also if the Sherife &c. shall retorne vpon a Iurie any persons which are not sufficient to passe in the same action &c. then such Iuroz may haue an action vpon the statute against the Sherife.

No Sherife, bailife of libertie, noz any other officer, shall retorne in any pannell of Iurie, any bailifes, officers, or ser-  
*Nul Officer del vicount.*  
vants to any Sherife, vnder Sherife, coroner, steward of franchise, warden of prisons, or other of their officers, vpon paine to forfeit forty pound, the one halfe to the king, the other halfe to him that will sue for the same.

*Vncore si le Vicount empanell ses amyes, et cosins, il n'e deins cest stat.*  
per Eliot 2 I. H. 7. fol. 36. a.

Doct. & St. 15.

Barons and Deeres of the Realme shall not be impanelled or returned vpon Iuries by the Sherife, Fitz. 165. & Co. 6. 53. & Co. 9. 49. *Barons.*

But euerie Baron of the parliament (aswell of the spiritualltie, as temporalltie) ought to haue knights returned of their Iurie, Fitz. Enquest 43. Co. 6. 53. 54. & Plo. 117. vide 33. H. 8. Br. Iurors 48. et 27. H. 8. Br. Enquest 99.

Fitz. 166. b.

Clerkes which haue lands or tenements by discent, or by purchase, may be impanelled, returned and swozne vpon Iuries, aswell as other lay persons (except when they bee in the kings seruice,) but this is now out of vse. *Clerkes.*

*Mes si le vicount retorne ascun seignior sur Iurie, sil ne appeare, il perd ses issues retorne &c.* Fitz. 166. 2.

*Il sint si le vicount impannell & retorne ascun Clerke, il couient appare, &c. autrement il perd ses issues &c.* Fitz. 166. b.

Fitz. 166. f.

Tenants in auncient Demesne (which are dwelling there) shall not be returned by the Sherife in any pannell for their lands within auncient Demesne: but for their other lands or tenements which they haue out of auncient Demesne, it seemes they may bee impanelled and returned by the Sherife. *Tenants in auncient demesne.*

34 E. 1.

Foresters, Verderors, Regardors, Agistorz, noz other ministers of the Forrest, the Sherife ought not to impannell or retorne any of them vpon any Iurie or Inquisition to be taken out of the same Forrest, Fitz. 167. a. *Foresters.*

Fitz. 167. a.

Coroners of the Countie, the Sherife ought not to retorne them vpon any Iurie, or Inquisition: but vpon Inquisitions to be made within their Countie befoze Commissioners, or Iustices of peace, the Sherife may retorne Coroners. *Coroners.*

Fitz. 165. d. 166. a. d.

Persons aboue the age of seuentie yeares are not to be returned by the Sherife or Baylife of liberties vpon Iuries; *Aged persons.*

## Returne of Iuries.

No persons being continually sicke, or being diseased at the time of their summongs.

*Alien.  
Enfant.  
Minister.*

No Alien, Enfant vnder fourteene yeares of age, Clergie men, or Ministers shall be impannelled: Lambt. 382.

*Hors del  
Countie.*

No persons dwelling in another Countie at the time of the summongs, shall be returned vpon any Iurie: But this Statute shall not extend to great Assises, in which it behooueth many times knights to passe, although they be not resident in the countrey (for the scarlitie of knights) so that they haue land within the shire.

*Fitz. 165. d.  
& 166 d.*

And such persons may haue their writ to the Sherife, commanding him that hee shall not impannell them: Or (without any such writ suing) they may haue their action vpon the Statute against the Sherife, wherein the partie griued shall recouer his damages, and the Sherife shall also be amerced to the King: see 8. E. 3. fol. 30.

*Fitz. 165. b.  
166. d.*

But yet they which doe purchase Charters of exemption and libertie. not to be impannelled (in Assises, Iuries, and Enquestes) if their oathes be so requisite, that without them Justice cannot be ministered (as in great Assises, perambulations, and in deeds or writings of couenants, where they be named for witnesses, or in attaints and in other like cases) they shall be compelled to sweare sauing to them at another time their foresaid libertie and exemption, Marl. 52. Hen. 3. 14.

*Alien.*

Also where an Alien is partie to any triall the enquest shall be de medietate linguæ 28. E. 3. cap. 13.

No Indictor shall bee put in enquestes vpon deliuerance of the Inditees of felonie or trespassse, if hee be challenged for the same cause by him which is indicted 25. E. 3. 3.

No indictments shall be made by any persons which bee outlawed, or which haue fled to sanctuarie for treason or felonie, but by enquest of the King, liege and lawfull people. 11. H. 4. cap. 9.

*11. H. 4. c. 9.*

*Probi  
&  
Legales.*

So that by this statute of 11. H. 4. c. 9. the sherife is appointed to return none vpon any inditement, but such as are Probi & legales homines: Probi, scz. such as are not discredited in law by attainder in conspiracie, attaint, decies tantum, subornation of periuurie, concealement or such like: Legales, scz. such as are not outlawed, abiured, condemned in a premunire, or attainted of treason, felony, or such like.

Likewise Jurors warned vpon triall, &c. they ought (by the Statute made 42. Edw. 3. cap. 11.) to be most worthy of credit, and not suspected: And (by the Statutes made

35. H.

## Retarne of Iuries.

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35. H. 8. cap. 6. & 27. Eliz. 6. ) they ought to be Liberi, & legales homines.

Also the Sherife nor his officers shall not doe well to re-  
turne or impannell wittingly vpon any Iurie, any person *Kindred.*  
who is neere of kindred or affinitie to either of the parties  
to that suit.

Nor any person who is seruant to either of the parties. *Servant.*

Nor any person who is within the distresse of either of *Deins distr.*  
the parties to the suit.

35. H. 8. c. 6.  
3. E. 6. c. 32.

Upon the triall of any issue ioyned in any of the Kings *Hundredors.*  
Courts at Westminster, the Sherife (or other minister to  
whom the making of the pannell shall appertaine) shall re-  
turne in euerie pannell vpon the venire facias, sixe sufficient  
hundredors (at the least) if there be so many hundredors  
within the said hundred where the \* Venue lyeth, vpon  
paine to forfeit for euerie hundredor that shall bee omit-  
ted in such returne of the number aforesaid twentie shil-  
lings.

But by the Statute of 27. Eliz. cap. 6. vpon the triall of  
any issue ioyned in any personall action, if two sufficient  
hundredors do appeare it is sufficient, so as no further chal-  
lenge for the hundred shall be admitted.

Note that hundredors bee men impannelled; or fit to bee  
impannelled of a Iurie vpon any controuersie, and dwel-  
ling within the hundred where the land lyeth, which is in  
question.

\* Also the word here before, Venue, Vicenetum, signifi-  
eth a neighbour or neere place, 1cz. the Sherife &c. shall re-  
turne, &c. sixe hundredors, &c. if there be so many within the  
hundred where the Venue lieth; that is within the hundred  
or place where the demand is made.

27. Eliz. c. 7.  
39. Eliz. c. 8.

No Sherife, Coroner, or other person to whom it shall *Addition.*  
appertaine to make returne of any writ, shall returne  
any Iuroz dwelling out of libertie, without the true ad-  
dition of his dwelling place, or of the place of his  
abode (at the time of the said returne, or within one  
yeare next before the making of such returne) or some  
other addition by which the partie returned may be knowne,  
vpon paine to lose five markes to the King, and five markes  
to the partie grieved.

27. Eliz. c. 7.

And the bayliffes of liberties, or their deputies shall cer-  
tifie and deliuer vnder their hands to the Sherife or his de-  
putie, the names of all persons within their libertie to  
be returned vpon any Iurie, with the true addition of their  
dwelling

## Returne of Iuries.

dwelling place or of the place of their abode, &c. as aforesaid.

And the Sherife, &c. shall not returne any Iuroz with-<sup>Ibid.</sup> in any libertie with other addition than such as shall bee deliuered to him by the Bailife of the said libertie, or his Deputie, certified vnder his or their hands, as aforesaid.

Also no extract of issues against any Iuroz, returned as aforesaid, shall be deliuered out, receiued, or put in vze, with-<sup>Ibid.</sup> out such addition as is put in the originall Pannell or Tales wherein such Iuroz shall bee so returned.

And no Undersherife, Bailife, or other officer or person<sup>Ibid.</sup> whatsoever, shall collect, leuie, or gather any issues so estreated of any other person or persons, than such person and persons, as by vertue of the said estreat is of right charged or chargeable with the payment of the said issues, vpon paine that euerie Sherife, Clerke, or other person offending contrarie to the true meaning of this statute, shall forfeit to the King five markes, and to the partie griued five markes.

*Their number.*

Now to shew how many the Sherife must returne vpon a Iurie; note that the writ of Venire facias (for the impanelling of Iuries) runneth in this forme, Rex, &c. Præcipimus, &c. quod venire facias coram, &c. duodecem liberos & legales homines, &c. And yet the Sherife must returne 24. but in former times it seemeth that Sherifes vled to returne vnrasonable numbers, to the griuance and great trouble of the people: And therefore it was enacted by the statute of Westminster, 2. cap. 38. which was made anno 13. Edw. 1. That in one Assise no moe shall bee summoned, or returned vpon a Iurie, than foure and twentie.

Also by the same statute of Westminster, 2. cap. 13. Sherifes in their Turnes shall cause their Enquests to be made of twelue at the least.

If vpon a venire facias the Sherife shall returne but 23. and 12. appeare and giue their verdict, this is Error, Co. 5. 36. & 37.

And yet in a writ of Wast, the plaintife hath a writ to the Sherife to enquire of the Wast, &c. for that this is but an enquest of office, the sherife may inquire by the oath of sixe or eight persons of this Wast, and need not to take twelue persons. Fitz 107. c.

No Iurie shall bee compelled to appeare in any of the Kings Courts at Westminster, for the triall of any issue in any suit, vpon any penall Law, for any offence committed aboue thirtie miles from the Citie of Westminster, except in case where the Attorne generall for the time being, for some reasonable cause in that behalfe shewed, shall require the same to be tried at the barre in any of the Courts of the Kings Maiestie his heires or successors at Westminster aforesaid, which request shall bee noted on the backside of the Writ of distringas thereupon awarded, to the end the Sherife or his Baylife may and shall signifie the same to the Iurie that are in such cases impannelled: 18. Eliz. 5. 27. Eliz. 10.

*To appeare at Westminster.*

If any Sherife, Undersherife, Sherifes deputies, Sherife or Undersherifes Clerke, or any Baylife of franchise shall receiue, take, or haue by himselfe, or by any other, any summe of money, reward, or other profit directly or indirectly, or doe take any promise, make any agreement, or assent to haue any summe of money, reward, or other profit, directly or indirectly, of any person or persons for the sparing, not warning or not returning of any person to be swoorne as a Iuroz, for the triall of any issue ioynd or to be toynd in any of the Kings Courts aforesaid (viz. The Kings Bench, Common Pleas, and Exchequer) or befoze any Iustices: then euerie Sherife, Undersherife, Bailife, &c. so offending shall forfeit for euerie such offence five pound to the King, and J. to be recovered in any court of record &c.

*Spare part reward.*

The sufficiencie of Iurors.

By the old statutes none were to be put or returned in any Assises or Iuries, that might not dispend twentie shillings yeerly in land; and if such Assises or Iuries were to be taken out of the shire, none should passe or bee returned in them, but such as might dispend fortye shillings yeerly at least in lands.

*The sufficiencie of freehold.*

And if the Sherife or any Bailife of libertie shall offend in any point therein they should yeeld the partie grieued damages, and be amerced besides to the King.

And by a later statute made anno 21. Ed. 1. no Sherife, Undersherife, Baylife of libertie, or other officer shall impannell any Iuroz for the triall of any matter which is to

## Returne of Iuries.

*Pur trial  
hers del  
Countie v. li.* be tried out of their proper Countie, except such Jurors may spend in lands and tenements five pound per annum, at the least: and if they shall doe otherwise, the partie may haue his action vpon the Statute against the Sherife or other officer. Fitz. 166. c.

*Diens le  
Countie xl. s.* And none shall be impannelled to trie any matter with- in the Countie, except they haue in lands and tenements fortie shillings per annum; and the partie grieved may also haue his acion vpon the Statute against the officer offen- ding herein: Fitz. N. Br. 166. e.

*Touching  
life.* Also by the Statute of 2. H. 5. cap. 3. no person shall bee admitted to passe in or vpon any enquest to be taken or made betweene denizen and denizen, vpon triall of the death of a man; nor in any enquest betwixt partie and partie in any plea Reall, nor in plea Personall, whereof the Debt or Da- mages declared amount to fortie markes, if the same per- son haue not lands of the yearely value of fortie shillings aboute all charges; so that hee bee challenged for that cause by the partie, &c. 2. H. 5. c.

*Pleas Reall.  
Or fortie  
markes da-  
mages.*

*De medietate  
lingua.* But in all manner of enquests, where any alien is a par- tie to any triall (although the King bee a partie) the one halfe of the enquest or Jurors shall be of aliens (if so many aliens be in the towne or place where such enquest is to bee taken, &c.) And that although such aliens haue not lands to the value of fortie shillings per annum. 27. E. 3. c. 8.  
28. E. 3. c. 13  
8. H. 6. c. 29.

And yet where any Egyptian shall be indited of any felo- ny, the enquest that shall passe betweene the King and such partie shall be altogether of Englishmen: 22. H. 8. c. 10. 1. & 2. P. & M. 4. & 5. Eliz. c. 20.

Neither shall a Scottishman haue his triall here, p me- dietatem linguæ, for that they are accounted subiects and aliens: see Dyer 304. & Co. 9. fol. 117.

By the statute made 35. H. 8. cap. 6. it is enacted that in euerie case where such persons as should passe vpon the tri- all of any issue (toynd in any of the Kings Courts of Re- cord commonly holden at Westminster) ought by the Law to dispend fortie shillings by the yeare of freehold for terme of life, That the writs of Venire facias, which from thence- forth shall bee awarded and directed for the impanneling of such persons as shall trie the same issue, shall bee in this forme, Rex, &c. præcipimus, &c. quod venire facias coram, &c. xij. liberes & legales homines de vicenetò de B. Quorum quilibet habeat quadraginta solidat' terr' tenement' vel reddit', per annum, adminus, per quas rei veritas melius scire poterit, et qui nec



nec &c. (after the ancient forme). And in euery case where it is not requisit, that the persons that shall passe vpon the triall of any issue (ioyned in any of the kings courts aforesaid) shall dispend fortie shillings by the yeare of freehold, that then the writ of Venire facias that shall bee awarded shall be made after the forme aforesaid, omitting the clause Quorum quilibet habeat 40.s. terre, tenement', vel reddit. per annum ad minus. And that vpon euerie such writ of Venire facias that shall haue the said clause Quorū quilibet &c. the Sherife or other minister to whom the making of the pannell shall appertaine, shall not returne in any such pannell any person, vnles he may dispend forty shillings by the yeare at the least, of estate of freehold, out of auncient demesne, and within the countie where the issue is to bee tried (and also shall returne sixe sufficient hundredors at least &c.) vpon paine to forfeit for euerie person being returned in any such pannell that cannot dispend fortie shillings by the yeare (as aforesaid) twentie shillings.

6. Hundredors.

27. Eliz.

But after by the statute made Anno 27. Eliz. cap. 6. it was enacted that in all cases where any Jurors to bee returned for the triall of any issue, (ioyned in any of the k. courts of the kings bench, common plees, and the eschequer, or before Justices of assise) by the lawes of this Realme ought to haue estate of freehold in lands, tenements, or hereditaments, of the cleare yearely value of fortie shillings, that in euerie such case, the Jurors that shall be returned shall euery of them haue estate of freehold (in lands tenements or hereditaments) to the cleare yearely value of foure pounds at the least, and that the writs of Venire facias, which shall be awarded for the impannelling of Iuries in the cases aforesaid, shall be in this forme, Rex &c. precipimus &c. quod venire fac. coram &c. xij. liberos et legales homines de vicineto de B. Quorum quilibet habeat quatuor libras terre, tenemēt. vel reddit' per annum ad minus &c. And that vpon euery such writ of Venire fac. the sherife or other minister vnto whom the making of the pannell shall appertaine, shall not returne in any such pannell any person vnlesse he may dispend foure pounds by the yeare, at the least of freehold, out of auncient demesne, within the County where the issue is to bee tried vpon paine to forfeit for euerie person being returned in any such pannell that cannot dispend foure pound freehold (as aforesaid) twentie shillings.

4. li. per annū

Venire fac.

And in euery writ of Venire facias wherein the aforesaid clause (Quorum quilibet habeat quatuor libras &c.) shall bee omitted

## Returne of Iuries.

omitted, there the sherife or other minister to whom the making of the panell shall appertaine, shall not returne in any such panell, any person vnlesse he may dispend some lands or tenements of estate of freehold out of auncient demesne within the countie where the issue is to be tried, vpon paine to forfeit tventie shillings for euery person returned in any such panell, that cannot dispend some land by the yeare.

35.H.8.c.6.  
2.E.6.c.32.

*Corporate*  
35.H.8.c.6.

But note that these statutes made anno 35.H.8. & 27.Eli. doe not extend to any Iuries to be returned in any citie or town corporate, or other towne or place priuiledged to hold plea, or in the twelue shires of wales, but that there they shall and may bee returned, as heretofore they lawfully might haue bene.

27.Eli.c.6.  
35.H.8.c.6.

### Their sufficiencie in Attaints.

*In Attaints.*

Sherifes, Bailifes of franchise, and Coroners ought to returne in writs of Attaints in plea of land of the yearly value of fortie shillings or more; and in actions of Attaint for deedes concerning land of the yearly value of fortie shillings; and in personall actions of fortie pound or more, such persons inhabiting within his bailwicke which can dispend tventie pound per annum, besides all charges, for terme of life at least, and out of auncient demesne, and cinque ports; and if there be not sufficient persons vnder the degree of a Baron inhabiting within the countie which can expend tventy pound per annū, then they shall impanell other persons of the most sufficient in possession of yearly value of lands vnder the value of tventie pound per annū, vpon paine of tventie pound.

15.H.6.c.5.  
18.H.6.c.2.

*20. pound*  
*per annum.*

By another statute made anno 23.H.8. where the thing in demaund extendeth to fortie pound (and concerneth not mans life) euery of the grand Iurie that shall passe in an attaint in such case must haue lands to the value of tventie markes by the yeare of freehold out of auncient demesne: But where the thing in demaund (being a thing personall, as debt, trespass, or the like) shall bee vnder fortie pound, it sufficeth if euery person of the graund Iurie, which shall passe in the same attaint may dispend five markes by the yeare of freehold land out of auncient demesne, or bee worth a hundred markes in goods.

23.H.8.ca.3

*20. markes.*

*5. markes.*

*Tales into*  
*another*  
*corporate.*

And if there be not persons of such sufficiencie of freehold within the Shire (or place where any of the said attaints

23.H.8.c.6.

taints shall bee taken) as may passe in the same, then one Tales shall be awarded into the shire next adjoining (by the discretion of the Justices before whom the same attaints shall be taken) which shall be warned to appeare upon like paines as is aforesaid, and enabled to passe in the said attaints, as if they were dwelling in the shire where the same attaints shall be taken.

7.H.8.c.8.  
3.H.8.c.2.

Also no sherife or other person upon any writ or Precept to them directed to returne before any Escheator or Commissioner, shall returne any person to inquire of any lands or tenements, except such person, or others to his vse, haue lands or tenements of the yearely value of fortie shillings above all charges, within the same shire where the inquirie shall be made, upon paine to forfeit five pound for every Juror otherwise returned (except the same Jurors be returned before an Escheator in a citie or corporate towne, or which is made by any person hauing priuiledge to make Escheators.

*Before Escheators.*

And by an old statute made anno 34.E.3 cap.13. such Jurors returned before Escheators must bee men of good fame, and dwelling in the same countie where the inquirie shall be.

8.H.6.c.9.

Upon euery precept directed vnto the sherif from Justices of peace to enquire of forcible entries or Detainors, the sherif ought to returne sufficient persons dwelling next about the lands forcibly entred upon or Detained, whereof euerie man to be impannelled to enquire in that behalfe shall haue lands or tenements of the cleere yearely value of fortie shillings at least above reprises; and for euerie default herein the sherife shall forfeit twentie pound, and also pay a fine to the king: And yet note, that if such Jurors shall not haue lands of such yearely value, yet their presentment is good for the king, but then the partie put out forcibly &c. shall haue no restitution &c. Lamb. 155.

*Vpon Forcible entrie.*

19.H.7.13.

Upon a Precept directed vnto the sherife from the Justices of peace, to returne before them a Iurie to enquire of any ryot, rout, or vnlawfull assemblee, the sherife shall returne foure and twentie persons dwelling in the shire where such ryot &c. shall be committed, whereof euerie one of them shall haue lands &c. within the same shire to the yearely value of twentie shillings per annum of freehold, or of twentie sixe shillings and eight pence of coppithold, or of both ouer and about all charges, and the sherife in default of such returne shall forfeit to the king the summe of twentie pound.

*Vpon Ryots.*

*xx. s.*

Upon

## Returme of Iuries.

Upon the default of the Justices of peace and Sherife in <sup>2.H.5.c.3.</sup> not executing the statutes made for suppressing of riots &c. the partie grieved may haue a commission out of the Chancerie to enquire of the matter, as also of the defaults of the Justices and Sherife, vpon which commission the Coroners of that countie where the riot &c. was committed, shall make the panell, and shall returne onely such persons for that inquirie as haue lands, tenements, or rents to the value of x.l. by the yere at least: But if the Sherife (reputed to be in default as aforesaid) be discharged of his office at the time that such commission shall be awarded out of the Chauncerie, then the new Sherife of the same countie shall make the panel vpon this commission, and shall returne onely such persons as haue ten pound by the yeare at least (vt supra) and in default thereof the new Sherife shall forfeit forty pound.

10. pound  
per annum.

Enquests of  
enquirie. Enquests taken by the Justices of peace to inquire of <sup>3.H.7.ca.1.</sup> concealments of other enquests taken before them, or others &c. euery man that shall be returned vpon such enquests (of enquirie) must haue lands and tenements to the yearely value of forty shillings at the least. 3. Henric. 7. cap. 1.

Sherifes  
Torne.

The sufficiencie of Jurors in the Sherifs Torne. See hic postea tit' Sherifes Torne.

In London.

Of what sufficiencie Jurors impanelled in the citie of London (in severall cases) must be. See the Statutes made 11. H. 7. cap. 21. 4. H. 8. cap. 3. 5. H. 8. cap. 5. & 37. H. 8. cap. 5. P. Iurors 16.

Corporate  
townes.

What sufficiencie is required in Jurors to enquire of felonies committed in corporate townes. See the statute made anno 23. H. 8. cap. 13. & P. tit. Iurors 15.

The sufficiencie of other Jurors in corporate townes. See the statute made 35. H. 8. ca. 6.

Lancaster.

Of what sufficiencie those Jurors must be in the countie of Lancaster, which shall indite a forreiner dwelling in another shire. See the statute made anno 33. Hen. 6. cap. 2. P. Iurors 17.

Of what sufficiencie those Jurors must be which in any other countie shall indite any person inhabiting within the countie of Lancaster. Ibid.

Wales.

The sufficiencie of Jurors in Wales. See the statute made añ 34. H. 8. ca. 26. Poulton tit. Wales 70.

Note that it is verie needfull for the high Sherife to haue a booke containing the names of all the freeholders within his

his countie, and their sufficiencies; so that he himselfe may make the panells according to his oath, Artic. 14.

The Antiquitie of Iurors.

Co. li. 3. & 8  
Preface.

**T**he triall by Iuries (scz. by the oathes of twelue men) was long time before the Conquest, and is one of the inuincible arguments of the antiquity of the Common Lawes of this realme, being only appropriated to them.

Master Cambden (in his Britannia pag. 153.) saith thus thereof: Whereas Polidor Virgil writeth that William the Conqueror first brought in the triall by twelue men, there is nothing more vntrue, for it is most certaine and apparant by the lawes of Etheldred, that it was in vse many yeares before &c.

For the excellencie and indifferencie of this kind of trial, and why it is onely appropriated to the Common lawes of England. See Justice Fortescue cap. 25. 26. 27. 28. 29. 30. 31. 32. &c.

Retourne

## Returne of Issues.



## Returne of Issues.

**N**ow concerning issues to be returned by the sherife, the sherife shall doe well to consider of his oath, whereby he stands bound truely to set, and retorne reasonable and due issues vpon all such as bee within his countie, after their estate.

The statutes to this purpose are as followeth.

*Issues vpon the defendāt.* For as much as sherifes and bailifes of liberties many times make false returnes as touching the articles, *West. 2. c. 39. 1. E. 3. c. 5.* Quod de exitibus &c. sometimes returning that there are small issues when they may retorne great, and somtimes do make mention of no issues, It is therefore ordained that if the plaintife shall demand hearing of the sherifes returne, it shall bee granted him; and if he will auer (or offer to proue) that the sherife &c. might haue returned greater issues, he shall haue a writ to the Iustices of Assise that they shall enquire thereof scz. that they shall enquire of what, and how great issues the sherife might haue made his returne, from the day of the writ purchased, vnto the day of the returne thereof: And if it bee found that he hath not answered for the whole, he shall be charged with the ouerplus by the estreats of the Iustices deliuered into the Exchequer, and besides shall be grieuously amerced for his concealement. Vide Br. Issues 2. 4. 6.

*Issues quid.* And by the same statute of Westm. 2. within or vnder the name of issues are contained rents, corne in the grange, and all moueables (except horse, harneis, apparrell, and household stufte.)

So that the sherifes and bailifes of liberties by the said statute of Westm. 2. & 1. E. 3. 5. must retorne sufficient, and good & reasonable issues vpon such persons as haue lands or goods sufficient, scz. they must retorne in issues so much as the partie may perceiue and take, or as ariseth of the profit of the lands within that countie, and the rents from the day

*Quantum.* *West. 2. 39. 17. H. 8. c. 3.*

Day of the teste of the writ, until the Day of the returne thereof, and the value of his goods which hee hath in all that time (except his horse and their furniture, and his apparrell and household stufte) and if the Sherife or Bailife of liberty doth not accozdingly, they shall answer the surplufage, See 27.H 8.f.3. & Br. Issues 1.2.4.6.7.

And yet where the Sherife hath returned too small issues, if in time he prayeth to amend his returne therein, the court in fauour will permit it, Br. Issues 1.

8.E.4.c.2.

Upon proces against any person, for retaining or giuing of liveryes, or against any which is retained (contrarie to the statute,) the Sherife ought to returne vpon the defendand (being a person sufficient) no lesser issues than xx.s. at the first Day of the distresse, and at the second Day xxx.s. and at the third Day xl.s. & so at euery Day after more by x.s. in issues; and if any Sherife do the contrarie, he shall forfeit for euery such returne against the forme aforesaid xx.s. *Retainers.*

The stat. of West. 2. c. 39. doth giue an auerment against the returne of the Sherife if hee returne too small in issues; and yet a man shall not auerre against the Sherifes bailife, that he might haue returned greater issues &c. But against the Sherife himselte onely, by this statute of Westm 2. Fitz. Auerment 43. *Auerment.*

But by the statute of 1.E.3.cap.5. made against the false returns of bailifs of franchises (which haue full returne of writs) a man shall haue Auerment, and recouer against them (as well as against the Sherife) and that of too little issues returned, as in other cases: and all the punishment shall fall only vpon the bailifes.

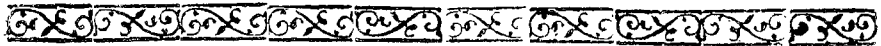
Fitz. Auerment 16.

Note that the plaintife may auer against the returne of the Sherife when he returneth too small issues, as aforesaid. But the def. cannot haue such auerment, and this is by force of the stat. of West. 2. c. 39. For before that stat. the pl had no remedie, but only his action of the Case against the Sherife in such case, which remedie the plaintife may haue still.

Fitz. Auerment 26, &

Note also that an auerment of too small issues lyeth as well against the returne of the Sherife of too small issues returned vpon Jurors, as vpon the partie &c. for this stat. of West. 2. was made to out all delaies by false returnes; and the partie is as well delaied where the Sherife returneth too small issues vpon the Jurors, as where he returneth small issues vpon the defendand.

# Returne of Issues vpon Iurors.



What Issues the Sherife &c. must returne  
vpon Iurors.

**V**pon euery first writ of Habeas corpora or Distringas  
Iurator. with a Nisi prius, Deliuered of record to the 35. H. 3. c. 6.  
27. El. c. 6.  
Sherife or other Minister, the Sherife or other  
Minister to whom the making of the returne shall apper-  
taine, shall returne in Issues vpon euery person impanelled  
and returned vpon any such writ at the least x. s. and at the  
second writ of Habeas corpora or Distring. with a Nisi prius,  
vpon euery person impanelled and returned vpon any such  
writ xx. s. at the least, and at the third writ xc. xxx. s. and  
vpon euery writ that shall be further awarded to trie any  
such issue, to double the issues last afoze specified, vntill a full  
Jurie be swozne, or the proces otherwise ceased, vpon paine  
to forfeit for euery such returne of issues to the contrary  
fiue pound.

1. 10. s.  
2. 20. s.  
3. 30. s.  
4. &c.  
double.

Corporate  
villes.

But this extendeth not to any issues to be returned in any  
citie, or towne corporate, or other town or place priuiledged  
to hold plea, nor in the xij. shires of Wales, but that they  
may be returned as befoze they lawfully might haue beene,  
this act notwithstanding, Stat. 27. El. ca. 6.

Note that vpon reasonable cause proued befoze the Ju- 37. H. 3. c. 6.  
2. E. 6. c. 12.  
stices of Assise, the said Justices may discharge any Iuroz  
of the Issues vpon him returned, and the sherife &c. hauing  
commaundement by the said Justices to omit the returning  
of such issues as afozesaid vpon such Iuroz, shall be therein  
discharged of the penaltie afozesaid, for the non returning  
of the said issues; also if the said Just. of Assise do not come  
at the day appointed, or that the assise be discontinued for  
any other occasion (other than by default of Iuroz) then  
euery of the Iuroz shall bee discharged of their issues &c.  
and the sherife &c. shall be likewise discharged of the penal-  
tie of these statutes for the not returning of such issues, as  
therein are limited.

Vpon a Distring. Iuratoꝝ (where they were knights, and 26. R. 3. 13.  
esquires who were in the writ) there was but viij. s. retur-  
ned (by the sherife) vpon euery Iuroz, and the sherife had bin  
therfoze amerced, but that he was there present, and amen-  
ded it, and set or returned vpon euery Iuroz ij. s.

Vic' amerce.

By



By the opinion of Fortescue the Sherife returned vij. s. issues vpon the Distringas, and therefore he was to be amerced, for that hee returned lesse than the costs of the Writ of Distresse, which is xiiij. s. Br. Issues 6.

So that whereas the Sherife vpon a Distringas shall retorne too small issues, he may amend his retorne, (*Amend* vide 27. H. 8. fol. 3. Br. Issues 1.) But quære whether he shall be amerced for returning too small issues; for it seemeth rather the plaintife shall haue his auerment against the Sherife vpon the aforesaid statute of Westm. 2. and so to haue his Writ to the Justices of Assise &c. vt supra.

3.H.7.f.8.

And yet if the Sherife vpon a Distringas Iurat' shall retorne no manner of issues, and a full Jurie shall appeare &c. this is no error; for the king hath no losse, and the issues are for the king, which hee is not to haue, if a full Jurie doe appeare.

If the Sherife shall retorne a Juroz in issues which is not sufficient, he is punishable, scz. the Sherife shall be charged to pay those issues himselfe.

If vpon an Habeas corpora, or Distringas Iurat. the Sherife &c. shall retorne any issues vpon any Hundredoz or Juroz, whereas the same Hundredoz or Juroz was not lawfully summoned, warned, or distrained in that behalfe, then the Sherife &c. shall loose for euerie such offence double so much as the said issues returned vpon such Hundredoz or Juroz not lawfully summoned, warned or distrained, shall amount vnto, the one halfe thereof to the king, the other halfe to him that will sue for the same. 5.El.cap.25.& 35.Henric.8. cap. 6. *Sur Iuror nient summons.*

15.H.6.ca.5

No Sherife, or other officer, shall retorne in the Kings Courts lesse issues in actions of Attaint, than fortie shillings vpon the first Writ of Distresse, and five pound at the second Writ of Distresse. and the double vpon euerie other Writ of Distresse, against the persons impannelled and returned to be Juroz in the same action, vpon paine to forfeit twentie pound to the king and partie grieued. See the statutes of 11.H.7.c.21. 23.H.8.c.3.& 13.Eliz.cap.25. *In Attaint.*

*In Attaint.*

al } 1. 40.s  
2. 5.li6  
3. &c.  
double.

What issues shall be returned vpon the Juroz in London. See 11.H.7.c.21. 4.H.8.c.3.& 5.H.8.c.5. P.Iurors 16. & 17. *In Londres.*

*In Londres.*

8.H.3.c.9.

Upon euerie precept directed to the Sherife from Justices of peace to enquire of forcible entries, or deteiner, the Sherife ought to retorne vpon euerie Juroz, at the first day, or vpon the first precept twentie shillings in issues; and at the second day

*Sur Forc. Entries.*

## Returne of Issues vpon Iurors.

Day fortie shillings, and at the third day five pound, and at euerie day after the double, vpon paine to forfeit to the king thwentie pound for euerie default, and besides to make fine and ransome.

*Surryots.*

Upon euerie pzecept directed to the sherife from Justice<sup>19.H.7.c.13</sup> of the peace, to returne them a Iurie to inquire of any ryot, the sherife ought to returne vpon euerie person so by him impanelled, at the first day thwentie shillings in issues, and at the second fortie shillings, and the sherife for his default herein shall forfeit *xx.l.*

By the statute of *2.H.5.cap 8.* vpon a commission granted out to enquire of the defaults of the Justices of peace and old sherif, in not executing the statute made for suppressing of ryots, the cozoners shall returne the enquest, and they shall returne vpon euerie person impanelled, at the first day (when issues be to bee lost) *xx.s.* at the least, and at the second day *xl.s.* at the least, and at the third *C.s.* at the least, and at euerie day after the double at the least, vpon paine of *xl.l.* and if it happen that the said sherife so reputed in default bee discharged of his office at the time that such commission shall bee awarded out of the Chauncerie, then the new sherife of the same countie, his successor mediate or immediate for the time being (and not the cozoners) shall make the panell vpon the commission, returnable in the manner and forme as the said cozoners should doe in time when the sherife so reputed in default continued in his office, and the same new sherife in default of returning such issues, which the cozoners be to returne as aforesaid, shall forfeit *xl.l.* to the king. <sup>2.H.5.c.8.</sup>

Issues returned vpon Mainpernoys or Pledges &c. See antea tit. Issues.

*Estreats ser-  
ra deliuer in  
leschequer  
yearely al  
Mich.*

By the statute made *51.H.3.de Scaccario*, all Justices, Commissioners, and others, shall deliuer into the Exchequer (at Michaelmas yearely) the Estreats of fines and Amerciements made and taxed before them, and of all things wherefoze the Estreats are wont to bee deliuered there &c.

*Vic' ne levier  
sans garr'.*

No Sherife &c. shall leuie any issues other than hee hath warrant for out of the Exchequer by the Estreats of the Justices, neither shall the sherife bee charged with (or to leuie) any other issues than those for which hee shall haue such warrant <sup>27 E.1 c.2. & P. Sher. 19.</sup>

warrant out of the Exchequer. And in those Estreats every man shall be charged for issues forfeited like as of amerciaments. And by the stat. 43. E. 3. ca. 9. sherifes must leuy their issues by their extracts vnder the seale of the Exchequer, vpon paine to yeeld treble dammages to the partie grieved, and to make fine to the king.

*South seale.*

7.H.7.c.3.

And wheras in former times diuers did loose issues, fines and amerciamentes in the kings courts (at the suit of any partie) and also issues and amerciamentes in Enquestes and Juries wherein they were impanelled betwixt partie and partie, whereupon the bailife &c. which gathered the greene waxe did leuy the same issues, fines, and amerciamentes by estreats, in obscure and ambiguous words, not containing the summe lost, nor making mention of the cause of the losse, nor the day of the terme, nor betwixt what parties, nor the nature of the writ in which the same issues, fines, and amerciamentes were lost, so that the said officers did leuy the sum two or three times, and sometimes the double summe contained in their estreats; for remedie whereof the stat. made añ 7. H. 4. c. 3. hath enacted, That the clerkes of the estreats

*Estreats defective.*

P. Estreats 2

shall be forfeited, shall make the rolls of the estreats of such issues and amerciamentes distinctly by expresse words of the cause of the losse, of the terme, of the yeare, and the nature of the writ, and betwixt what parties such issues and amerciamentes be or shall be lost, and that aswell in the kings suit, as in the suit of the partie.

*Le forme del Estreats.*

27. El. 7.

P. Iurors 34.

And now by the statute of 27. El. cap. 7. the sherife in his Corne is to set dohone the dwelling place of euery Iuroz, & no extract of issues against any Iuroz shall bee deliuered out, or put in vze, without such addition as is put in the originall panell (or tales) wherein such Iuroz shall be returned; and none of the sherifes officers shall collect or gather any issues so extracted of any other person or persons than of such person as (by vertue of the said estreates) is of right chargeable with the paiments thereof, vpon paine to forfeit vij. l. xiii. s. iiii. d. to the king and partie grieved.

*Ne leuier si non de droit person.*

4. H. 6. 7.

Crōp. 126. a

Note also that if there appeare so many Iuroz, so that twelue are swozne vpon the issue, then the rest which made default shall not loose any issues; otherwise (scz. if twelue do not appeare) those which appeare shall haue their apparance noted, and shall saue their issues, and the rest which made default shall loose their issues. Br. Issues 16.

*12. appeare, nul issues serra*

And yet when eight &c. of the Jurie appeare, and the rest

## Returne of Issues vpon Iurors.

make default by reason wherof they are to loose their issues, and at the same time the plaintife is demanded, and is non-suit, this shall saue the issues of the Iurors, quod nota. Br. Issues 14.

All Iurie doe appeare and after make default, they shall loose their issues. Br. Enquest 42.

*Tales.*

Also by the statute of 35.H.8. where the principall Iurie do not fully appeare, or that after apparance of a full Jury, by challenge of any of the parties the Iurie is like to remaine vtaken for default of Iurors, there the Justices vpon request may cause a Tales de circumstantibus to be returned or named by the Sherife &c. But yet those of the principall Iurie which made default shall loose their issues notwithstanding that the Iurie shall bee full vpon the Tales &c. Br. Issues 16.

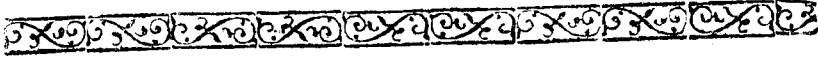
35.H.8. c.6.  
P.Juror 23.

See Dyer  
200.246. &  
376.

Note that a Tales de circumstantibus may bee granted at the suit or request of the plaintife, or the defendant, as also vpon and in popular actions; and the sherife (or other minister to whom the making of the returne shall appertaine) shall adde and annex to their former panells, the names of the persons so named and impanelled vpon the Tales &c.

35.H.8.ca.6  
4.P.&M.7.  
14.El.c.9.

Issues.



Issues.

**N**Ote that these Issues lost and returned in respect of Forfeit alroy  
 non apparance, of persons impannelled &c. shall bee  
 forfeit to the King, and leuied by the Sherife to the  
 Kings vse.

Sur que tiels issues serra leuie per le vic. &c.

Sur que serr  
 leuie.

12.H.7. 4.a. **S**i home soit impannell, et puis fait feoffement in fee de son terre un- Sur purcha-  
 core le terre serra lye al issues que il perder per default, en apres penã" jor.  
 cel brieve, Vauisor (12.H. 7.) sed Dauers et Wood contra : Mes per  
 eux, lou home est distr' et puis alien son terre, cest terre serra charge, et  
 liable in les mains le feoffee, des issues pend' le proces apres le feoffement  
 &c. Br. Challenge 160.

Doctor and Student. Le heire in taile serra charge oue lissues perde per son pere in son Sur issue in  
 vie, & ceux issues serra leuie sur le terre taile, Br. Issues 15. 23. taile.

Ibid. Tenant pur vie est impannell sur Iurie, & perde issues & deuie, le Sur cestuy in  
 terre serra charge oue ceux issues, et ils serra leuie sur le possession de reuer sion.  
 cestuy in reuer sion, Br. Issues 23.

Ibid. Home seisie in iure uxoris, est impannell, et perde issues, et deuie le terre Sur feme.  
 serra charge oue ceux issues, et ils serra leuie sur le possession del feme,  
 Br. Issues 23.

Si issues sont retorne sur Euesque &c. et puis il est remone, son suc- Successor.  
 cessor serra charge del issues, Br. Issues 25.

7.H.6. f.9. Si home ad perde issues, et fait lease pur ans de son terre, et le vic' Le ssee.  
 retourne le lessor in issues, le vicount payer eux luy mesme : Et uncore  
 le vicount poit auer retourne le rent in issues: Mes il ne poit distr' le termor  
 ou le ssee durant le terme, Br. Issues 5.

Br. distr. 41. Si home ad perde issues, et lauers del estr' vient sur le terre, semble Estr'.  
 que le vicount poit distraine ceux auers del estr' pur ceux issues, car le  
 terre est charge del ceo : mes semble que le beasts destreine couient estre  
 leuant et couchant, vide Doct. & St. fol. 15. a. Fitz. N. B. 101. Br.  
 Distr 66. vide 5. H. 7. 1. moratur in lege.

Si lun ioyntenant perde issues, & le auers de son companion vient sur Iointenant.  
 le terre, ceux auers ne serra distr' pur ceux issues : car lauers de son  
 companion fueront eins per droit, lou lauers del estr', fuer' la per tort.

Now

# Knights of the Parliament.



*Now concerning the choosing, and returning of knights  
and Burgesses, of the Parliament; and for the leuying  
of their wages: and what the sberife  
is to doe therein.*

*Parliament.*

**B**y the statute made, 5.R.2.c.4. every person (be he <sup>5.R.2.</sup> Archbishop, Bishop, Duke, Earle, Baron, Knight, Citizen, Burgesse, or other) shall vpon summons come to the Parliament, &c. And if any sberife bee negligent in making his retournes of writs of the parliament, or that he leaue out of the said retournes any Cities, or bozoughes, which be bound and of ancient times were wont to come to the parliament, he shall be amerced &c.

By the statute made 7.H.4.cap.15. it was enacted that <sup>7.H.4.c.15.</sup> the election of the knights of countie for the parliament shall be made in the forme following, *sc.* at the next countie to bee holden after the deliuerie of the kings writ for the election of knights of the parliament, proclamation shall be made in the full county of the day & place of the parliament; and that all they which be there present (aswell suitors duly summoned for the same cause, as others) shall attend and in full county shall proceede to the election of their knights for the Parliament freely and indifferently, notwithstanding any request or commaundement to the contrarie, And after that they be chosen, the names of the persons so chosen (bee they present or absent) shall be written in an Indenture vnder the seales of all them that did chose them & tacked to the same writ of the parliament, which Indenture so sealed and tacked shall be holden for the sberifes retorne of the said writ, touching the knights of the shires; and in the writs of Parliament to be made hereafter this clause shall be put: Et electionem tuam in pleno comitatu tuo factam, distincte et aperte sub sigillo tuo et sigillis eorum qui electioni illi interfuerunt nobis in cancellaria nostra ad diem & locum in breui contentum certifies indilate, stat. 11.H.4.1.6. H.6.4.23.H.6.15.

And after by the statute made vndecimo Henrici quarti <sup>11.H.4.</sup> capitul. primo et 8.Hen. 6. cap. 7. it was further ordained <sup>8.H.6</sup> that if it bee found by enquest before Justices of Assise that <sup>P.Parliament.4.</sup> any

any Sheriffe shall make any returne contrary to the tenor of the former statute made. 7.H.4;

That then the said Sheriffe should forfeit one hundred pound to the King, and haue one yeares imprisonment without bayle. And besides the knights so vnduely returned shall loose their wages, &c. of old accustomed: But yet the Sheriffe and knights may haue their Trauerse to such enquests, &c. 6.H.6.cap.4. *Forf. le vic.*

Also by the statute made An. 23.H.6.cap.15. The Sheriffe making any returne contrary to any of these statutes, shall forfeit another hundred pound to the other person chosen knight for the Shire, and not duely returned.

1.Hen.5.  
8.H.6.

By the statute made 1.H.5.c.1. & 8.Hen.6. It was enacted that none should be chosen knight of the Shire, vnllesse they bee resiant within the Shire where they shall be chosen, the day of the date of the writ of the summons of the Parliament. And by another statute made 23.Hen.6. the knights of the Shires for the Parliament, must be notable knights, or such Esquiers, or Gentlemen bozne, of the same County, as be able to be knights. *Quex per-  
sons serra  
eslie.*

Also the choosers of the knights for the Parliament ought to be onely of such persons as are resiant and dwelling within the said Shire &c. 1.Hen.5. 1. & 8.Hen.6.7.

Also the choosers of Burgesses for the Parliament, must be onely of Citizens and Burgesses resiant dwelling, and free, in the same Cities and Boroughs. *Esliors  
quex.*

Note that this election of knights, and Burgesses, may be by voyces, or by holding vp hands, or by any other like way whereby it may be discerned who hath the greater number. Plo. 123. & 128.b. Bucklies Case. *Election  
coment.*

Also by the said statutes made 8.H.6. & 10.H.6. It was ordained that no person shall be a chooser of the knights for the Parliament, except he hath freehold lands or Tenements within the same County, to the value of fortie shillings by the yeare at the least aboue all charges: And that such as haue the greatest number of them, which may dispend fortie shillings per annum as aforesaid, shall be returned knights for the Parliament, by Indentures sealed betweene the Sheriffe, and the said choosers: And the Sheriffe hath powder (given to him by the said statute) to examine vpon oath euery such chooser, how much hee may expend by the yeare. *Esliors iurms.*

Note that the election of knights for the parlement, ought to be made by the Sheriffe in his full County; and betweene

## Knights of the Parliament.

tweene the howers of eight and eleuen befoze noone, without collusion, vpon the paines aboue limited, and this by the statute 23.H.6.cap.15.

So then Sherifes ought to make due election of knights for the parliament, by the freeholders of the Countie, and in open Countey Court, and betwene eight and eleuen of the clocke in the forenoone, And ought to returne for knights of the parliament, such persons as are so chosen by the greater number of the freeholders (dwelling within the said County) which may expend forty shillings per annum, at the least, vpon the paines aboue limited: See Dyer fol.60. where Bronker Sherife of Wiltshire was sued in the Star Chamber vpon an Information of perjury at the Kings suite, for a false returne made of Sir Iohn Thin to be knight of the Parliament for the said County, wherein truth, Penruddocke was chosen by the greater number of the freeholders in the said County, in deceit of the County, and of the whole Realme.

*Burgesses.*

Also euery Sherife after the receit of the Kings Writ for summoning of the Parliament for the election of knights for the parliament, ought forthwith to make out his Warrants vnder the seale of his office, to euery Maior, and Bailifes of Cities and Boroughs, within the County, commanding them thereby to choole Citizens and Burgesses to come to the parliament. And those Maiors and Bailifes must make a lawfull returne of that precept to the Sherife, by Indentures made betweene them and the Sherife of their election, and of their names which are elected. And the Sherife must set his hand and seale of Office to the one part of the Indentures, and then deliuer it to the Maior or Burgesses, or Citizens to be kept. And to the other part the Maior, or Citizens, or Burgesses must set their hands and seales, and deliuer it as their deeds to the Sherife, to be certified and returned by him, with the Writ of Summons, to the Clarke of the Crowne (who will haue iiii. s. for his fees, for euery Indenture.) And the Sherife ought to make a good and true returne of all this, vpon the paines aboue limited.

Note that if the Sherife shall doe any thing contrary to this statute of 23.H.6. 15. Or of any other statute made for the election of knights to come to the parliament, he shall incurre the paine of one hundred pound to the King, and imprisonment for one yeare without baile; And further shall pay to the party so chosen knight, Citizen or Burgesse, and not by him duely returned (or to any other person, who

23.H.6.  
15.  
Crompt.208  
P.Parl.51

23.H.6.  
cap.15.  
Crompt.207



## Knights of the Parliament.

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in default of such Knight, Citizen or Burgesse, will sue) one other hundred pounds, to be recouered by action of Debt, &c.

### *The forme of the Indenture for the Knights of the Parliament.*

**H**æc Indentura fact. in pleno Comitatu Cantuar. tenent. apud castrum Cantuar. die Iovis. 30. Maij Anno regni &c. (*resiting the Kings Stile at large*) inter A. B. Milit. vic. comitat. prædict. ex vna parte, & I. C. milit. T. Pal. Armig. et M. D. R. T. et I. B. Armig. &c. et multis alijs personis Comit. prædict. et elector' duorum milit. ad parlamentum in breve huic Indenturæ confut' specificat. ex altera parte, qui vt maior pars totius comitatus prædict. tunc ibidem existens, Iurat. et examinat', secundum vim formam et effectum diuersorum statutorum inde ædit'. et prouisor' : eligerunt *Ed. Peyton* milit' & *Barroñ* et *Iohannem Cutts* milit. infra comitat. prædict. comorantes gladijs cinct. milites, habiles, et majus idoneos, et discret' ; dantes et concedentes prædict. duobus milit. plenam et sufficientem potestatem pro se, et totum comit. comitatus prædict. ad faciend. et consentiend. hijs quæ ad parlament. in dict. brevi content. de communi consil. regni dicti domini regis nunc Angliæ, contingerit ordinari, super negotijs in dicto brevi spec. In cuius rei testimonium vni parti hujus Indent. penes dictum dominum regem remanent. partes prædict. sigilla sua apposuerunt, alteri vero parti ejusdem Indent. prædict. vic. sigill' suum apposuit, datum die Anno et loco supradict. &c.

### *The forme of the Indenture for the Citizens or Burgesse.*

**T**His Indenture made &c. (*resiting the day, and yeere, and the Kings stile at large, as before &c.*) Witneseth, that by vertue of a Warrant to me directed from Sir A. B. Knight Sherife of the County of Cambridge, for the electing and chosing of two Burgesse, men of good vnderstanding, wit, knowledge, and discretion, for causes concerning the weale publike of the Realme, to be at his Majesties high Court of Parliament to be holden at his Highnesse Citie of Westminster the day of  
next comming, I  
Maior of the Borough or Towne of Cambridge, with the whole assent and consent

## Knights of the Parliament.

sent of the rest of the Burgeses there, haue made choice and election of \_\_\_\_\_ of \_\_\_\_\_ Esquier and of \_\_\_\_\_ of \_\_\_\_\_ Esquier, to be Burgeses for our said Borough of Cambridge, to attend at the said Parliament, according to the tenor of the said Warrant to mee directed in that behalfe. In witness whereof I haue to these presents set our common seale of our said Borough, the day and yeere first aboue written.

*The Knights fees or wages, &c.*

Also Sherifes when they haue receiued letters or writs for the leuying of expences of the Knights of the Parliament, at the next County Court, after the receipt of those letters, ought to make open proclamation, that the Coroners, and euery chiefe Constable of the said County, and Bailifes of euery hundred of the same County, and also all other which will be at the assessing of the wages of the Knights of the Shires, shall be at the next County there to be holden to assele the said wages: And the Sherife, Undersherife, Coroners, and Constables, & Bailifes of hundreds, ought to be there in person to sesse the wages, vpon paine of fortye shillings to euery one that maketh default; And then the Sherife or Undersherife, in the presence of them that shall come, ought to assele euery hundred at a certaine summe by it selfe, and after they ought to assele euery Willage within the hundreds, with a certaine summe, and if they shall make any assessment otherwise, they shall forfeit for euery default twenty pound to the King, and besides ten pound to any man which will sue in this case, with treble dammages.

P. Parli-  
ment 12.23.  
H.6.c.11.  
Cromp.207

*Quene per-  
sons attender*

Also if any Sherife, Undersherife, bailife, or other officers shall leuy (for the cause aforesaid) more money of any Willage, than that whereunto they be assessed, they shall forfeit (for euery default) to the King twenty pound, and ten pound to any other which will sue for the same besides treble dammages for the costs of their suits.

23.H.6.c.  
11.

The Sherife well and duely shall leuy the moneys so assessed vpon the Willages as speedily as they well may after the said assessing: and the same shall deliuer to the said Knights according to the said writs vpon the penalties aforesaid; And the Sherife may distreine for the same F. A-  
uow. 260.

Ibid.

But such expences of Knights shall not be assessed nor leuiued of any other Willages, seignories or places, but of such whereof it hath beene anciently leuiued, See 8.R.2.Fitz.  
Avow. 260.

Ibid.  
Register  
191.192.

Also (it seemeth) that the freeholders and Tenants of such

F. Avowrie, 160. 11. R. 2. such Lords, &c. as come to the Parliament, are not to be assessed to such charges, for their tenancies or lands holden of such Lords: And yet by the statute Anno 12. R. 2. cap. 12. if any Lord, or any other man spirituall or temporall, hath purchased any lands, tenements, or other possessions that were wont to be contributarie to such expences, before the time of their said purchase, the said lands and tenements, and the tenants of the same shall be contributory to the said expences in such manner as the said lands, &c. were wont to be before the said purchase.

34. H. 8. cap. 27. Note that by the statute made Anno 34. H. 8. cap. 24. the Countie of Cambridge, and the inhabitants of the same, are discharged of all such summes of money, to bee leuyed or paid for the fees of their Knights of the Parliament for the said countie: And the manor of Burlewass lying in Haddingley in the said countie of Cambridge, is charged with the payment of x. li. yearely for ever, at the feast of Saint Michael the Archangell, for the said fees or wages of the Knights of the said shire or countie: And the Sherife, and two Knights of the Parliament of the said countie are incorporated for to sue for the same: And the said Knights, and the survivors of them, shall haue and perceiue the same to their owne vse towards their charges: And if both the Knights of the said shire bee dead, then the Sherife of the said shire for the time being, shall haue the same rent of x. li. to his owne vse, vntill other Knights shall be chosen for the Parliament, &c. Cambridge-shires.

Note that for the fees or wages of the Knights for the Parliament, the Sherife may distraine the goods of the towne, or of any of the towne, (i. e. may distraine the whole heard belonging to the towne, or the cattell or other goods of any particular person of that towne: 11. Hen. 4. 2. Br. Distress. 95.

*Mes quant le vicount (ou auter officer) vient par distreine et veia les auers, si lowner del cattel ou auter person eux chase hors del ville, semble le vicount ou officer ne poet eux distreine in auter ville: vide 16. E. 4. 10. Br. Distr. 51.*

Note also that the Sherife or other officer may sell the distresse taken by them for the fees, wages, or expences of the Knights for the Parliament: see hic antea tit. The Kings Debts.

# Redisseisin.



## The Sherifes dutie in executing the Writ of Redisseisin.

*Redisseisin.*



Here a man hath recouered any lands, rent, com-  
 mon, or other tenements (by Assise of Novel dis-  
 seisin, Mortdauncester, Iuris Vtrū, or other action,  
 which passe by Juries and berdicts, or by confes-  
 sion of the disseisor) and is put in possession thereof by the  
 sherife (by writ de habere facias seisinam) and after the same  
 plaintife, is redisseised of the same lands, rents, commons,  
 or other tenements by him by whom hee was formerly dis-  
 seised, then the disseisee shall haue a writ \* to the Sherife,  
 &c. by which the Sherife shall bee commanded, that hee, ta-  
 king with him the keepers of the pleas of the kings crown,  
 (scz. the Coroners,) and other knights, in his proper person  
 shall goe vnto the lands or tenements, pasture, or grounds  
 whereof the plaint was made, & that hee make befoze them  
 (by the first Jurozs, and other neighbors and lawfull men)  
 diligent inquisition thereof, & if they find him disseised again  
 (as aforesaid) that then the Sherife shall forthwith take  
 such disseisor and commit him or them to prison, there to re-  
 maine vntill the King shall discharge them, &c. And that  
 vpon a fine to be made to the King for the offence.

20.H. 3. c. 3.  
 Fitz 188. b.  
 & 190. a.

\* Scz Breve  
 de Redissei-  
 sin.

*Inquisition.*

*Imprison.*

But the sherife shall execute no such plaint (or thing) without the Kings speciall writ; and if the sherife shall de-  
 liuer any such persons as are conuicted of Redisseisin, with-  
 out the speciall commandement of the King, the Sherife  
 shall be grieuously amerced, and besides the parties so deli-  
 uered shall be grieuously punished: 52. H. 3. c. 8. Fitz. 189. c.

20.H. 3. c. 3.

Dyer 68 a.

Also by the statute of Westm 2. (made anno 13. E. 1. cap.  
 26.) the Redisseisors shall not bee repleuiable by the Com-  
 mon writ.

Where a man is conuicted of Redisseisin, hee ought to  
 make his fine in the Chauncerie, and from thence to  
 haue a writ directed to the Sherife, making mention  
 that he which hath made his fine with the king for the Re-  
 disseisin and commanding the sherife to inlarge him &c. And  
 this was the opinion of the court (except Inglefield) Anno

18. H. 3. c. 1.

18. H. 8.

18.H.8.fol.1. for that the words of the statute of Marleb. cap.8. be that such offendors shall not bee deliuered without the Kings speciall commandement &c. And this speciall commaundement cannot be but out of the Chancerie: But in the same case Inglefelde held that the Justices of the common pleas, hauing the record befoze them (by a Certiorare) that the Justices there had power to assesse the fine, and to award such a speciall writ out of that court to the sherife, to set the prisoner at large: And that such a writ issuing out of that court was the speciall commandement of the king; and that the meaning of the statute was ouely to prohibit the sherife to assesse the fine, and not to prohibite the Just. who are Justices of record so to do, Ideoquare.

*Special com-  
mandement  
le Roy.*

But note that the sherife is not to dispute the authoritie of the court &c. See Co.6.54.et hic antea fol.

And yet See Fitz.190.f. if a man be convicted befoze the sherife of Redisseisin, befoze hee shall be deliuered out of prison, he ought to remoue the record into the kings Bench & there to make his fine with the king &c.

If a woman couert shal commit a Redisseisin, shee shal be imprisoned by the sherife, according to this stat. Co.9.72.

The reason of the punishment inflicted by the Law vpon Redisseisors, or such as shall disseise others who are in by judgment of Law, is chiefly to auoid oppression, and that there might be end of suits, for otherwise malicious persons by their infinite vexations would weary such as haue right & in the end compell them to relinquish and giue ouer their right, contrarie to the Rule and reason of Law, and the dishonor of the common lawes of this realme, with others infinitenelle and protraction or delaying of suits, Co.6.fo.9.

West.2.25. Per statutum de West.2.ca.26. *Tels auera remedy per briefe de Redisseisin, queux ont recouer per default reddition, ou in ascun autre manner, sans recognition Assisar, siue Iuratoꝝ. 13.E.1.c.26. Regule.*

West 2.18. *Auxy per mesme le statute cap.18. Tenant per Elegit auera briefe de Redisseisin, scz. si il soit ouste &c. il primes recouera per briefe de Novel disseisin, et postea per bre' de Redisseisin, si besoigne. Fitz. 189.i.*

*Auxy tenant per statute merchant ou staple, auera briefe de Redisseisin, &c. stat. de mercatoribus, 13.E.1. Fitz. 189.i.*

*Et isint semble de tous auters, que sont estate in terres &c. per Iudgment de Ley.*

*Mes si le disseisee recouer son seisin, & puis enter & apres est ouste per mesme le disseisor, icy il nauera briefe de Redisseisin, pur ceo que nauois*

## Redisseifin.

*seifin deliuer a luy per le vic' per brieve de Habere fac. seifinam, mes adenter luy mesme apres son reuenerie vide Br. Redisseifin 5.*

*Nota que sur brieve de Redisseifin direct al vicount, le vic' doit seer in proper person, (& nēy per Attorney, nec per son Southvic' : ) car icy il est fait Iudge de record.*

*Sur brieve de Redisseifin, si le vicount preigne linqvisition deuant luy mesme sole, Ou deuant luy mesme et vn Coroner, et le Redisseifin est troue, & le disfor' ouste, il auera Assise : Et si le disfor' in tiel case soit commis al prison per le vic' il auera action de faux imprisonment de ceo vers le vicount. Car le linqvisition fuit prise coram non iudice ; car le stat. de Merton cap. 3. ac etiam le brieve de Redisseifin direct al vic' dit quod assumptis tecum custodibus placitoꝝ Coronꝝ, &c. Et cest parol (custodibus) in le plurall number ne poet este satisfie oue vn Coroner, si sont plusors que vn, vide Co. 10. 103. et 23. Ass. pl. 7. Br. Redisseifin 3. et M<sup>r</sup> Plo. fol. 393.*

*Auxy les parols del stat. de Merton, sont que il ferra linqvisition per primos iuratos, et alios &c. Et pur ceo couient que sont ij. del primer Iurors al meins ; & si tous les primer Iurors sont morts, ou tous forsque vn, donque il nauera Redisseifin &c. Fitz. 189. i.*

*Auxy coment que tous les primer Iurors sont in vie, vncore le vic' prender deux auters al meins ; auterment est coram non iudice, & br'e de error gira.*

*Les primer Iurors ne ferra prise in le Redisseifin, sinon que ils passe sur le principall del action ; & nemy sur enquirie de damages.*

*Le partie poit auer challenge a les auter Iurors, mes nemy al primer Iurors.*

*Auxy semble per les parols del stat. de Merton, ac etiam per parols del brieve (in propria persona, accedat ad terrana) que le vicount doit s' son enquiry, & prender le linqvisition sur le terre, ou tenement, de queux complaint est fait, & vncore si le vicount viender, & causer le Iurie de venger & veier' le lieu, terres, ou tenements, que donque il poit prender & s' le linqvisition in auter lieu ; car les parols del stat. & del brieve, esteant, quod accedat ad terram &c. ceo est obserue per venger illuc, coment que lenquirie, & verdict soit al auter lieu : (mes semble doit este deins mesme le ville ou le terre gist.) 11. H. 4. fo. 6  
Co. 8. 152.*

*In Redisseifin in diuers villes, le vicount & coroner ira al tous les villes, mes ils poit prender lenquest a lun ville tantum per Ca: 40. Ass. p. 23. Issint est in brieve denquire de wast in diuers villes, quod vide hic antea tit. wast. fol. Br. Rediss. 5.*

*Auxy le vic' poit varier del retorn del bailife, & poit mitter sur le quest tiels que ne fuer' retorne per le bailife, car le vic' mesm' est le person que fait larray, que auxy est Iudge in le case : Et vnc' lou le vic' (in tiel case) ferr' son precept al bailif de retor' le Iury, que retorn' cē, & il maūd cē ret' cōe parcell del record, per c' le vic' ad affirme le ret' del bailif & icy 11. H. 4. fo. 6.*

## Entry by force to execute Proces.

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*si le vicont varier del Retorne le Bailife (& prender lenquest per auters)  
cest semb. deste error.*

*Nota que cest breue de Redisseisin, nest que enquest de office. Br. At-  
teynt, 1. & 79.*



*Where the Sherife &c. may breake open an house,  
or breake open the doores &c. to execute  
the Kings Proces or Writ.*

Co. 5. 91.



When any house is recouered in or by any reali-  
action, or by any Eiectione firmæ, There the  
Sherife or officers, vpon an habere facias seisi-  
nam, or possessionem, may breake the house and  
deliuer seisin and possession therof to the plain-  
tife, for that after Judgement it is no more (in right or in  
the Judgement of law) the house of the def. or Tenant.

Co. 5. 91.

But the Sherife nor his officers cannot iustifie the brea-  
king of any mans house to make execution vpon a Capias ad  
fatistaciendum; Nor to breake any house or chest &c. to  
make execution by vertue of a Fieri facias; Nor to execute  
any other the Kings proces vpon the body or goods of any  
person at the suite of any subiect; and if he doe, he is there-  
in a Trespasser. But where the King is a party, there the  
Sherife may iustifie the breaking of the house to doe execu-  
tion of his proces, if he cannot otherwise execute his pro-  
ces, And yet first he there dought to make request to haue the  
dooze opened, and must withall signifie the cause of his  
comming. Co. 5. 91.

Ibid.

Note that in all cases where the King hath any interest,  
the Writ is Quod non omittas propter aliquam libertatem,  
and therefore the priuiledge of any mans house will not hold  
against the King: But where the King hath no interest, but  
only a common person, There the sberife, although he make  
request to haue the doozes opened &c. and that Deniall bee  
made him to enter &c. yet he may not breake them, and so en-  
ter & doe execution of his proces. For by such meanes great  
inconuenience might arise, that men in the night, aswell as  
in the day, should haue their houses broken open, vpon  
any fayned matter. For although that the Sherife  
himselfe bee a man of especiall note and worth, and his  
office of great authoritje and trust, yet wee see by dayly  
experience,

## Entry by force to execute Proces.

experience, that all or the most part of the Kings Writs are served and executed by their Undersherifes and Bailifes, which most commonly are persons of small worth and account.

And yet where the Sherife shall breake a mans house, or chest, being lockt, &c. to make execution vpon a Fieri facias, although he shall be punished as a trespasser for breaking the house, or chest, yet he shall not be punished for taking the goods, 18. E.4. fol.4. but the execution which the Sherife so made, is good. Co.5.92

Note that in all cases where the doore is open, the Sherife and his officers may enter into the house, and make execution, at the suite of any subiect, either of the body or goods: Co.5.92. Quere if the doore be shut to, and onely latched, (but not locked nor barred &c.) whither the officer may not draw the latch, and so enter.

Also note that in all cases where the King is a party (as for felony, &c.) or hath interest in the businesse, the Sherife and his officers, if no doore be open, and that they cannot otherwise enter, may breake open the doores, or houle of the partie offending, or any other house where the party is, to arrest the offendour, or to make other execution of the Kings Proces, &c. 13.E.4.59. Co.5.91.92.

As if a man be Indited of trespasse, and a Capias pro fine be awarded to the Sherife to take the body of the same person, The Sherife may breake open the party or offendours house, or doores, or any other mans house wherein the offendour shall be, to arrest the offendour. And so vpon Hue and Cry leued after one who hath striken another, so as he is in any danger of death. 7.E.3. fol.16. 27.Assp.35.

If a man be outlawed of treason, or felony, or in any personall action, whereby a Capias vtlagatum shall be directed to the Sherife to apprehend and take him, the Sherife &c. may breake open the house to apprehend him.

See more hereof in my Country Justice, titulo forcible entrie.

But note that though the King be a party, yet the Sherife and his officers &c. before they shall or may breake open any house or doores, they ought to signifie the cause of their coming, and to make request that the doores may be opened, &c. Co.5.91.

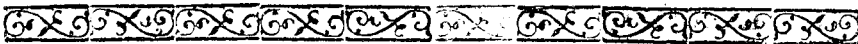
Also note that no mans house shall be any priuiledge to or for any stranger; Nor shall extend to protect any person that shall be there, or flie thither, Nor to protect the goods of any



Co. 5. 93.

any other that shall be brought or conueyed thither, to prevent any lawfull execution, or to escape the ordinary proces of law. But the priuiledge of euery mans house shall extend onely to himselfe and his family, And to and for his proper goods, or to such as are there lawfully and without fraude or couin: And therefore if the Sherife hauing proces to be executed vpon the body or goods of any stranger, doe desire to haue the dooze opened, or to haue the body of the party flying &c. thither, or the goods of another brought thither, to be deliuered vnto him, After such request made to open the dooze, or to haue the body, or goods, of such person deliuered him, if deniall or refusal be made, or that it be not done, Then the sherife or his officers may breake open the house and may execute the Proces without any danger of law.

Also if the Sherife doe breake open the house (in any the cases aforesaid) where any of the doozes of the same house be open whereby he may enter, or where he may open the dooze by a key, or otherwise, without breaking of the house or dooze, he is a trespasser, and subiect to an Action.



*Where the Sherife &c. may take  
Posse Comitatus.*

**T**he Sherife, or his Underherife, or Bailife &c. may *Posse Comi-*  
(nay ought if need be) to take the power of the Count-*tatus.*  
tie, (scz. what numbers of persons they shall thinke  
good) to aide him, or them, to execute the Kings Proces  
or Writ, (be it a Writ of execution, Repleuin, Capias, &c.  
or any other Writ) it being the Kings commandement;  
And such as shall not asist the Sherife &c. therein, being re-  
quired, shall pay a fine to the King. Bro. Parliament & fines  
37. & Trespasse 266.

West. 2. 13.  
E. 1. 39.

The statute of Westminster 2. cap. 39. is direct and full  
in this point saying, Sherifes make many times false an-  
sweres, returning that they could not execute the Kings  
precept, for the resistance of some great man; wherefore let  
the Sherife beware from henceforth, for such manner of  
answers redound much to the dishonor of the King. And  
as soone as his Bailifes doe testifie that they haue found  
such

## Posse Comitatus.

such resistance, forthwith all things set a part (taking with him the power of the shire) he shall goe in proper person to do execution &c. See hic antea fol.

Also by the statute of West. 1. ca. 17. If a distresse bee im- West. 1. 17.  
pounded in a castle or foztresse, and detained, the sherife or  
bailife taking with him the power of the shire &c. may cause  
the said castle or foztresse to be beaten downe. See hic postea.

And by the booke 19. E. 2. Fitz. Execution 147. vpon a writ  
of Seisin, the Sherife returned that he could not deliuer  
seisin foz resistance, and foz that the sherife did not take the  
power of the countie, according to the statute, he was amer-  
ced twentie markes.

So in a Repleuin, if the sherife returne that the cattell  
are in a fort, or a castell, so as he cannot make deliuerance, he  
shall be amerced, *causa qua supra*.

Note where the sherife, or other officer, is enabled to take Lamb. 309.  
the power of the countie, they may command, and ought to  
haue the aide and attendance of all knights, gentlemen,  
peomen, husbandmen, labourers, tradesmen, seruants, and  
apprentizes, and of all other such persons, being aboute the  
age of 15. yeres, and that are able to trauell: to which pur-  
pose also, see the sherifes patent of Assistance (here before  
fol. ) whereby there is commandement giuen to all Arch-  
bishops, Bishops, Dukes, Earles, Barons, knights, and  
all other the kings subiects within the same countie, to be  
aiding to the sherife in whatsoeuer belongeth to his office.

And in such cases they are not appointed any number, but  
it is referred to the discretion of the sherife &c. what number  
they will haue to attend vpon them, and how, and in what  
manner they shall bee armed, weaponed, or otherwise sue-  
nished.

The Sherifes bailife to execute a Repleuy, tooke with 3. H. 7. 2.  
him three hundred men armed (modoguerriño sc. with By-  
gandines, Jackes, and Guns, and it was holden lawfull;  
foz the sherifes officer hath power to take assistance, as well  
as the sherife himselte. Br. Ryots 2.

Also the sherife may take Posse Comitatus, in defence of 11. H. 7. 27.  
the realme, when any of the kings enemies shall inuade the  
land &c. See here before fol.

The sherife also may take Posse Comitatus (any number  
that he shall thinke meete, to pursue, apprehend, arrest, and  
imprison traitors, murderers, robbers and other felons, or  
such as do break, or go about to break, or disturbe the kings  
peace.

The

P. Recu-  
sants 52.

The Sherife &c vpon any lawfull warrant, for the apprehending of any Popish Reculant &c. may take Posse Comitatus. See the statute 3. Ia. cap. 4.

A man demaunds the Peace in the Chancery against a great Lord, and hath a Supplicauit directed to the Sherife &c. there if need be, the sherife may take Posse Comitatus, to aide him to arrest such a Lord &c.

The sherife also may take Posse Comitatus, to execute the precept or warrant of the Iustices of Peace: as in case of forcible entrie, to make restitution &c.

But it seemeth in such cases where the power of the County is to be raised or taken, that the Bailife must haue warrant from the sherife to doe it, and that he must bee a knobone Bailife or Officer, that must doe it.

Also this seemeth to be by force of the Common law, and that the statutes of Marl. cap. 21. & Westminster 1. cap. 17. & Westminster 2. cap. 39. are but a confirmation of the Common law, for the taking of the power of the County by the sherife, to execute the Kings writ and Commandement by writ.



*Baylement of Prisoners by the Sherife.*

Minsh.



Baylement is properly the freeing or setting at liberty, of one arrested, or imprisoned, vpon action, either Ciuill or Criminall, vpon sureties taken for his appearance at a day and a place certainly assigned, Bracton. and cometh of the french word Bail-ler. 1. tradere, to deliuer vp, because he is then deliuered into the hands of them, that bind themselves for his fourth comming. Master Manwood maketh a great difference, betweene baile, and mainprise; for (saith he) he which is mainprised, is alwayes said to be at large, and to goe at his owne liberty, out of ward, after he is let to mainprise, vntill the day of his appearance: But it is otherwise where a man is let to baile, vntill a certaine day, for there he is alwayes accounted by the law to be in the ward or custodie of his sureties, for the time they vndertooke for him; and they may, if they will, keepe him in ward or prison, all that time: So that he that is bailed, shall not be said to be at large, or at

*Baylement.*

*Mainprise.*

## Baylement.

at his owne libertie. See master Lamberts Iustice of peace, tit. Bailement, agreeing with this Difference.

But in our law, these two words Bailement, and Mainprize, are notwithstanding indifferently vsed, to expresse that suretie which the prisoner is to find in such case. Lamb. Ibidem.

And yet Bailement seemeth to implie the deliuerie, and Mainprize the receiuing of the prisoner &c. and so these two words to be Relativa.

*Detaine persons baileable*

If the sherife, vndersherife, oz bailife &c. shall detaine any prisoners who are baileable, after they haue offered sufficient sureties, the sherife &c. shall bee theretofore grieuouly amerced to the king.

*Baile persons nicht baileable*

If the sherife, vndersherife, oz other officer, shall let to baile any persons which are not baileable, they are also punishable theretofore by the Judges of gaole deliuerie, See the statutes 3.E.1.C.15. 27.E.1.C.3. & 23.H.6.C.10.

P.Main.3.4  
Fitz.251.b

*Queux persons baileable*

Sherifes, Vndersherifes, and other officers ought to let to baile, and out of prison all manner of persons being in their keeping, oz by any of them arrested by force of any writ, Bill, oz Warrant, in any action personal, oz vpon any Indictment of trespassse, vpon offer of reasonable suretie (of sufficient persons, hauing sufficient within the countie where such persons bee so let to baile) to appeare at the day and place, as the said writs, Bills, oz Warrants shall require, except such persons as are hereunder mentioned, scz.

23.H.6.C.10  
Fitz.251.b.

upon Capias } ad Satisfaciendum.  
                  } Vtlagatum.  
                  } Excommunicatum.

Fitz.251. b.

Except all such as are in their custodia.

For suretie of the peace, By commandement of any Justice. See Stamf.73.

And vagabonds, oz vagarant and idle persons refusing to serue, and which remaine in prison vnder the custodie of the sherife. Fitz.251. b.

This first branch of the statute of 23.H.6. is a precept and commaundement to Sherifes, that they shall let to baile prisoners which are arrested in personall actions &c. the which sherifes could not do before this statute. Co. 10. 100.

23.H.6.C.16  
Pl0.63.

The second branch of this statute was to restraine the bailing of others contained in the exception; so that sherifs shall

shall not baile any such persons as are in execution vpon any statute, or recognisance, or vpon any judgement giuen in any of the kings courts for any debt or damages at the suit of any person, for that such persons shall not be bailed, nor suffered to go out of prison by baston, (ic. with a keeper) vntill they haue agreed with the parties of that whereof they were judged, or for which they are in execution (vntill it be by writ, or other commaundement of the king.) See the statutes of Acton Burnell, & de Mercato made 13. E.1. 1.R.2.cap.12. & Fitz.121.a. & 251.d.

Neither shall sherifes baile any prisoner or person which is taken for any manner of treason or felonie. See the statute of Westm 1.cap.

See more in my Countrie Iustice tit. Bailment, what persons are baileable, and what not.

If the sherife, vnder sherife, or other officer shall detaine any prisoner who is baileable as aforesaid, after sufficient sureties by the prisoner offered, or shall let to baile any person which is not baileable as aforesaid, such sherife or officer shall loose to the partie indamaged or grieued treble damages, and besides shall forfeit fortie pound to the king and Informer.

Note that the bailife or other officer which arrests one by vertue of any Warrant &c. ought to take sureties of the partie arrested (if he be baileable) vpon paine of fortie pound, and this by force of this statute of 23.H.6. *Officer prender sureties.*

And therefore the prisoner is not bound to go to the sherife if he offereth sufficient sureties to the bailife.

The abuses of sherifes in bailing of prisoners, before this stat. of 23.H.6. See in Plo. 67.

The third branch of the statute is to make obligations taken in other forme than the statute limits and appoints to be void.

23.H.6.c.10

Now for the forme of such obligations as the sherife, or his officers shall take (for the apparance) of such as they shall let to baile, the words of the statute are thus; No sherife, nor any of his officers or ministers, shall take, or cause to be taken, or made, any obligation for any cause aforesaid, *Forme det Obligation:* Or \* by colour of their office, but onely to themselues, of any person, nor by any person which shall be in their ward † (by course of the law) but by the name of their office, and vpon condition written, that the said prisoner shall appeare at the

\* Nota ceux parols, & vnde eux bien expound, Plo. fo. 68. † Vide Plo. 69.a. Co. 10. 100.

## Bailement.

the day contained in the said Writ, Bill, or Warrant, and in such places as the said Writs, Bills, or Warrants shall require.

If the Sherife, Undersherife, Bailife, or other person shall take any bond or obligation of any person being in their custodie, in any other forme, by colour of their office, such obligation shall be void, and besides the sherife (or other officer) taking such obligation contrarie to this statute shall loose to the partie indamaged or grieued in this behalfe his treble damages, and besides shall forfeit xli. s. to the King and Informer. Pl. 68.

Now then seeing that sherifes, vndersherifes, and other officers, after they haue arrested one who is baileable, they then are to baile, and ought to take bond for the apparance of their prisoners, before they deliuer them, it behoueth them to be heedfull and carefull that their bonds be made according to law, wherein let them marke these obseruations. 23. H. 6. c. 10

1 First, the bond must bee made to the high sherife himselfe (or to his vse) by the name of sherife, and not to the vndersherife.

2 Next there must bee nothing incerted or put into the condition of that bond, but onely that the defendand shall appeare (in the court, from whence the Writ issued, or in such place as the said Writ or Warrant shall require) at the day contained in the said Writ or Warrant, being the day of the returne thereof. Pl. 68.

And yet if the condition be to appeare generally, or to appeare & answere, or to appeare in person, it is good enough, notwithstanding such addition. See *postea*.

3 Also concerning the prisoner or partie to be bailed, it is meete, and safest for the sherife, that he be bound with two sureties, hauing sufficient within the same countie; but this is not of necessitie, but onely for the safetie of the sherife.

*v. Serran*  
*vic Pantum.* All bond entred into by a prisoner, to any person saue only to the sherife, for the enlarging of the prisoner, is not good, but meere void in law, by this statute of 23. H. 6. Crōp. 106. a

And with this agrees the booke of 7. E. 4. 5. where one was in the custodie of the sherife, by force of a *Capias* directed to him vpon an indictment of trespassse, and the partie maketh an obligation to another (by the denomination of the sherife) vpon such condition as the statute prescribeth, (for the suretie or securitie of the sherife) and there it is holden that the obligation is void, for that the statut prescribeth that Co. 10. 106. b.  
Pl. 68.

that the obligation shall be made to the sherife himfelfe, and this is part of the essentiall forme of the statute.

**Etōp 106. a**  
**7. E. 4. fol. 5.** A Sherife had one in execution for a great summe, and after the sherife tooke an obligation (of the party which was in execution, and of diuers others) in his sonnes name to pay to him at a certaine day &c. and so let the prisoner go at large, this was holden to be an escape, & the bond clerely voyd; it was the Sherife of Staffordshire his case An<sup>o</sup> 31. Eliz. as Master Crompton reporteth.

**Ibid.**

And so is it where a bond is giuen to the Sherife by a stranger for the enlargement of a prisoner, the bond is void. *Escure.*

**Co. 10. 100.**

But note that this statute of 23. H. 6. extends onely to such obligations which any person being in the custody of the sherife, do make vnto him, and therefore Anno 34. Eliz. in an action of debt brought by D. sherife of B. against Burman vpon an obligation, the defendant pleaded this statute of 23. H. 6. and shewed that on K. recovered debt and damage against him, and pursued a writ of Fieri facias against him, directed to the Sherife of B. and that he made the obligation to the plaintife (being sherife) for the execution, and that the obligation was void by the Act; vpon which the plaintife demurred, and it was resolved and adiudged, first that the obligation was not within the said statute for that the statute extends onely to such obligations which any being in his \* custody do make vnto him, - . That the obligation was not void by the common law, whereupon the plaintife had judgement *Fait per estr'.*

\* Mesicy le  
pty ne fuit  
ē lō custody  
car fuit sur  
Fieri fac'.  
**Co. 10. 99. b**

And so in Beawfages case, the Sherife vpon a Fieri facias, tooke bond of the defendant to pay the mony in court at the returne of the writ, and it was resolved that such obligation was good, and not void by the statute of 23. H. 6.

**Co 10,  
100. a**

The like judgement was giuen an<sup>o</sup> 28. et 29. El. between Burwey and Kett vpon an obligation taken by the sherife, p<sup>o</sup> solutione pecuniæ debite dominæ Reginae, vpon an extreate out of the Exchequer. *Sur extreate.*

But if the sherife shall take an obligation of any person being in his custody or ward, then the condition of such obligation must be in substance according to the forme prescribed by the statute, or otherwise it will be void.

**37. H. 6 f. 11.**

And therefore in 37. H. 6. the Sherife tooke a single obligation of one that was in his custody (who was baileable) and it was holden to be void, for that the obligation wanted the essentiall forme prescribed by the statute; for the condition therein prescribed sc. for the apparance of the pri- *Sanz condic.*

## Bailement.

soner) was wanting, which is part of the substance, Co. 10. 100. Plo. 67.

*De un que nē  
baileable.*

So in the same booke Moyle saith, that if the sherife had bailed one who is excepted in the said statute, and not baileable, and had taken a single obligation, that it was void, which the rest of the Justices also granted; for by the exception it appeareth that it was not the intent of the statute, that he should be bailed, and so the obligation is taken in other forme than the statute meant.

37. H. 6. fo. 1  
Plo. 64. 67.

*De saver  
harmelesse.*

And by the opinion of sir Edw. Coke, that aswell in the former case of 37. H. 6. as in the principall case of Diuc and Maningham, Plo. 67. the obligation which was with condition to saue the sherife harmelesse (when the sherife against the law had bailed one which was not baileable) is against the law, and void by the common law; wherewith agreeth Wischams case, 15. El. Dyer 324.

Co. 10. 100.  
b.  
Plo. 69.

*Addition.*

Also if the sherife shall adde to the condition of the obligation, that he shall be saued harmelesse against the king, and the plaintife &c. this shall make all the condition void.

Co. 10. 100.  
b.

*Desto voier  
prisoner.*

So if the sherife or gaoler shall take an obligation of the prisoner, with condition to be his true prisoner, or to pay for his meat, or his drinke, these are void. Plowden 68. See hic Gaoler.

So if the sherife shall adde any other thing to the matter prescribed by the statute, as to pay so much money for a horse &c. such addition maketh all the obligation to be void, for that it is taken in other forme (touching the substance of the matter) than is prescribed by the statute; and with all this agreeth master Plo. fo. 67. 68. 69.

Co. 10. 100.  
b.

*A verball  
promise.*

And if a sherife or gaoler (for the ease and enlargement of any person who is in their custodie, or ward) shall take a promise to saue him harmelesse, although the statute speaketh onely of obligations with conditions, yet this is in the like mischief; and therefore promises shall bee taken within this statute of 23. H. 6. and within the equitie of the words (any obligation) an assumpsit shall be taken; for Quando verba statuti sunt specialia, ratio autē generalis, generaliter statutum est intelligendum.

Co. 10. 100.  
b.

By Mounague chiefe Justice, if more bee inserted into the obligation than for apparance of the partie bound, all the bond is void.

Plo. 68.

And yet 21. Eliz. Dyer 364. there the condition was in the coplative, to appeare and answere, and the obligation holden good,

Co. 10. 101.  
b.  
Dyer 364.

The



The case there was this, a sherife hauing an attachment returnable coram domina regina & concilio suo, in camera stellara apud Westmonasterium in quindena Paschæ, ad respond' dictæ reginæ & concilio suo de quodam contemptu, & ad faciend' & recipiend' ulterius &c. doth arrest the party, and takes bond of him (for his apparance) indorced with this condition, scz. that if he shall personally appeare befoze the queens maiestie and her counsell at Westminster, in quinden Paschæ, and then and there shal answere a contempt by him against the queene and her counsell committed, that then &c. And the question was, whether this bond and condition were good in law or no, because the words (and then and there shal answere &c.) were added to the condition, and so was moze than the statute of 23.H.6. would warrant; And by the opinion of Dyer and Wyndham the obligation was good enough, for it was asmuch as to haue said, then and there to answere (to a contempt &c.) which had beene good: And by this obligation no profit did accrue or grow to the sherife, nor to any other person, but was onely to answere the queene &c. which was the intent of the statute of 23.H.6. yet Meade was of the contrarie opinion: But after judgement was giuen for the plaintife, and so the obligation holden and adjudged to be good, according to the statute of 23.H.6.

17. Eliz.

Also in the Kings Bench anno 27.Eli. the case was this, sic William Drurie late sherif of the county of Suff. brought an Action of Debt vpon an obligation of twentie pound, against A.B. who demanded oyer of the obligation (whereby it appeared that the defendant was onely bound therein) and of the condition which was that one More, whom the said sherife had arrested by force of a Lattitac out of the Kings Bench, should appeare in person at the day contained in the writ ad respond' &c. and pleaded the stat. of 23.H.6. and that the said obligation was taken in other forme than the said statute prescribed &c. whereupon the plaintife demurred in law: And it was objected that there were three variances from the forme prescribed by the statute, scz. one in the obligation, and two in the condition: In the obligation, for that the plaintife tooke but one suretie, whereas the statute prescribes reasonable suretie of sufficient persons, in the plurall number, hauing sufficient within the countie &c. in which case there ought to be two sureties at the least, and here was but one suretie, and so against the words of the said statute, and also against the intent of the statute, for the

## Bailement.

more, and the more able that the sureties are, they will the sooner cause the partie that is bailed to appeare, and thereby justice shall proceed with more expedition: And also in the condition, first the words are, that the prisoner shall appeare in person, whereas the words of the statute are to appeare generally, without these words in person; secondly that he should appeare at the Day &c. ad respond, where those words (ad respondend) are more than the statut prescribes, and so for these two causes the condition varied from the forme prescribed by the statute, and therefore the obligation was void: But it was resolved by sir Christopher Wray, sir Thomas Gawdie, and all the court of the Kings Bench, that the said obligation was not void; for as to the first objection, the words upon reasonable suretie of sufficient persons, are added for the suretie of the sberife, and therefore if he will take but one suretie, it is at his perill, for he shall be amerced if the defendant appeareth not; and therefore the statute doth not make void the obligation in such case, for the branch of the statute which prescribeth the forme of the obligation, requireth that the obligation shall be made to the sberife himselfe by the name of his office, and that the prisoners appeare, in which clause no mention is made of the sureties, so that the meaning of the statute was, that in as much as this was at the perill of the sberife, to leaue this to his discretion, scz. to take one, or moe sureties for his indemnitie; and peradventure it shall be better for him sometimes to take one which is sufficient, than two others; And although the sureties or suretie haue not sufficient within the same countie, as the statute mentioneth, yet the obligation is good enough, for these words of the statute to this point, are rather for counsell and direction of the sberife, than by way of precept or constraint to him, and that for the safetie of the Sberife: But note that if the defendant cannot find two sufficient sureties, hauing sufficient within the same countie, the Sberife is not bound to let him to baile.

*But one suretie.*

*Nōent suffic deus countie.*

Co. 10.  
100. a

And as concerning the two additions to the condition of the said obligation, more than is in the statute, it was resolved, that there is a verball difference in the forme prescribed by the statute, but no difference in substance & effect, for he that is so bailed ought to appeare in person; And so, and for the same cause, the other exception was not materiall, for he which was to appeare, ought to appeare ad respondend, & parum differunt, quæ re concordant.

Ibid.

Firz. 25. c.

And

And so note that sherifes, nor their officers, ought to take no obligation for any cause or thing aforesaid, or by colour of their office, except onely to themselves; nor of any person being in their custodie or ward, but by the name of their office, naming himselfe sherife in the obligation, & upon condition only that the partie shall appeare at the day & place in the Writ or Warrant specified; and if any obligation be taken by colour of their office, in any other forme, it is void by the statute of 23.H.6. But for the sureties, their number, their sufficiencie, and the summe wherein they shall be bound, all these rest in the discretion of the sherife, and his officers, but yet at the perill of the Sherife, if the defendand shall not appeare thereupon.

*Coment obligation prise in auter manner que le statute (de 23.H. Regules 6.) prescribe soit void, uncore le partie ne poit plede non est factum, mes avoider ceo per plee &c. 7.E.4.f.5. Co.3.59.& 5.119.*

*Ceo statute de 23.H.6.cap.10.est forsque particulier & specull act, dont les Judges,ou Court, nest tenu de prender notice, ex officio, sinon que fait plead per le partie. Dyer 119. Co.4.76.*

Pl.68.a.

*Nota que le vicount & ses officers, ne poient prender obligation de lour prisoner, forsque in petit number de Cases, car lour abilitie in ceo point est streit per ceo statute de 23.H.6.*

*Et issint semble de obligations prise per le vicount de ses officers, ou de ascun auter persons, colore officij, si issint soit que le obligation est prise in auter forme que le statute limit.*

# Obligations.



## Obligations.

*The forme of a Bond for appearance.*



Overint vniversi per præsentēs nos *A. B.* de *C.* in com̄ Canteb̄r̄ gen̄, *E. F.* de *L.* in comit' præd' yeoman, & *H. T.* de *R.* in com̄ prædict. yeoman, teneri & firmiter obligari *A. B.* milit' vic' com̄ præd. in quadraginta libris bonę & legalis monetę Anglię, solvend' eidem vicecomiti aut suo certo attornato, execut', sive administrator' suis, Ad quam quidem solutionem bene & fideliter faciend', obligamus nos & quemlibet nostrum per se pro toto & in solido, hæred', executor', & administrator' nostros, & cujuslibet nostrum, firmiter per præsentēs, sigillis nostris sigillat', dat' quarto die Decembris, anno regni domini nostri *Jacobi* Dei gratia regis Angl' & c. decimo nono, & Scotię quinquagesimo quinto annoque Domini  
1621.

The Condition for apparance.

**T**he condition of this present obligation is such, That if the aboue bounden *A. B.* do appeare coram domino rege (if the writ be out of the Kings Bench) apud Westmonast. die Iovis proxim' post quindena sancti Hillar', or otherwise according to the returne of the writ, but if the writ be returnable in the court of Common Pleas, then the words in the condition must be for the defendant to appeare coram Iustic' domini regis (apud Westmonast. in oct. sancti Hillar', or such other returne according to the writ) to answer to *C. D.* in a plea of Trespasse (or debt, as it is in the writ) that then this present obligation to be void and of none effect, or else the same to stand, remaine, & continue in force, strength, and vertue.

Sealed and deliuered to the vse of the abouenamed Sherife, in the presence of *A. R.* and *T. S.* (two witnesses at the least.)

*Or thus in Latin.*

**C**onditio istius obligationis talis est, Quod si interius obligatus I.H. Compareat personaliter coram dño Rege : **Or** coram Iustic' dñi Regis : apud Westm̄ (à die pasche in xv. dies) ad respondendum A.B. de placito debiti (vel detenc', aut compoti, juxta tenorem brevis dñi Regis præfat' vic' inde direct'.) Quod tunc præsens obligatio vacua & pro nulla habeatur, Alioquin in sito robore permanere & effectu.

**U**pon a Warrant made or granted out vpon a Capias vt-lagatum, the Sherifes in some places doe vse to take of their Bailifes, a Bond with Condition, to bring the defendant to prison if he be arrested, which makes good execution of those Proses. And it were to be wished, that this were vsed in all Countreys, and then there would not be so much extortion and indirect dealing vsed by vndersherifes and bailifes to the King and his subjects as there is: for if they take any man vpon a Capias vt-lagatum, they will not onely take money of the pliantife, for to take the defendant, but when they haue taken him, for money they will let him goe againe; and they will alledge for a colour, that it is to reverse the Outlawry, which they haue nothing to doe withall; for the defendant ought to be brought to prison, and there to remaine vntil he hath reuerfed the Outlawry by the helpe of some Atturrie, and not by the sherifes, vndersherifes, or other officers; for no vnderherife, or sherifes bailife &c. ought for their times to practise as an Atturney, Wilk. See hic postea titulo Sherifes officers.

**A**lso vpon all Repleuins granted or made by the sherife, *Vpon Reple-* or his officers, they must take a Bond of him to whom the *vin.* Repleuin is granted, for his apparance, and prosecuting of *De prosecu-* the suite &c. Whereof see postea titulo County Court. *ter le suite.*

**A**lso there is another Bond which the sherife or his officers must take for the deliuerie of the goods or cattell repleued, if returne shalbe adjudged &c. The forme of which *De Return-* condition is as followeth. *les biens, &c.*

Conditio istius Obligationis est talis, Quod si supra Obligati A.B. & C.D. redeliberaverint supra nominato vicecomiti: omnia illa bona & catalla, & quamlibet inde parcellam per P. H. capt' & ratione cuiusdam Repleg' per prædictum vicecomitem factum, præfatis A. B. & C. D. Repleg', si returna inde ad-

## Obligations.

adjudicetur ; Et præd' vic' et executor suos indempnem conseruauerint, Quod tunc hæc præfens obligatio vacua et pronulla habeatur, Alioquin hæc præfens Obligatio in omni suo robore permanere et effectu.

Or thus in English

*Aliter.*

**T**he condition &c. That whereas the within named Sherife by vertue of his office, & vpon the complaint of the within bounden I. S. hath deliuered and Repleued to the same I. two hozses and foue kine which one W. T. late tooke and wrongfully withholdeth as the said I. S. saith: If the said I. Doe pursue his action with effect against the said W. for the taking and withholding of the said hozses and kine and Doe make returne of the same, if the returne thereof shall be so adiudged by law ; And the said Sherife his heires executors and administrators shall acquite discharge and saue harmeless against our soueraigne Lord the King, and the said W. of and for all and euerie thing concerning the premises, That then &c.

A condition to be true prisoner.

**T**he condition &c. That if I. H. Merchant of &c. which now is in the Kings prison vnder the keeping of the Sherife within named, as well by reason of a writ of our soueraigne lord the King of the statute of the staple containing the summe of one hundred pounds &c. As also for certaine other actions, causes, and suits on the behalfe of R. S. &c. moued and commenced, bee from henceforth a true & faithful prisoner, tarrying and remaining with the said Sherife and his deputie, till the same R. S. be fully at an end discharged and acquitted of the said action, and then content and pay to the said Sherife &c. All and singular costs, charges, fees, and other dueties, in such cases theretofore accustomed to be payed That then &c.

A con-

*A Condition for appearance in the Kings  
Bench, for the Peace.*

**C**onditio &c. quòd si infra Obligatus I.L. compareat personaliter, in custodē infranominat' vicecom' &c. coram domino Rege (in octabis sanct' Michaelis proxim' futur') vbicunque tunc fuerit in Anglia, ad inveniend' tunc coram ipso domino Rege sufficientem securitatem pacis dñi Regis, & de se bene gerendo erga ipsum dominum Regem & cunctum populum suum, & præcipuè erga H. C. juxta tenorē brevis ipsius domini Regis præfat' vicecom' inde direct'; Et medio tempore pacē gerat, & direct' vicec' hæred' & executor' suos erga dominū Regem & cunctum populum suum, præcipuè erga prædict' H.C. de & in omnibus concernent' præmissa indemnes conservet quod tunc, &c.

*A Condition for appearance in the Kings  
Bench, and good abearing.*

**C**onditio istius Obligationis talis est quod si interius Obligatus I.L. compareat personaliter sub custodia infranominati vicecom' vel ejus deputat' coram domino Rege in Octabis sanct' Hillar' proxim' futur' vbicunque tunc fuerit in Anglia, ad inveniendum tunc coram ipso domino Rege sufficientem securitatem de se bene gerendo erga ipsum dominum Regem & cunctum populum suum, juxta tenorem brevis dicti domini Regis præfat' vicecom' inde direct', & se bene medio tempore gerat, & direct' vicecom' & executor' suos erga dominum Regem & cunctum populum suum, de & in omnibus concernent' præmissa indemnem conservet, quod tunc &c.

**Also it is safe for the Sherife to take good securitie of his officers** scz. from his vndersherife, bailifes and Goaler, &c. *De ses officers.* And this securitie is commonly by bonds, the formes whereof, See hic postea titulo, Sherifes Officers.

But these bonds are thought by some opinions to be voyd, or voydable, by the words of the statute of 23. H. 6. cap. 10. That no sherife shall take any Obligation for any cause aforesaid, or by colour of his office, but onely in such forme and sort as is prescribed by the same statute, And if any sherife take any Obligation in other forme, by colour of their office, it shall be voyd.

Also

## Attendancie vpon Iudges.

*Sur Idempt.  
Nominis.*

Also by the statute made 37. E. 3. cap. 2. where the sberife shall seise any lands oz goods, &c. of one mans, which beareth the same name with another that is vtlawed, the partie griued may haue a Writ de Idemptitate Nominis, directed to the Sherife (oz other officer :) but the partie griued must withall find suretie befoze the Sherife (oz other officer) to answer the King the value, &c. in case hee cannot discharge himselfe.



## The Sherife is to be Attendant vpon the Iudges in their Circuit.

1 **V**pon a precept from the Iudges of Assise, the sberife is to summon the Assises, and to returne the same, &c. which see hic antea fol.

2 Also the high sberifes themselues are in person to attend vpon the Iustices oz Judges of Assise and Gaole deliuerie in their circuits, and shall giue their attendance for the due executing of the commaundements & precepts of the said Iudges in matters concerning the execution of their offices and ministracion of Justice; and to take the charge of prisoners, and for the execution of felons and other persons condemned; And for the inflicting of punishment vpon other prisoners according to Justice, and so far forth as apperteineth vnto their office of a sberife.

3 Euerie sberife (& all other persons) which haue the custodie of the gaoles (oz of prisoners for felonie,) ought to certifie the names of euerie of their prisoners which are in their custodie for felonie, to the Iustices of the next generall Gaole deliuerie, in a Kalender, vpon paine of v.li. for euerie default. 3. H. 7. c. 3.

The forme of such Kalender may amongst other things be as here vnder followeth, oz else they may make a Kalender of the prisoners alone.

### *Kalendarium.*

*Canabr.*

**K**alendarium de nominibus Iustic' Pacis Domini Regis, Coronator' Seneschall' Ballivor' libertat' et hundred, in com pra-



\* See hic  
titulo  
Goales

prædict. Sommoñ ad Afsifas tent' apud C. in Coñ prædict. die Lunæ in fecunda feptimana Quadragefimæ, Anno regni domini noſtri 14. dei grac' &c. fidei defenſoris &c. Ac de \* nominibus priſon' in Gaola prædict. exiſteñ.

Nomina Inſtic' Pacis.

A.B. miles & Baronetrus. C.D. miles. E.F. Ar. &c.

Nomina Coronatorum.

G.H. I. K. &c.

Nomina Senefch. & Ballivor' Libert'.

L.M.N.O.P.Q. &c.

Nomina ballivor' Hundred'.

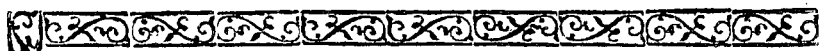
R.S.T.V. A.C. B.D. &c.

Nomina Priſon' in Gaola C. exiſtent'.

I. S. reſcif.

I. N. capt' apud S. pro ſuſpect' felonix.

Et ſic de reliquis &c.



The Sherife alſo is to aſſiſt the Juſtices  
of Peace in his Countie, in diuers caſes.



In ſome Caſes the Sherife is to ioyne with the Juſt. of Peace, as in caſe of riots. See hic antea. Riots.

If the ſherife, or vnderſherife, ſhall not goe and ioyne with the Juſtices of peace for the due execution of the ſtat. of 13. H. 4. c. 7. made for the ſuppreſſing of riots, routs, and vnlawfull aſſemblies, ſcz. for the arreſting, and impriſoning of ſuch offendors, and recozding their offence, and enquiry thereof, according to the ſame ſtatute, they ſhall forfeit one hundred pound.

13. H. 4. c. 7.  
15. R. 2. c. 1.

And the ſherife is to conuey ſuch offendors to the Goale, at the appointment of the Juſtices of Peace.

If the truth of the riot cannot be found out vpon the Inquiry, then within one moneth after the Inquiry, the ſherife, or vnderſherife ſhall ioyne with the Juſtices of Peace in a Certificat of the fact and circumſtances &c. vpon paine of one hundred pound. See hic antea fol.

Alſo if the ſaid riot be not found by reaſon of any embzaccery, or maintenance &c. Then the ſherife, or vnderſherife (ouer and beſides their former Certificat) ſhall ioyne in another Certificat, of the names of ſuch mainteinozs, and imbracers, with their miſdemeanors, vpon paine of twentie pound. See hic antea fol. Ja

## Afsistance to Iuftices of Peace.

In ſome caſes the Sherife is to attend the Juftices of Peace.

*Forcible en-  
trie.*

If the ſherife (or any other perſon of the County) doe not attend vpon the Juſtice or Juſtices of Peace, to goe and aſſiſt him or them, to arreſt ſuch as ſhall make any forcible entries (into any houſes, lands, or other poſſeſſions) he or they ſo offending, ſhall be impriſoned, and pay a fine to the King. 13.H.4.c.7.  
P. force.5.

The ſherife, or vnderſherife, ought alſo to attend the Juſtices of Peace at their generall Sessions of the Peace, and that for the double duetie that he beareth, The one as ſherife to returne the precept, and to take the charge of priſoners, and to ſerue the Court otherwiſe as he hath in charge by the Mandamus that is mentioned in the Commiſſion of the Peace; The other becauſe he hath alſo care and charge of the Peace. Lambert. 381.

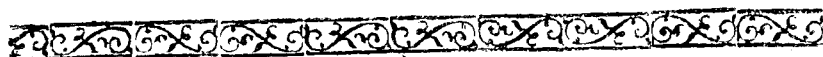
In other caſes the ſherife is to execute the Proceſs, Precepts, Warrants, and other lawfull commandements of the Juſtices of Peace. And therefore vpon a precept from any two Juſtices of the P. (the one being of the Quorum) the ſherife is to ſummon the Sessions of the Peace, and to returne the ſame. See hic fol.

All ſherifes, and bailifes of liberties, muſt truely execute all ſuch proceſs as ſhall come to him or them from the Juſtices of Peace, befoze whom any preſentment ſhall be made touching decayed Bridges, or anoyance of Bridges, vpon paine to make ſuch fine, as ſhall be aſſeſſed vpon him or them by the ſaid Juſtices. 22.H.8.c.5.  
P. Bridges 8

If the Juſtices of Peace ſhall grant out any proceſs againſt any ſeruants, or labourers, departing into other ſhires, the ſherife muſt duely execute ſuch proceſs vpon paine of twentieth pound. Stat. 2.H.5. cap. 4.

Alſo the Juſtices of Peace (as well out of their Sessions, as from their ſeſſions of the Peace) may in many caſes direct their Precepts, or Warrants, and other Proceſs to the ſherife, vnderſherife, bailife or other like officer, And the ſherife and other his officers are to execute the ſame, accordingly, See my Countrey Iuſtice pag. 303. 305. & 367.

*The*



The Sherife is to execute the Precepts  
of Commissioners of Sewers.

23.H. 3.c.5.

**T**he Commissioners of Sewers haue authoritie to make and direct Writs, Precepts, Warrants, and other commandements, to all Sherifes, Baylifes, and all other ministers and officers, as well within liberties as without, befoze the said Commissioners oz sixe of them, at certaine daies, times, and places to bee returned, &c.

Ibid.

Sherifes shall returne and cause to come befoze the said Commissioners ( at such dayes and places as they shall appoint) such and so many Jurors scz. honest and lawfull men of their bailwicke oz shire, as well within liberties as without) as shall be expedient for inquirie.

Ibid.

All other Ministers and Officers, as well within liberties as without, shall be attendant vnto the commissioners of Sewers in and about the due execution of their commission.

Ibid.

If any Sherife oz other officer, shall be negligent in the due execution of the premisses, the said commissioners may ( as it seemeth) punish them by distresse, fines, and amercements, oz otherwise, as to the said commissioners ( oz sixe of them) shall seeme expedient, &c.

7.Ia.c.20.

Also by the statute made 7. Iacobi Regis, All sherifes (baillifes, officers, and other the Kings ministers whatsoeuer) within the Counties of Norfolk and Suffolke (as well within liberties as without) shall from time to time be attendant, ayding and assisting to the commissioners of the Sewers, and to euerie sixe oz moe of them, for and concerning the returning of the Juries befoze the said commissioners; as also for and concerning all such other things as shall concerne their seuerall offices & places respectiue, in oz about the execution of all things in the said Act contained; vpon paine to forfeit such paines, penalties, fines, and summes of money as shall bee set oz imposed vpon them, by any sixe oz moe of the said commissioners, &c. which said penalties, &c. shall and may bee leuied, by distresse, sale of goods and imprisonment, &c. and shall bee employed and disposed of, in and about the preservation of the fenne grounds and drayning of the waters there.

## Precepts of Com'. Of Escheators.



The Sherife also is to execute the  
Precepts of other Commissioners.

*Bankrupts.*

**A**S the Commissioners vpon the statute of Bankrupts (made 13. Eliz. cap. 7.) may cause the lands, tenements, annuities, offices, and goods, &c. of Bankrupts, to bee viewed, rented, and appraised vnto the best value they may, and then to make sale thereof, &c. And for the appraising of such lands, &c. the said Commissioners (as it seemeth) may make and direct their Precept or Warrant to the Sherife, for the returning of a Iurie befoze them, for appraising and valuing thereof: And such Commissioners may (as it seemeth) set a fine vpon the Sherife for not returning such a Iurie befoze them.



The Sherife in some things is to execute  
the Precepts of Escheators.

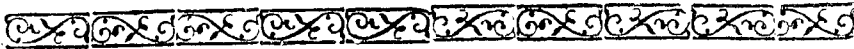
**N**ote that Escheators by the Common Law may make and direct their Precepts or Warrants to the Sherife, for the returning of Iuries befoze them; And may also assesse and set a fine vpon the Sherife, for not returning of a pannell or Iurie befoze them, &c. 7. H. 6. 12. Br. Fines, pur Contempts 18. And this Escheators might haue done by the Common Law.

And yet for that Escheators for their private gaine vsed to take enquests (to enquire befoze them, as well by vertue of the Kings Writs, as by force of their offices) fauourably and not duely, by people not impannelled nor returned to them by the Sherifes of the Counties, to the griouance of the Kings subiects, &c. Therefore by a statute made, 8. H. 6. c. 16. it was ordained that no Escheator or Commissioner shall take any enquest, but of such persons or people as be returned and impannelled by the Sherife, in the Countie within which he is Escheator or Commissioner.

By

34.H.8.c.  
26.

By the Statute 34.H. 8. every of the Sherifes within the Counties of Wales, shall have power within their Sherifewickes, as Sherifes in England, And shall accomplish and execute all the lawfull commandements and precepts of the Justices &c. and of Escheatores in all things appertaining to their offices and authorities.



The Sherife in some Cases is to execute the Precepts of Coroners, &c.

**N**ote also that Coroners by the common lawe may make and direct their Precepts or Warrants to the Sherife, for returning of Juries before them; And may also Assesse and set a fine upon the Sherife for not returning of a Pannell or Jury before them &c. 7. H. 6. 12. Br. fines pur contemptis. 18.

34.H.8.c.  
26.

By the statute made Anno 34.H.8. it was ordained that every of the Sherifes within the Counties of Wales; shall have full power within their Sherifewickes, to doe as Sherifes in England; And shall accomplish and execute all the lawfull commandements and precepts of the Justices &c. and of Coroners, in all things appertaining to their offices and authorities.

1.E.1.c.10.

By the statute made An. 3.E. 1. Sherifes shall have Counter Rolls with the Coroners, as well of Appeals, as of Enquests, of Attachments, and of other things which to that office belong.

And to this purpose Master Bracton lib. 2. de exceptionibus ad Appella, saith thus, Est aliquando dissentio in recordo faciendo, inter Coronatores & vic', cum vterq; debeat habere suū Rotulū, in quibus quandoq; varia continen', quandoq; Concordant'. Et habent Recordū quandoq; Coronat' per se sine vic', vt si vic' mortuus fuerit, vel amotus, & rotulū non inueniant'. Si vero Rotulus vic' discord' à Rotulis Coronat', & rotuli Coron' conveniunt, tunc eorū stabit' recordo, quia Rotulus vicec' nihil operat' nisi ad testim'. Et quid si rotulus vnius Coron' discord' à rotulis alior', cum plu' fuer' standū est plural'. Si autē non sunt nisi duo Coron', & discord', tunc stabit' rotulis ipsius cū quo concordat rotulus vic'. Si autem sunt ibi quat' Coronat' & duo dissent' à duob', nec appareat vic' qui Rotulū habet ad testific', tunc stabitur illis duob' qui cum Appel' conven', &c. Stamf. 83.

Et 2

But

## Assistance to the Ordinarie.

But no Sherife, Coroner, or any other Bailife of the Kings shall hold ples of the Crowne: (ez. they shall not hold ples of any felonie, nor of any lands, Debt, or trespasse &c. And yet the Sherife, or coroner may enquire of the death of a man, and of other things belonging to their offices. See hic antea fol.

Mag' Charz  
cap. 17.



### The Sherife in some Cafes is to Assist the Ordinarie.

**T**he Sherife, by his oath, is bound to doe all his power and diligence to destroy and make to cease all heresies within his bailwicke or County.

Also the Sherife (being required) is to aide and assist the Ordinarie, and Comissary, for the suppressing of heresies within his County.

Note that this part of the oath which the Sherife taketh, for the suppressing of heresies, seemeth to be by force of the statute. 2.H.5.c.7.

How far the Sherife was in former times, to aid the Ordinarie for the suppressing of heresies, and punishing of heretikes, See Fitz. 269.d. & Br. titulo Heresies.

But now the stat. made against Lollards or Heretikes (as they were termed) sc. the stat. 5.R.2.c.5. 2.H.4.c.15. 2.H.5.c.7. & 25.H.8.c.14. &c. stand all repealed by the stat. made 1.E.6.c.12. And therfore at this day it seemeth, that a man must be convicted of heresie, by the Archbishop, and all the Clergy of that Province, and must abjure thereof, and afterwards must fall into a relapse, and be newly convicted, and condemned by the Clergy of that Province, in their general Councell of Conuocation, And that yet after such conviction & condemnation, the ordinarie ought not to deliuer him to the Lay power, or Sherife, to be burned, without the kings writ first purchased and had therfore: whereas before (by the statute 2.H.4.c.15.) every Bishop within his Diocesse, might haue convicted abjured, & condemned a man of heresie; And vpon the Bishops warrant, the Sherife ought to haue burned him, and that without the kings writ.

Fitz. 269.d.  
Br. heretic.

And quære what the Sherife at this day may doe, for the destroying, or suppressing of heresies, more than to execute the kings writ, for the burning of such as shall be convicted and condemned, as aforesaid.

The



The Sherife is to proclaime certaine  
Statutes, &c.

13.E.1.c.1.  
28.E.1.c.17.



Every Sherife of England ought in person foure *Statute of*  
times in euerie yeare, to proclaime the statute of *Winch.*  
Winchester (made 13.E. 1. against Homicides,  
burning of houses, robberies, and other felonies)  
with in euerie hundred of his bailwicke; and in all faires  
and Markets by his bailifes (as well within liberties as  
without:) And this is parcell of his oath, and is by force of  
the statute made anno 7.R.2.cap.6.

1.H.6.c.2.  
20.H.6.c.3.

Also euerie sherife ought to proclaime all the statutes and *Statutes of*  
ordnances made of Purueyours (not repealed) foure times *Purueyors.*  
in his yeare, thzough his Baylitwicke, vpon paine of v. li.  
But it seemeth the sherife is first to receiue the said statutes,  
together with the Kings commandement for doing the  
same, and then hee ought to proclaime them accordingly;  
and he ought then also to deliuer the same to his successor by  
Indenture, for him to proclaime the same vpon the like  
paine.

33.H.8.c.9.

Sherifes shall make Proclamation foure times in the *Falawfull*  
yeare, scz. euerie quarter once, in euerie Market to be holden *games.*  
within their counties, of the statute provided against un-  
lawfull games, and for maintenance of Archerie.

5.Eliz.ca.4.  
39.Eliz.c.12  
1.Ia.c.6. et  
29.

The sherife vpon receipt of any Proclamation printed, *Rates for*  
and sent downe by the Lord Chancelor, &c. or vpon receipt of *wages.*  
any rates of wages made by the Justices of Peace of that  
Countie, and ingrossed in parchment vnder their hands and  
seales for the rates of wages of seruants and labourers, &c.  
shall forthwith cause Proclamation to be made of the seue-  
rall rates so made, in euerie market towne within his li-  
mits (or at least in so many places within their authorities  
as shall be conuenient;) The same Proclamation to bee  
done in open market, and to be fixed in some conuenient  
place of the towne.

34.E.3.c.22  
37.E.3.c.19

If any person findeth a Hawke that is lost, he must pre- *Hawkes.*  
sently bring the same to the sherife of that countie (where  
it is taken vp,) and the sherife must make Proclamation,  
in all the good townes in the countie, that hee hath such a  
Hawke in his custodie; and if the Lord and owner which  
lost the same Hawke, or any of his seruants come to chal-  
lenge

## Proclamations.

lenge it, and proueth reasonably that the same is his Lords or Masters, he is to pay for the costs, & to haue the Hawke again; and if none come within foure moneths to challenge the Hawke, then the Sherife shall haue the Hawke making gree to or with him that did take by the Hawke, if hee bee a simple man; and if he be a gentleman, and of estate to haue the Hawke then the Sherife is to redcliuer him the Hawke, taking of him reasonable costs for the time that he had him in his custodie: scz. reasonable allowance for the keeping thereof.



## Proclamations to be made by the Sherife.

*Summons in  
Reall actions.*

**F**or auoiding of secret summons in reall actions, <sup>31. El. ca. 3.</sup> after summons vpon the land, and fourteen daies at the least, befoze the day of the returne thereof, the Sherife shall make a proclamation of the summons vpon a Sunday, immediately after Diuine Seruice and Sermon, if any sermon there be, and if no sermon there be, then forthwith after Diuine Seruice, at or neere to the most vsuall dooze of the Church or Chappell of that towne or parish where the land whereupon the summons was made, doth lye; And that proclamation so made, as aforesaid, shall be returned together with the names of the summoners; And if such summons shall not be proclaimed, and returned, according to the tenor and meaning of this Act, then no *Grand Cape* to bee awarded, but an alias and pluries summons, as the case shall require, untill a summons and proclamation shall be duely made, and returned, according to the tenor and meaning of this Act: 31. Eliz. 3.

*Returned.*

*Vpon Vtlarie.*

Also for the auoiding of secret outlaries, &c. vpon euerie <sup>6. H. 8. cap. 4.</sup> Exigent where Writs of Proclamation are to be awarded, the Sherife of the County to whom any such Writ of Proclamation shall bee directed, befoze any vtlarie pronounced shall make three Proclamations within his Countie, at three seuerall dayes, (two of his Proclamations to bee made in full Court of his countie or shire Court; And the third Proclamation to be made at the generall Sessions in those parts where the partie defendant is supposed to bee dwelling, &c.) that the partie yeeld his bodie to the Sherife of the countie to whom such Exigent is awarded, so that the Sherife



31. El. c. 3.  
P. Exig' 13.

Sherife may haue the bodie at the day of the returne of the Exigent to answer the plaintife: But now by the statute of 31. Eli. one proclamation is to be made in the open countie Court, another at the generall quarter Sessions of the peace, and the thirde at or neare the most vsuall church doore of that towne or parish where the defendant shall be dwelling at the time of the Exigent awarded, and vpon a Sunday, immediately after diuine seruice, and the same (third proclamation) to be made one moneth at the least befoze the quint' exact, by vertue of the said writ of Exigent; and that all Attaries had and pronounced and no writ of proclamation awarded, or not returned according to this statute, shall be vtterly void.

1. In the countie.  
2. At session.  
3. At ostiary Ecclesie.

1. E. 6. c. 10.  
5. E. 6. c. 26.  
P. Exig' 6.

Also whensoever any writ of Exigent shall be awarded (in any action or suit in the Kings Bench, or Common Pleas) against any person dwelling in Wales, or in Lancashire, or Cheshire, one writ of proclamation shall be also awarded &c. and euerie sherife (of euerie of the said counties) to whom any such writ of Proclamation shall bee directed, shall make proclamation of the said writ of Proclamation, according to the tenor of the same, and shall make true returne of the same, according as the same writ shall require.

Wales &c.

13. El. c. 9.

Also by another statute made an 31. El. writs vpon Proclamations, and Exigents, against any person dwelling within the countie Palatine of Durham, shall be directed to the Bishop (or Chancelor) of Durham &c. And the said Bishop &c. shall by his Mandate, directed to the sherife of the said countie Palatine, cause proclamation to be made of the same writs of Proclamation, according to the tenor of the same; and shall make true returnes of the same, in such courts as the tenor of the same writs of Proclamation shall require.

All Attaries pronounced against any person vpon any such Exigent awarded against any person dwelling within any the said counties of Wales, Lancashire, and Cheshire, as also within the said Bishopricke or countie Palatine of Durham, and no writs of Proclamation awarded in form aforesaid, or not returned as aforesaid, shall be clerely void, and of none effect. P. Exigent. 6. & 15.

Also if the sherife shall not duely execute and make true returne of such writs of Proclamation &c. he shall be amerced at the discretion of the Justices. 6. H. 8. c. 4. P. Exigent 5.

And the sherifes of enery of the said counties of Wales, Lancashire, and Cheshire, as also the Bishop or Chancelor  
of

## Proclamations.

of Durham &c. which shall not make true returne of euerie such writ of Proclamation to them directed &c. they shall loose for euerie such default v.l. the one halfe to the king, the other halfe to any person which will sue for the same, 1.E.6. c.10. 5.E.6.c.26. 31.El.c.9.P.Exig' 8.& 17.

*Auerment.*

If the Sherife shall not make all these proclamations in case of Utlarie, according to the statutes &c. yet by the common law the party being outlawed should not haue auerred this against the sherifes returne, (scz. to say that there was but one, or two proclamations made by the Sherife &c. or to say that the sherife made no proclamation at the church doore, or sessions &c.) but in such cases the party so vnduely outlawed should haue had his Action of the Case against the Sherife, and so recovered his dammages &c. See the opinion of Keble 10.Hen.7. fol.23. & Br. Action sur le Case 122.

10.H.7.5.23

*Upon utlarie*

Yet by the words of the statute of 6.H.8.cap.4. All Ut-laries had contrarie to the same statute shall bee auoided by auerment without suing of any writ of Error.

6.H.8.c.4

But now by the statute 31.Eliz.cap.3. (in fine) before any allowance of any writ of Error, or reuerfing of any Ut-larie, shall be had by plee. or otherwise, through, or by want of any proclamation to bee had or made, according to the forme of this statute, the defendand and defendants in the originall action shall put in baile, not onely to appeare and answer to the plaintife in the former suit, in a new action to be commenced by the said plaintife for the cause mentioned in the first action, but also to satisfie the condemnation, if the plaintife shall begin his suit before the end of two termes, next after the allowing the writ of Error, or otherwise auoiding of the said Utlarie.

31.El.c.3

*Of the parli-  
ament.*

Sherifes (at their next countie holden after the deliuerie of the kings writ) shall make proclamation in their countie Court, of the day and place of the parliament &c. so that all interessed may attend to the election of the knights of the parliament &c. See hic antea fol.

7.H.4.c.13

Sherifes when they haue receiued the kings writ for the leuying of expences of the knights of the parliament, at the next Countie Court, they ought to make proclamation, that all parties interessed be at their next Countie, to asseste the said wages &c. See hic antea tit. Knights of the parliament.

23.H.6.c.11

*Admeasure-  
ment of  
Dower.*

In the writ of Admeasurement of Dower, as also in the writ of Admeasurement of Pasture, when the suit is come to

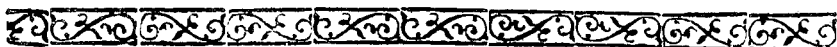
to

to the grand distresse, daies shall be giuen, within the which there may be holden two Counties, at the which open proclamation shall be made, that the defendant shall appeare at the day contained in the writ, to answer the plaintife, at which day, if he do appeare, the suit shall proceed betwixt them, and if he do not appeare, and the proclamation be in forme aforesaid testified by the sherife, Admeasurement shall be made by the default. Westm. 2. 13. Edw. 1. 7. Fitz. 125. h. 126. c.

When any suit dependeth between parties for the wardship of an heire, or land, or for both, by the common writ de *Communi custodia.* Communī custodia, resummons shall be made &c. and when they haue passed to the great distresse, there shall be a time giuen, wherein there may be holden three Counties at the least, in euerie of which Counties there shall be open proclamation made, that the deforceor shall appeare in the common place at the day contained in the writ, to answer the plaintife, at which day if he doe not appeare and the proclamation be so testified, the first, second, and third time, judgement shall be giuen for the plaintife, sauing the defendants right, if he will at another time defend the same; In the same manner it shall be done in an action of Trespass, when any man complaineth himselfe to be eiection from such wardships, *Eiectione custodiae.* Westm. 2. 13. Ed. 1. 35.

The

# Purveyances for the King.



## The Sherife is to make certaine Purveyances for the King.

*Purveyances  
for horses.*



**B** the old statutes it was provided, that all Purveyances that should be made for the kings great Horses, so long as they did sojourne in any Countrey, should be made by the sherifes of the Counties, where such horses did sojourne, and not by any other; And that the Purveyances made by the sherife in this case, shall be delivered to the keepers of the horses, by Indenture. And the sherife was to make such Purveyances, of the issues of his Bayliwicke: And the number of the horses for which the sherife should make such Purveyance should be contained in his Commission or warrant &c. And that no Purveyance should be made over this number, saving that the chiefe keeper had an Hackney; And the sherife was to take good heede that the County were not charged of more than should keepe the horses, But for every horse a servant, without bringing Women, Pages, or Dogs with them. And if any more were found abiding in the charge of the Countrey, they were to be brought to prison, there to remaine, till the King had sent his will. 14.E. 3. 19. But now quere of the validitie or vse of this statute.

10 E. 3. c. 4.  
14 E. 3. c. 19

\* Comman-  
dement.

*For dogges.*

And in the same manner it was commaunded to the sherifes, that they should make Purveyances for the kings dogges, of the issues of their Bailwicke: And that such Purveyances should be made by none other, but by the sherifes. And that it should be contained in his commaundement, the number of the dogges, for which he should make Purveyance, over which number no Purveyance should be made, so that they should live of their certain, without charging the Countrey. And if any found himselfe grievued against this Ordinance, he should recover against the sherife for such grievance done vnto him. Quere also of the vse of this statute.

14 E. 3. c. 19.

Sherifes



Sherifes are to certifie into the Exchequer, certaine defaults.

33 H.8.

**B**y the statute made anno 33.Hen.8.cap. 5. it is appointed how many stoned hozles, for the saddle, euerie man shall keepe for his degree, or liuing, scilicet, euerie

*Keeping of Horses.*

Archbishop } 7. stoned trotting hozles, of 3. yeares & by-  
 Duke } ward being neither cart nor sumpter hozle.  
 Marquesse }  
 Earle } 5. stoned trotting hozles.  
 Bishop } If the Bishopricke be of the yearely value of  
 1000. l. 5. hozles; otherwise but 3. hoz-  
 les &c.

Viscount }  
 Baron } whose liuing is per ann 1000. markes, 3. hozles.

Euerie other Bishop, Vicont, and Baron }  
 Euerie other spirituall person hauing be- }  
 nefices worth per ann 500 markes } 2. hozles.

Euerie tempozall person hauing per annu }  
 600 markes }

Spirituall persons hauing benefices worth }  
 per annum 100. l. }

Tempozal persons, whose wiues shal weare } 1. hozle.  
 any gowne of silk, french-hood, or hat of }  
 veluet edged &c. or gold cheine &c. }

Euerie Sherife in euerie shire within this realme shal do his diligence, to search, and know by vertue of his office, all defaults done or committed by any person, in lacking of hozles contrarie to this act, as shall happen within the shire where he is Sherife, and shall once in the yeare, scz. in Michaelmas terme, certifie the said defaults (if any be) into the Kings Exchequer, by woziting vnder his seale, to the end that proces may goe out against the offendors: and euerie such certificate of the sherife (being made within one yeare next after the offence) shall be of the force of an information &c. And if any shall be conuict vpon any such certificate, the sherife making such certificate, shall haue the one moitie of the forzeiture &c.

But quare if this statute bee not repealed by the statutes 4. & 5. P. & M. ca. 2. & 1. Ia. 25.

The

# The Sherife Courts.



## The Sherifes Courts.



**L** Appareth by Fineux chiefe Justice 12.H.7. that at the first all administration of justice was in one hand, scz. in the king, (so as no law was vled. nor justice administred, but only befoze the king himselfe) but afterwards the administration of justice was divided into counties, so as this power was committed to the sherife within euery countie: And for his better government of the countie, and for the punishment of euill doers therein, the Sherife had two Powers or Courts appointed vnto him; the one the Sherifes Tozne, vnto which all the county, scz. euerie man of a certaine age should come (yea were compellable to come) there to heare the articles and things given in charge, that so they might not be ignozant of the lawes, whereby they were to be gouerned, and where also they were to be swozne to their allgeance to the king; the other was the Countie Court, the which was to giue remedie between man and man, for any thing betweene them vnder xl.s. And so by these two courts all the countie was gouerned at the first.

12.H.7.638.  
2.  
Br.Lect 24.

*Forne.*

*Countie.*

*Lect.*

*Hundred  
Courts.*

Afterwards by reason of the multitude of people, and for their ease (and better government, and more easie administration of justice) Lects were deriued out of the Tozne, and were graunted to the Lords of Manors, And Hundred Courts were deriued out of the Countie Court, and were granted to the Lords of certaine liberties, to hold plea also vnder xl.s.

So that the sherife hath the keeping of two courts committed or assigned to him, scz.

1. The Tozne for the government of their countie, and to reforme Nulances &c.

2. The Countie (or Shire) Court, to hold plea within their countie of debts, trespasses, and the like, being vnder xl.s. And if the sherife shall hold any plea in any other court than in the Countie Court, it is coram non Iudice. 7.E.4.23.  
Br.Iusticies 3.

The



## The Sherifes Torne.

Co. 9. p. r. f.



Sherifes of ancient ordinance do hold generall assemblies twice a yeare, in euerie hundred, whither all the freeholders within the hundred are bound to come, by the seruice of their fees, that is to say, once after Michaelmas, and another time after Easter: and because the sherifes for the doing hereof make their Tozns (or Courses) through the Hundred such assemblies are called the Sherifes Torne, or Sherifes Course.

*In cheſcum  
Hundred.*

Brit. fo. 71.

And maſter Lambert ſaith that this Court of old was called alſo the Sherifes Hoote.

In this Court it belongeth to the Sherifes to enquire of all offences perſonall, and of all the circumſtances of offences done in thoſe Hundreds, and of wrongs done by the Kings and Queenes miniſters, and of wrongs done to the King, and to the comminalltie &c.

Fitz. 160. c. 161.

It appeareth by Britton, that all the freeholders, and terre tenants, and other perſons, inhabiting within the hundred, ought to come to the Sherifes Torne, (none excepted, but Barons, Clergie men, and women; for theſe, their preſence was not, nor is not neceſſarie there, for that they are neuer ſwozne vpon any Enqueſts.) See 52. H. 3. c. 2. & 10. & Br. Leet 42.

*Suitor.*

Br. Leet 38.

And yet tenants in auncient demefne are not bound to come to the Sherifes Torne. Fitz. 161. c.

52. H. 3. c. 1.

Alſo they which haue Hundreds of their own to be kept, ſhall not be bound to appeare at the Sherifes Torne, but in the Bailwicke or Hundred where they be dwelling. Stat. 52. H. 3. ca. 10.

Fitz 160. a.

And if any man who hath lands in diuers places of the Countie and in diuers Hundreds, be diſtreined to come to the Sherifes Torne, in any place where hee dwelleth not, (but that hee be dwelling within the precinct of another Hundred) then he may haue a Writ directed to the Sherife, commanding him to diſcharge the partie for comming to any other Torne &c. than within the Hundred where hee dwelleth. The forme of which Writ you may ſee Fitz.

160. a.

## The Sherifes Torne.

*The Jurie.*

In the Sherifes Torne twelve (at the least) of the most discreete and sufficient freeholders within the Hundred, ought first to be impanelled and swozne (by the Sherife) to enquire of, and to present all things there enquirable and presentable: and after all the rest which appeare there ought to be swozne (*per dozens, per viles*) by the Dozeners and villages; and these shall present to the first twelve Jurors such things as shall be giuen them in charge.

Edw. 7.  
Cromp. 212

And when the dozeners and villages haue deliuered their presentments to the said first Jurie, and that the first Jurie are agreed of their presentments, then they must giue vp to the Steward or Court keeper, such presentments as they will stand to and auow; and if there be any of felonie, they must deliuer those vp by themselves to the steward priuily, and the rest openly.

Cromp. 213. a

But it is vsed in some places, that one enquest is impanelled for the bodie of the Hundred of the freeholders, to whom the Constables (or Chirdboroughs, &c.) of euerie towne and village within the same hundred, which come to the sherifes Torne, doe present vpon their oathes, the default within their seueral townes to the steward, & he informeth the dozeners, of such things as they haue so presented.

Cromp. 212

*The sufficiency of those Jurors.*

By the stat. made 1. R. 3. ca. 4. it is enacted, That no halife, or other officer, shall impannell or returne in any Pannell, any person to be taken or put in, or vpon any Enquirie in any sherifs Torne, but such as be of good name & fame, and which haue freehold lands or Tenements within the same County, to the cleere yerely value of twenty shillings at the least; Or Coppithold lands or tenements within the same County, to the cleere yearely value of xxvj. shillings and eight pence at the least. And if any Officer shall impannell, or Returne any person contrary to this statute, hee shall loose for euery person so returned, or impannellled (not being of such sufficiency) forty shillings. And the Sherife or other forty shillings, the one halfe to the King, and the other halfe to such as will sue for the same &c. And besides euery Inditement in other manner taken, before the Sherife in his Torne, shall be void.

*Their number.*

By the statute made an 13. E. 1. c. 13. it is ordained, that sherifes in their Cornes (and in other places where they haue authoritie to enquire of malefactorz or trespasses) shall cause their enquests to be made (or make their inquisitions) by xii. men at the least, and by lawfull men, which shall put their seales to such inquisitions.

And



And because the said inquisitions taken by the Sherifes should not be imbesilled nor concealed, therefore by another statute made an. 1. E. 3. c. 17. it was enacted, that Sherifs (and bailifes of liberties, and all others who take indictments at their **Tornes**, or elsewhere) shall take those indictments by roll indented, wherof the one part shall remaine with the inditozs, vnder the hand and seale of the Sherife, & the other part with the Sherife, or him that taketh the enquest, so that the indictment shall not be embesilled &c. and so that one of the enquest may shew the one part of the indentures to the Justices, when they come to make deliuerance.

*The presentments shall be indented.*

9.H.3. c.35. Note that the Sherife ought to keepe his **Torne** in every hundred within his countie, as is aforesaid. Co.9. Preface. Fitz. 160. a. Br. Lect 42.

*The place.*

But the Sherife ought to keepe this his **Torne** nowhere but in due place and accustomed, and that by force of the statute of Magna chart. cap. 35:

And if the Sherife shall keepe his **Torne** in loco inconsumto, he may be indicted and punished for the same. See Dyer 151. sir John Sauadges case.

31. E. 3. c. 15.  
6. H. 7. f. 2. 3.  
Fitz. Torne  
2.

Also the Sherife ought to keepe, or hold this his **Torne** but twice in the yeare; scz. within one moneth after Easter, and within one moneth after Michaelmas; And if he shall hold his **Torne** at any time after the moneth from the said feast dayes of Easter and Michaelmas, it is void, by the stat. of 31. E. 3. And all indictments and presentments so taken by him after the said moneths are void. See 38. H. 6. fo. 7. And besides the Sherife shall lose his profits thereof &c. Br. Lect 17. & 21. & Indictments 9. 27.

*Time.*

6. H. 7. f. 2.

The reason why the **Torne** must be holden after Easter and Michaelmas, appeareth in the statute of 31. E. 3. cap. 15. scz. for that the **Torne** being held in Lent, it hindred deuotion, & being in Haruest, it hindred the people in their busines &c.

Also the Sherife keeping his **Torne** oftner than twice a yeare, or after the said moneths (next after the feast daies of Easter, and of saint Mich. tharchangell) he may be indicted for the same, as it seemeth.

Fitz. Lect  
11.

Note that the Sherife in his **Torne** holden after Easter, ought not to enquire of any action popular &c. but only hee is then to take their suit which are Suitozs, and to take the view, scz. quod Trithinga tenentur, scz. that all about the age of twelue yeares come and appeare there &c. But at his **Torne** holden after Michaelmas, then he shall

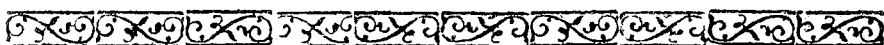
## The Sherifes Torne.

enquire of such things as are there inquirable. See. stat 9. H.3.c.35.

*Est Incident.* This Court (called the Sherifes Torne, Turnum) is belonging & incident to the office of the Sherife, & ought not to be severed from it: And the Sherife is iudge therein, and is to appoint Clerks vnder him in this Court, such as he will answer for at his perill. Co.4.33.& 6.12.

*Ne possit prescribere.* But the Sherife ought not to take any thing for the holding or keeping of his Torne: Neither can he prescribe to take any thing, for that he is an officer remouable. 42.E.3.4 31. Br. officers. 831.

*The Style.* The style of the Torne or Court must be thus, Vis. Francipleg' dñi Regis tent' apud L. coram vicec' in Torno suo & c. And not Torñ vicec' tent' tali die apud L. For this word Torne is but the perambulation of the Sherife. Fitz. Lect. 11.



### What things are inquirable in the Sherifes Torne.

*Treasons.* **T**he Sherife in his Torne, ought to enquire of such as are mortall enemies to the King, the Queene (his wife) or to their children: And of the Counsellors, Procurers, Consenters, and ayders. Cromp. 212

Also of such as falsifie the Kings Seale. Stat. 18. E. 2

And of such as falsifie the Kings money; or shall wash, or clip the same; but W. Brooke maketh a quare thereof, titulo Leete 26.

*Felonies.* They are also to enquire in their Torne, of all manner of felonies by the common law, as of murder, manslaughter, and other Homicides: See the stat. 52. H.3. c.24. & 3. Ed. 1. c. 11. Cromp. 212

And yet see Br. Lects. 26. & Fitz. Torne 5. and the booke 22. E. 4. fol. 22. by the opinion of all the Justices, That the power of the Sherife in his Torne, was to enquire of all felonies at the common law, except the death of a man.

They are there to enquire of Burglaries, Robberies, and Thefts, and of the receiuers of such offenders.

Of burners of houses, or stacks of cozne feloniously.

Of breakers of prison, being therein for felony.

Of rauishing of women, stat. 18. E. 2. Cromp. 212. Yet the booke 22. E. 4. & Br. Leete 26. & Fitz. Torne 5. are contrary, as being a felonie by statute, and not by the common law. Sed de hoc quare.

Of Poysoners,

Of

Of Sorcerers, Conjurers, and witches: which offences were felonie by the common law, and the offenders therein were to be burned. See Fitz. 69. b.

Of Pettie Larcenies, in stealing hens, geese, or sheafes of cozne, &c.

Of such as take Theft-boote.

Br Leets 26

But note that the Sherife in his Torne, hath no authori- ty to enquire of any felonies by stat. as cutting out of tongues; putting out of eies, &c. 28. E. 3. 95. 21. E. 4. 21. Fitz. Torne 5.

Note also that no Sherife within any of the Counties in Wales, shal haue power to enquire of any manner of felony, in any their Leets, Law dayes, or Tournes, within the same Dominion to be holden. stat. 35. H. 8. cap. 26.

Also Sherifs shal enquire in their tournes of the escape of any felon; And of any person imprisoned (for any other cause) which is let go without warrant or mainprise. Stat. 18. E. 2.

And of such as haue abjured the Realme, and are retur- ned without licence.

Of Outlawes, which retorne without the Kings warrant.

Of Treasure troue.

*Nota que Coyne troue, comest que ne fuit abscondita in terra, est Profus le roy.* Treasure troue, (& semble Inquirable icy) Br. Presentments 24.

*issent semble de money, plate, ou bullion troue, le omner nient connus; Car ceux serra dit Treasure troue, & le roy a vera eux.* Br. Coron. 176.

Of Wayfes and estraies.

Cromp. 213

Of wrecke of the Sea, found and reteined.

Of those which claime any franchise reall.

Of new franchises, or customs, leuied on land or water.

If any man hath a faire, or Market, by grant or by prescription, and doth not hold, or keepe the same faire, or Market as he ought to doe.

Of Purprestures made in any land, wood, or water, to an- noyance. Stat. 18. E. 2.

Common Nuisances.

Of all walles, houses, hedges, & ditches, made vp, or bro- ken downe, to annoyances, ibid.

Of wayes, and pathes, streightned, or stopped.

Of any othe Nuisances, or annoyances, in the Kings high way, or in any common way or path; By turning, or altering them out of their ancient place; By ditches there not scoured. Br. Leete. 26. By laying any Cari on, or Hicke &c. there.

Of the Kings high wayes, if they be not enlarged, & clen- sed of bulthes, and trees according to the stat. of 13. E. 1. c. 5.

# The Sherifes Torne.



## Things Inquirable in the Torne.

**O**f Nuſances in any Riuer, or common waterings by ſtopping, ſtreightning, or turning.

Of Bridges, and Cartwheels decayed, or broken, &c. and who ought to repaire them.

And of all other, common or popular Nuſances, or grieuances done to diuers or ſundry of the Kings ſubiects.

*Treſpaſſes.* Also the ſherife in his Torne may Inquire of Altraies. Br. Preſentments. 7.

And of Bloodſheds. Br. Leete. 26. Fitz. Torne 4.

If there be any miſdoer within the Hundred, whereby any perill may come to any perſon, of life or of member, the the name of ſuch miſdoer is to be preſented in the ſherifes Torne.

Of Poundbreaches.

Also all other things being a Treſpaſſe at the Common Law, and popular, is there Inquirable.

But of ſuch things as are treſpaſſes by Statute, or Offences againſt any ſtatute, the ſherife hath no power to Enquire thereof in his Torne; Except the ſtatute doth expreſly therein giue authoritie to the Torne, or Leete. See 28. E. 3. 95. 21. E. 4. 21. 3. H. 7. fol. 1. Br. Leete. 19. & 25.

Neither ſhall any other thing bee enquired of in the Torne, but onely ſuch Nuſances, grieuances, offences, or as treſpaſſes are popular and common grieuances to many perſons, And therefore aſſaults made to a ſole or particuler perſon, is not there Inquirable; Except there be bloodſhed. Dyer 234. Fitz. Torne 1. 4.

Neither can they inquire there, of a Cloſe, debriued (or broken) for that is particuler. Br. Leete. 26.

*Euill members.*

The ſherife alſo in his Torne may enquire, of malefactorz in Parkes.

Of takers of Doues in winter by doozefalls, or other engines. 18. E. 2.

Of Uſerers. Cromp. 212.

Of Hue and Cry leuied, and not purſued.

Of Hue and Cry leuied without cauſe.

Of Night walkers. Br. Leete. 26.

Of thoſe which goe in meſſage of theues.

Of those which sleepe by day, and watch by night, and fare well, and none know whereof they live.

Of those which continually doe haunt Taverns.

Also the Assise of bread, beere, or ale, broken, is there inquirable: Stat. 18.E. 2.Br. Leete. 25.

If any Hosteler or Inholder shall make any horsebread, which is not sufficient, lawfull, and of due Assise, &c. the Sherife in his Torne may inquire thereof, and determine the same, by the stat. 32.H.8.c.41.

Falfe measures, falfe ballances, and falfe weights are there inquirable: Stat. 18.E.2.: see Stat. 9.H.5.c.8.

If any haue double measures, (as bushels, galons, yards, or ells,) and buy by the greater, and sell by the lesser, it is there inquirable. Ibid.

And yet see the booke, 3.H.7.f.1. et Br. Leete 19. a presentment in the Sherifes Torne, that a man did vse falfe measure of a bushell, and the presentment was adiudged to be void, for that it was given by statute, and the statute gaue no expresse authoritie to the Sherife to enquire thereof.

If night watches be not duely kept (according to the statute of Winchester) it is there inquirable.

If any person shall make a prison of, or in their owne houses, it is there inquirable: Crompt. 212.

Homefoken, or forcible entree into houses, without licence, and contrarie to the Kings peace, seemeth to bee there inquirable: Crompt. 212.

Attachments made by the officers of the Courts of the East Marches, or West Marches, &c. are there inquirable, by the statute of 31.H.6.c.3. But seemeth to be repealed by the statute 4.Ia.c.1.

7.E.6.c.7.

Also the Sherifes in their Torne may inquire of all offences committed, contrarie to the statute made 7.E.6. to auoid the excesse, as well of spending, as of the prices of wines: and euerie presentment thereof taken by the oathes of xii. men in the Torne, shall be of such force, as if the same were taken in the Kings Bench.

Also they shall inquire, if all the Jurors and suitors which owe suit to this Court be come (18.E.2.) scz. if all persons of twelue yeares of age or vppward, dwelling within the hundred, bee come to this Court (except Clerkes, Knights, and women: Crompt. 213.)

\* Quere de chivalers.

Lastly, the Sherife in his Torne, hath authoritie to inquire of all other things or offences that is either felony, or trespass at the Common Law; and of all other Articles and things

## The Sherifes Torne.

things inquirable in a Court Leete (if they haue been omitted, or not formerly inquired of and redressed or punished in the Leet.) For that all Leets were at the first deuied & take out of the Sherifes Torne, so that for default of inquirie in Leets of things there inquirable, the same things there omitted, and not inquired of, &c. ought to bee inquired of in the Sherifes Torne, (and if it bee there omitted, then to be inquired of by the Justices of the Bench, at their coming into the countrey: see 8. E. 4. fol. 21. E. 3. fol. 3. 29. E. 3. 27. 41. E. 3. 26. 43. E. 3. 29. et 18. H. 6. 12.

Fitz. Torn 5.  
Br. Leete 26

Dyer 13.

Br. Pref. 1.  
Cromp. 212.

*Mes le Signior del Leete auera les amercements, sur l'enquirie crue devant le vicount ou devant les Justices, quere: Fitz. Leete 13.*

And it hath beene adiudged that the power of a Sherife in his Torne, and of a steward in a Court Leete, is all one: 22. E. 4. Br. Leete 26.

Also the Sherifes Torne is sometimes in our booke, called the Kings Leete, and sometimes the Sherifes Leete, or the Leete of the Torne of the Sherife: see Br. Leete 21. et 23. which appeareth also by the style of the Torne, hic antea.

If the Sherife shall inquire of a Rusance in his Torne, & the same shall be found, which ought to haue bin inquired of in the Leete of another man, and hath bin vled to be found there, the Sherife cannot distraine for the amercement vpon this presentment, and if he doe distraine he is a trespassor: but if default be in the Lord of the Leete, that he did not inquire thereof, or that the same be not found in his Leete, when it ought to be inquired of, the Sherife then by the lords default may inquire thereof in his Torne: 21. E. 3. 3. 28. E. 3. 95. 10. H. 4. 4.

Cromp. 212

Note if a Rusance, &c. be within a franchise, the Sherife ought not to punish this, but it appertaineth to the lord only to redresse this, for otherwise euerie lord might loose his franchise in euerie thing: but if apparant default shall be in the Lord, as in not keeping his Leete; or that hee will not punish the offenders, then the Sherife may inquire thereof in his Torne, and it being found there, the Sherife may punish the same: see 29. E. 3. fol. 27.

But if the Sherife in his Torne shall inquire of any thing, which is not there inquirable, it is void, as being taken Coram non Iudice.

*Nota que le vic' auera les amerc' et fines, (et diuers autres profits) del ceo Court; Et il nad ascun autre chose de leuier son grand sum ou vesque que chescū vic' est charge sur son account, sinon de cest court, car le Torne (et les profits del ce) est al vic': Et est son Court, et nēy le Court le roy per Tremayle 6. H. 7. f. 2. 3.*

whereas

Whereas in times past sherifes by vertue of Comissions and generall Writs granted to them at their owne suit, for their priuate gaine, did take diuers enquests to indite people at their pleasures; and then tooke fines of them to their owne vles, and deliuered the parties so indicted, without bringing them before the Kings Iustices: It was therfore by a stat. made 28.E.3. ordained, that all such Comissions and Writs should from thenceforth bee repealed, and none such after to be granted: so that the sherife (by that statute) is restrained to make any enquire by writ or Commission, except in some speciall cases, whereof see Fitz. 92. cap. hic postea fol. 193.

28.E.3.c.9.  
Sec 42.E.  
3.c.4

*Vic' ne fera  
Enquire per  
breue, &c.*

Afterwards for that diuers persons were greatly troubled by the inordinate indictments & presentmēt's (as well of felonies & trespasses, as of other things) taken before sherifes, their vndersherifes, & other ministers, at their Cornes & layd daies, which indictments were often affirmed and found by Jurors hauing no freehold, &c. and sometimes by meniall seruants and bailifes of the said Sherifes, &c. By reason whereof many people were arrested, and put in prison by the said Sherifes, and their ministers, and then were constrained to pay to them great fines, to be deliuered out of prison: And further, the said sherifes, &c. had the awarding of proces vpon such indictments, when they were found, and the assessing of the fines: and also the said indictments were often imbeasled and concealed: for the reformation whereof it was ordained by a statute made anno 1. E. 4. that vpon all presentments and indictments, which shall be take before any Sherife (Vndersherife, or other Ministers) in their Cornes or Laydayes, they shall haue no power to attach, arrest, or put in prison; nor to leuie or take any fines, or amerçiements of any person so indicted or presented before them, by reason or colour of any such indictment, or presentment, nor to take of any person so indicted or presented, any fine or ranfome, but that the said Sherife (or other ministers) shall bring and deliuer all such inditements and presentments (taken before them in their Cornes) to the Iustices of Peace, at their next Sessions of the Peace that shall be holden in the Countie where such inditements or presentments shall be taken, vpon pain that euerie Sherife (Vndersherife, Clerke, Bailife, or other ministers) failing to deliuer or present any such indictment to the Iustices of Peace at such Sessions of the Peace as aforesaid, to forfeit fortye pound.

1.E.4.c.2.

Fitz. Torn 3.  
Br. Present-  
ments. 16.

*Our Indite-  
ments serra  
deliuer al  
Iustices.*

And

## The Sherifes Torne.

*Los Iustices  
trier a l'offen-  
ders.*

*Et estreatera  
les fines. &c.*

*Al' use le vic'*

And the Justices of Peace are to award proces, vpon all such Indictments and presentments, and to trie arraign and deliuer the offendors, and not the sherife &c. and also the said Just. of peace, shall haue power to set such fine vpon e- uery person indicted or presented (in the sherifes Torne) of or for any trespasse, as it shall seeme good to them in their discretions; And the estreats of the same fines and amerci- aments shall be Inrolled, and by Indenture deliuered to the said sherife, vnder sherife, or their clerkes, or ministers, to the vse and profit of him that was sherife of the said county at the time of the taking of such Indictments or Present- ments: and if any vndersherif clerke bailife or minister shal cause to be attached, arrested, or put in prison, or shall cause to be taken any fine, or ransome, or leuie any amercements, of any person so Indicted or Presented, by colour of any such indictment or presentment (before him or them) taken at their Torne, before they haue proces from the said Just. of peace, or estreats deliuered out of the said Indictments or Presentments (so deliuered to the Just. of peace), the sherife so offending shall forfeit 100. li. the one halfe to the k. &c. and the other halfe to the party thereby indamaged.

But this statute extends not to Indictments taken be- fore the sherifes of London in the said citie; Nor to any per- son hauing the grant of fines or amercemēts by any letters patents of the king &c. Nor to any person hauing any li- berties or franchises by any letters patents, or in any o- ther manner by prescription.

1. Ed. 4. ca. 29

Neither doth this statute giue authority to the Justices of peace, to award proces vpon all Indictmēt's taken in the sherifes Torne when they be brought and deliuered them; but onely of such Indictments as shal be lawfull and suffi- cient, and such as containe matter whereof the sherife hath iurisdiction in his Torne, and power to make enquirie by the common law, for if the sherife in his Torne shall make enquirie of liueries giuen contrarie to the statute of liueries, or will enquire of the statut of labozers, or Indict one who did feloniously rauish a woman, or such like, which bee not inquirable in the sherifs Torne, though such Indictments be by him brought and deliuered to the Justices of peace ac- cording to the said statute made 1. Ed. 4. yet they ought not to award proces thereupon for that they were taken coram non iudice, and so void.

Br. Presents  
ment 16. 4  
Fit. Torn 20  
4 R. 1.  
8. E. 4 5.

Also if the sherifes, &c. shall not deliuer their inditements  
and



and presentments ( taken in their **Coznes** ) to the Justices of peace, according to the aforesaid statute made: I. E. 4. then such indictments, &c. not so deliuered, &c. are void: Vide Fitz. tit. Torne de Vic' 6.

28.E. 3. c.9. So then (at this day) sherifes shall make no inquiries, nor take any indictments by Comissions procured at their owne suit; Nor else where, but in their **Coznes**; And they shall hold their **Coznes**, and take indictments, but in convenient and vsuall times and places; And they shall take their indictments by the oath of twelue men at the least; and by roll indented and sealed between the sherife and the Jurors: and they shall take their indictments by men of good name and credit, (legales homines) and sufficient of estate; and they shall bring and deliuer their indictments and presentments found and made in their **Coznes**, to the Justices of peace of the same Countie, that they may award proces against the parties indicted, and assesse fines vpon them.

Fitz. 92. c. And yet if any man hauing the kings protection, another shall take his goods, or shall enter into his lands, &c. or shall beat his seruants, &c. he may haue a special writ or Comission to the sherife ( of that county ) to make inquirie thereof, and to certifie the same before the king, &c. and thereupon proces shall be made out against them ( in the kings name ) by Venire facias: as vpon an indictment, and that they shall be fined therefore.

Register 133.154. So if any bridge, or wall, causie, or sewer shall be broken, to the annoyance of the countrey, it appeareth by the Register, that the king may send his Commission to the sherife, to inquire who ought to make such bridge, &c. and to distrain them to repaire it, &c.

28.E. 3. c.9. 42.E. 3. c. 4. And although by the former statutes of 28.E. 3. c.9. et 42. E. 3. it was ordained that no Commission or writ should be thenceforth granted to the sherife to make any inquirie, &c. yet if the king shall grant out such a Commission or writ to the sherife, quære, if it be not good; it seemeth to Master Fitz. 92. c. that it is not good, for that this statute bindeth the king that he cannot now grant out such a Commission to the sherife; and yet enquests of office may be taken by the sherife, as in **Wast**, **Redisseisin**, &c. see hic fol.

*The power and authoritie of the Sherife, in, or by reason of his Torne.*

Mag. Chart. 17.

The sherife in his **Cozne** cannot hold plea of any thing pertaining to the kings crown: nor of any thing touching freehold or lands, nor of debt, trespass, or other matter. But

## The Sherifes Torne.

But this Court, and the authoritie of the Sherife therein, is onely or principally for the good ordering and gouernement of the countrey, by taking vew of the suitors, and inquirie and presentments of offences committed therein against the peace, and of other common Rulances and Grievances within the Countie.

But the further proceeding vpon such inquirie, presentments, and inditements made and taken before the Sherifes in their Torns, belongeth now to the Iustices of peace, &c. as aforesaid, by force of the stat. of 1.E.4.C.2. before recited.

And yet note that the Sherifes Torne, is a Court of Record (in all things that pertaine to the Torne,) and the Sherife therein is a Judge of Record, and hath authoritie (in some cases) to imprison offenders, to assesse fines vpon them, and to take recognisances: Br.Lect 39.

The Sherife in his Torne (or his steward there) may commit him or them to ward, that shall make an Assray in their presence, whilest they bee in execution of their office: And may also by recognisance bind such offenders to the peace; and may commit them to ward vntill they haue found sureties for the peace.

If any other contempt or disturbance to this Court shall be committed in the said court, before the Sherife (or steward there) they may impose vpon such offenders a reasonable fine: see Br.Lecte 14.36. Co.8.38.

The Sherife in his Torne (or his steward there) may take the examination of felons, and may commit them to the Gaole; And may also take the presentment of any felony at the Common Law, committed within their precinct, as you may see here before.

In the Leete, or Sherifes Torne, if one that oweth suit thereto, will not be sworn, &c. he shall be fined and imprisoned, (by the Sherife or steward there) vntill hee hath paid such his fine: Or he may be amerced, and bee distrained for such amerciamment. Fitz.Lect. 11.

So if a suiter, being sworn of the Iurie there, shall refuse to make presentment there: or if a Iuroz there shall depart without giuing by their verdict, the Sherife (or steward) may impose a reasonable fine vpon such offenders. Co.8.38.

So if the Sherifes, bailifes, or other officers belonging to this court, shall refuse in Court, to execute their office, they may be fined as aforesaid; And so in other like cases happening in this Court before the Sherife, he being Judge therein. Ibid.

Vpon a presentment of a Rulance in the Sherifes Torne, C16p.212.3.  
the

the offendoz may be amerced there by the sherife, and the sherife may distraine for that amercement, throughout all his county, by the booke 2.H.4.f.24.Br. Lect 41. but now it seemeth that such presentmēt must be deliuered to the Justices of peace, & they are to try the offendoz, &c. and to fine him, and then to estreat the same; befoze the sherife may leuy or take fine or amercement for such Nusance: see the former statute of 1.E.4.c.2.

8.E.4.5.  
Fit. Torn 4.

If a presentmēt of a bloodshed &c. shall be lawfully made in the sherifes Torne, the offendoz shall make his fine there (as it seemeth) & shall not be put to answer the same befoze the Justices of peace, &c. Note that this case was so adiudged after the making of the former Stat. 1.E.4. et q̄re inde.

If a Burpresture be presented in the sherifes Torne, the sherife may reforme and pull downe the same: Crompt. 2 I 2.a.

32.H.8.

By the stat. made 32.H.8.c.41. if any Inholder or Hosteler shall make any horsebread, which is not sufficient, lawful, & of due assise, & that the offence be presented in the sherifes Torne, the sherife thereupon may determine the same, scz. may assesse a reasonable fine vpon the offendozs, & may make out proces against them, and being taken may commit them to prison vntill they haue paid their said fine.

Also by the stat. made añ 13.E.1.c.13. such malefactorz, in felony, or trespas as were duly indicted and found culpable in the sherifes Torne, the sherife might haue apprehended & imprisoned them, &c. and the apprehending, arresting, and imprisoning of felons, being an authoritie giuen to the sherife by the common law. seemeth not to be restrained, by the intent and meaning of the said statute made 1.Ed.4.

Hic fol.

But this Court (the Sherifes Torne) is now almost growne out of vse, the reason whereof M. Wilkenon well obserueth to bee. That sherifes haue vsed to sell, both their vndersherifewicks, and bailiwicks, to men of meane estate, that regard not the good of the commonwealth, but altogether their owne priuate gaine and profit; whereby the king is many times much wronged and deceiued betweene the vndersherife, and the bailifes of all his wayffes, Estrayes, felons goods, & other profits which are things inquirable in the sherifes Torne, and which are taken by the bailifes, and neuer accounted for, which thing as it may touch the sherife in his credit and reputation, so in his Oath: for when hee entreth into his account for the payment of the Kings debts. he is then sworne to answer and account for all wayffes, strayes, felons goods, debts, perquisites & pro-

## The Countie Court.

its, which seldom or neuer, either the king, nor yet the high  
sherife knowes of because these ancient Courts are not kept  
as they ought to bee.



## The Countie Court, or Shire Court.

*Incident at  
offis del vic.*



The Countie Court (as well as the Sherifes Co. 4. 33.  
Corne) hath of ancient time beene belong=  
ing to the Sherife; And is incident and be=  
longing to the Office of the Sherife, and  
not to be seuered nor graunted away from  
it; nay the King by his letters patents can=  
not grant away the office of the Clerke of the countie court,  
nor the fees, &c. thereto belonging; and if whilst the office  
or place of the Sherife remaines void, the king (by his let=  
ters patents vnder the great seale) shall graunt away the  
said office of the clerke of the countie (or shire clerke of the  
countie) or shall appoint any to occupie or vse the same, yet  
when the King shall afterwards make one sherife, hee shall  
auoid that grant. For that the countie court, and the en=  
tring of all the proceedings therein, are incident to the of=  
fice of the sherife; and the sherife is to appoint such clerkes  
vnder him in his countie court for whom he will answere at  
his perill.

*The Times.*

These countie courts (called also the shire courts) shall be 9. H. 3. c. 25.  
2. E. 6. c. 25.  
holden and kept from moneth to moneth: And shall be no  
longer deferred, but one moneth from court to court, and so  
the said courts are to bee kept euerie moneth, vpon a day  
certaine, and none otherwise: And so within the twelue 34. H. 8. 26.  
shires of Wales, their Sherifes shall keepe their counties  
monethly.

The necessitie of keeping this court euerie moneth, and  
vpon a day certaine, is by reason of the kings writs of exi=  
gents which must be read there.

*The Place.*

The Sherife of Northumberland (by the Statute made  
anno 2. E. 6. cap. 25.) is to keepe the countie court of that  
shire, in the towne or castle of Alnewike, and in none other  
place.

And the Sherife of Suffex ( by the Statute made,  
Anno

Anno 19.H.7.c.24.) is to keepe and hold the shire Court for that shire, one time at Chichester, and the other time at the Borough of Lewes, and so to be kept *Alternis vicibus*, for ever: And every shire Court there holden to the contrary, and all things therein done shall be void.

33.H.8.c.13 And the Sherife of the County of Chester, is to keepe his Shire Court, in the Shire Hall of the said Countie.

27.H.8.c.16 And the Sherifes Shire Courts in Wales, of the Countie of Brecknock, shall be holden at Brecknock: of Radnor at new Radnor, & Preston; of Mountgomery, at Mountgomery and Maghenleth; of Denbigh, at Wirham; and of Monmouth, at Monmouth, and Newport; *Alternis vicibus*.

In these Countie Courts (which are in manner as Court Barons) the Sherife is no Judge, but a Minister, *Que Judge la.* 6.E.3.Br. Court Baron. 11.12.19.

Neither is the Steward Judge there 39.H.6.fol.5. Br. Judges 15.

Co.4.31.&  
Co.6.11.  
Br.Judges  
15.& Iustices.6.

But as to all actions and proceedings by a Justices, or other writ, As also in other suits which are there by plaint without writ, the freeholders of the County or Suitors are Judges there: And as to Outlawries, the Coronors are onely Judges, scz. the Coronors are onely Judges there to give Judgement vpon the kings writs of exigents; and yet if they be freeholders (as by law they ought to be) they are also Judges in all actions there sued. See 6.E.4.3.17.E.4.23.39.H.6.5. & 26 aff.pl.45. Br. Court Baron. 11.12.19. & Iustices 3.6.

And the Sherife (in their Countie Court) can doe no act without the assent of the freeholders or suitors (for that it is but a Court Baron) and if the Sherife shall doe any thing there without the suitors, an action of the case lieth against the Sherife, and not a writ of false iudgement; yet see Co.lib.9.præface, These Courts are called Counties, where the iudgements are given by the suitors, if there be no writ.

Note where a writ de Nativo habendo, shall goe to the Sherife to hold plea of a matter, there he is both a iudge, and an officer: but where the Nativo habendo is directed to him, returnable in Banco, there the Sherife is an officer, and no iudge: 11.H.4.Br.Offi.36.but quere, for in a justices the writ is, quod Iustices T.&c. And notwithstanding that the writ be directed to the Sherife (to hold plea of the matter) & not to the suitors, yet the suitors are iudges; yet the Justices is a Commissio to the Sherife to hold plea, aswel as the writ

7.E.1.23.

## The Countie Court.

de Nativo habendo, Br. faux imprisonment. 30.

But the reason why the Writ is directed to the Sherife, is for that the county court is the Sherifes court, and therefore great reason that the Writ should be directed to him, to whom by law the Court appertaineth; To the intent that he should see two things performed there, scz. first to hold his Court, that iustice and right may therein be done to the parties; secondly that he may be answered of those profits of his Court which appertaine unto him: But yet when he holdeth plea by force of the kings writ, this doth not change the nature, nor the iurisdiction of the Court; for the kings writ cannot alter the iurisdiction of any court Baron, County Court, or Hundred, &c. to make them Courts of Record, all which are meane, or base Courts by the common law, and haue Judges authorized and appointed in them by the law, And therefore all things determined in these courts ought to be determined by the Judges of the same courts i.e. by the Suitors onely.

Also see the Booke 2.H. 4.24. That the Sherife cannot iustifie to arrest or imprison one by a writ de Nativo habendo, or by a Justicies, for those writs are but Commissions to holde plea, and the Sherifes Court by these writs is become a Court of Record, Br. Faux.imprif.30.

*Barretors.* By the statute 3.Ed. 1. cap. 32. No Sherife shall suffer any Barretors, nor any stewards of great Lords, nor other (vnlesse he be Atturney for his Lord, or Master,) to make suite, or to maintaine any Actions, or quarrels, nor to giue iudgements in their County Courts; nor to pronounce the iudgements, if hee bee not specially thereunto required, and prayed of all the suiters, and atturneyes of the suiters which shall be at the Court: And if any doe the king shall punish grieuously both the Sherife, and him that so doth. See hic antea fol.

Westm 2.  
32.  
Sec Co.8.  
26.  
W. 27.

*Atturney.* Any person may make a generall Atturney, to sue for him or them in all pleas, mooued for them or against them, in the County Court before the Sherife, or in any Court Baron &c. See stat. 13.E. 1.C. 10.

*Plaints entered there.* The Sherife, Undersherife, or Shire Clerke, nor any other person in their name, nor by their commandement, shall enter any plaints, into their bookes, (in their Countie Court) in any mans name, vnlesse the partie plaintife be in his proper person present in the Court; Or else by sufficient Atturney or Deputie that is knowne to be of good name and disposition; And the plantife shall find pledges to pursue

11.H.7.c.19

*Plegij de prosequendo.*

sue

sue his plaint, such persons as are knowne in that countie: And also the plaintife shall haue but one plaint for one trespasse, contract, or cause: And if the Sherife (Undersherife, or Shire Clerke) shall enter or cause to be entred any moe plaints than the plaintife suppoeth that hee hath cause of action for against the defendant, then the Sherife, Undersherife, or Clerke, that doth enter or cause to bee entred any such plaints contrarie to this Statute, shall forfeit for euerie default fortie shillings, the one halfe to the King, the other halfe to him that will sue and prooue the same, by action of Debt, or information, &c.

Ibid.

After such plaints entred (in the Countie Court) against the defendant, the Sherife (Undersherife, or Shire Clerke) shall make sufficient precepts, directed to the Bailifes of the said Hundred, to attach (or summon or warne) the defendant to appeare and answere to the said plaints; And if there shall bee any default in the said Baylifes of the Hundred, in not warning of the defendant to appeare, or in other executing of their said office (against any defendant in the Sherifes Court, according to the tenour of their Precept) then the said Baylifes shall forfeit for euerie default fortie shillings to the King, and to bee conuicted thereof by the examination of any Justice of Peace, vpon complaint thereof to them made by the partie griued; Or else the partie griued may sue in the Elchequer, &c. by Action of Debt, or Information, and there for euerie such default prooued against the Sherife, &c. the sayde Sherife or other Officer shall forfeit fortie shillings, the one halfe to the King, the other halfe to the partie griued.

*Precept to warne the defendants.*

*Defaults in the bailifes.*

Ibid.

Also the said Sherife (Undersherife, Shire Clerke, nor their deputies) shall make no Estreats to leuie the said Sherifes amerciaments (or Shire amerciaments) vntill that two Justices of Peace whereof one to bee of the Quorum) haue had the ouersight of their Bookes, and that the estreats bee indented betweene the said Justices of peace, and the said Sherife and Undersherife, and sealed with their scales; the one part to remaine with the said Justices, and the other part with the Sherife or Undersherife, to the intent they may vnderstand, if there bee any deceit or vntreue demeaning in them, in making of their bookes.

*Estreats for the Shire amerciaments.*

*Viewed, and sealed by two Justices of Peace.*

Also those persons which shall bee gatherers of the same

## The Countie Court.

*The Bailifes Shall be sworn* amerciaments ( as Bailifes or other Officers ) shall bee <sup>Ibid.</sup> Iwozne by the said Justices of Peace, that they shall take no more money than is forfeited, and contained in the Estreats, sealed with the seales of the said Justices of Peace vpon the paine aforesaid; the same gatherers to bee conuict by examination of the said Justices of Peace, or one of them, as before is rehearsed: see my Countrey Iustice, tit' Sherifes.

*Procurement de suits la.* If the Sherife, or any of his Officers, shall procure others to commence suits against any person, and shall cause them to resort to their Countie, Hundred, or other Courts, &c. The partie attached vpon any such suit, may Repleuie his Distresse so taken, and remooue the suit before the Justices, &c. before whom if the Sherife, &c. bee conuicted of such procurement, &c. hee shall bee amerced grieuouly to the King, and besides shall answer to the partie grieued treble damages: 13. E. 1. cap. 36.

### *Of what matters or causes, the Sherife may hold Plea in his Countie Court.*

*Playnts there* Nota quod Placita de Latrocinij, de Melletis, de Hutefio, de plagis et Appellis, Coram Coronatoribus et Vicecomite incipere possunt in Curia Comitatus; Sed ad præsens, licet olim, ibi non possunt determinari, Artic' ad nov. Narr. 77.

*Nuisance. Trespasse.* Sed parua brevia de Nocumento, et alia vicecomitabilia; et placita de verberatione, et alia quæcunque transgressionem, vbi periculum mortis, vel membri, non evenit, et vbi quæritur transgressionem non esse perpetrata contra pacem Regiam; ac placita Debiti, et Detentionis, sub summa quadraginta solidorum, ad vicecomitem ( et ad alias Curias inferiores ) pertinent Audiendum, et Terminandum. *Ibid.*

*Det. Detinue.* Ac etiam in quibusdam Casibus, Coram Vicecomite, placita terræ possunt placitari, Quemadmodum si quis deficit de Recto in Curia alicujus Baronis, in breve de Recto in tali Curia portato, Ea de Causa falsare poterit Curiam illam, et per idem breve placitare in comitatu; Quia illud breve in se hoc requirit, cum dicat, Et nisi fecerit, vicecomes noster Cantabr. faciat, ne amplius inde clamemus pro defectu recti &c. *Ibid.*

So the the Sherifes in their county courts, may hold plea of, and examine, and determine certaine smaller actions, as of Det Detinue, trespasse, nuisances, and the like, where the Det, or Damages is vnder forty shillings,

By



Glocester 8

By the statute made 6. E. 1. c. 8. Sherifes shall hold pleas of trespassse in their counties, as they have accustomed,

And by the statutes of 27. H. 8. c. 26. & 34. H. 8. c. 26. the sherifes of the Counties of Wales, shall hold plea of Replegiare, and all other suits, and plaints, vnder forty shillings, in their countie or shire Courts, in like maner, as all other sherifes doe within the Realme of England,

But this County Court cannot hold plea, where the debt or dammages is forty shillings or aboue, vnlesse it be by a writ of Justicies, (out of the Chancery) which the plaintife may procure if he will, to be directed to the sherife: And that writ of Justicies is a Commission to the sherife to hold plea of any sum whatsoeuer: Neither is this writ of Justicies retoznable, but shall be determined befoze the sherife in his County Court.

*Justicies*

In this County Court the actions must be called, as they are in a Hundred Court, or in a Court Baron.

Cantebr. fl. Prima com̄ A. B. militis vicecom̄ comitat' pd. (and so the next Court, Secunda com̄ A. B. &c.) tent' apud castrum Cantebridgie, tali die & anno &c. setting downe the Kings stile at large.

*Stile of the Court.*

Then the Bailife must make an Oyes, and say thus, (three times befoze the court) *Essoines* and *Proffers pur cē iour*: And then he must say, If any man wil be essoined, or enter any pleints, let them come in and they shall be heard.

If any man will be essoined, it may be entred as the case shall require, scz.

*Essoin.*

quia in serui' domini regis.  
 quia est ultra mare.  
 I. S. essoñ est quia non potuit venire propter altitudinem aquæ.  
 quia est de malo lecti. Or  
 quia ægrotus, vel similia.

There be other manner of essoines which are in plea, the one after summons or attachment, and the other after issue ioined, which are to be entred after this manner.

1. I. S. Qui Summon' fuit ( vel attach' tuit ) essendi hic, ad hanc Curiam, ad respondend' T. K. de placito debiti (vel similia) modo essoñ est per D. R. &c.

2. I. S. Qui habuit diem vsque ad hanc Curiam ad exitum junct' inter T. K. quærent' & I. W. defend' modo Essoin' est per D. R. &c.

And in like maner the plaintife may be essoined if he will.

And

## The Countie Court.

And if the one partie bee essoined at one court, the other partie may be essoined at the next court.

Whosoever will cast any essoine, he must come at the beginning of the court, when proclamation is made, or else he ought not to be received. See Statute de Essoines 12.E.2.

But note that the partie cannot be essoined in these cases following, *iciz.*

If the partie himselfe be scene in court.

If the partie haue an attorney (in the same plee) present in court.

If the partie made default at the last court befoze.

Or if the partie come in by *Cepi corpus*, or *Distresse*.

Note also that none shall need to sweare to warrant his essoine, 52.H.3.ca.19.

## Proces.

*Proces.*

Also the like Proces or Precepts as are made out of <sup>W.2.</sup> the Hundred Court, or Court Baron, are to be made out of the Countie Court *mutatis mutandis*, *viz.* a Summons, Attachment, and Distresse infinite, which also is the proces at the common law.

The formes of these Proces are as followeth.

### *A Summons.*

*Summons.*

**P**Ræceptū est ballivo *ibid.* quod sum̄ fac' *C.D.* quod sit hic ad <sup>Canteb.</sup> prox. cuñ ad respond. *A.B.* in p̄lito debiti, or detētionis, trespass, vel familia.

*Alia.*

*R.S.* armiger vicecomes comitat. prædict. ballivo hundred. de *R.* salutem. Quia *I.S.* (ad com̄ meum tent' pro comit. prædict.) queritur versus *I.D.* in placito debiti triginta solidorum (vel in placit' transgr̄, vel in placito detentionis &c. *sicome le pleint est*) Et invenit plegios de prosequendo &c. \* Ideo tibi præcipio, qd. sum̄ fac' præf. *I.D.* q̄ sit hic ad px. cuñ ad respond' p̄f. *I.S.* in p̄lito præd. Et habeas ibi hoc præceptū, & qualiter &c. datum 8. die August. añ regni dñi nostri &c.

*An Attachment.*

**P**Ræceptum est ballivo ibid̄ q̄ attachiat' C.D. per omnia bona *Cantabr.*  
& cattall' sua, q̄ sit ad ꝑx. cuī ad respond' A.B. de placito de-  
biti &c.

**Q̄** this attachment may be made moze amply as befoze *Alias.*  
(almost word for word vsq; ad not' \*) Ideo tibi ꝑcipio q̄ attra-  
chias ꝑf. I.D. per omnia bona & cattall' sua, q̄ sit hic ad ꝑx. cuī  
&c. vt supra.

**Also the Defendant may be attached by pledges &c. See**  
plus hic fol.

*A Distringas.*

**P**Ræceptū est ballivo ibid̄ q̄ distringat E.D. per omnia bona *Distring'.*  
& cattall' sua, q̄ sit ad ꝑx. cuī ad respond' A.B. de placito  
debiti &c. Teste &c.

*Alias distring. & plur' distring.*

**P**Ræc' est ballivo ibid̄. sicut al' (vel sicut ꝑ'ur) tibi præceptum *Alias.*  
fuit, quod distringas &c. vt supra.

**Q̄** these may be made moze amply, as befoze.

*A Venire facias Iurator'.*

**P**Ræceptum est ballivo ibidem, quod venire fac' 12. probos *Venir' fac'.*  
& legales homines de ballivo suo, quod sint hic ad prox. cuī  
ad triand' exit', junct' inter A.B. quær' & C.D. defend' de ꝑlito  
debiti, vel familia.

**And if a full Jurie doe not appeare, then as many as**  
**make default, and be not essoined, shall bee amerced, and a**  
**Decem tales awarded to summon tenne moe, as followeth,**  
**and the same day giuen to the first Jurie.**

*Decem tales.*

**P**Ræcept' est ballivo ibid̄. quod venire fac' decē tales ꝑbos et *A Tales.*  
legales homines de balliua sua, quod sint hic ad prox. cuī cum  
alijs qui sibi ad tunc & ibid̄ associantur, ad triand. exit. junct. inter  
A. B. quær' et C. D. defend. de ꝑlito debiti, vel familia.

## The Countie Court.

At which day as many as make default, and be not essoined, shall be amerced, and then an Oſto tales shall bee awarded, and after that if need be a Sex tales.

And if there appeare a full Jurie, then both the parties shall haue their challenges lawfull to the Jurors: And if the Jurie find for the plaintife, then they must giue costs of suit and dammages. And in the like maner they shall asseſſe dammages, if they find for an aduowant, in a repleuin &c.

### *A Levare fac'.*

*Levare fac'.* **P**Ræceptum est ballivo ibid. quod de bonis & cattallis C. D. levare fac' 20. s. quos A. B. in hac curia recuperavit versus eum in placito debiti, vel similia, et pro mis. et custagijs suis 12. d. Ita quod denarij illos habeat hic ad prox. curia, ad reddend. præd. A. B. Teste &c.

*Alia.* A. B. miles vicecom. com. &c. Quia J. S. ad com. meum (tent. pro com. præd.) recuperavit versus Will. E. 31. s. in placito debiti, et 12. d. pro mis. et custagijs, unde prædictus Will. in eadem curia convictus est, per iudicium curia, Ideo levare facias secundum consuet' præd. 31. s. in dicta curia adjudicat', et dictos 12. d. promissis, Et denarios illos habeas ad prox. curia, ad reddend. præfato Roberto pro dampnis præd. Et habeas ibidem hoc præcept' et qualiter &c. datū 24. die Aprilis, añ regni dom. Reg. &c. 20.

*Cap. ad satisfac'.* Nota que un ne poet aver Capias in Court Baron, ne Execution la per Capias ad satisfac', mes le naturall Execution & Proces la, est attachment de biens &c. per Martin. 3. H. 6. fol. 56.

And although that the Sherife shall hold plea of debt upon a Iusticies, yet the Sherife cannot thereupon award a Capias ad satisfac'. See Br. Iusticies 1. et hic postea fol.

Neither may the Sherife take the bodie of a man upon a Iusticies. 2. H. 4. Br. Iusticies 4.

And yet the sherifs of Wales upon everie judgment had before them in their Countie, or Hundred Courts, in any plaint vnder 40. s. shall and may (by the stat. of 34. Hen. 8.) award a Capias ad satisfaciend' to arrest the partie condemned; or else a Fieri facias at the libertie of the pursuant or plaintife.

And therefore where custome will beare it, there if the bailife shall returne that he can find no goods of the Defendants, upon the Levare facias, then the plaintife may haue a Capias ad satisfaciendum, to take the bodie of the Defendant, and

and to lay him in prison untill such time as he hath satisfied the pl. (as it seemeth, tamen quære.) The forme of which Capias may then be thus.

*A Capias ad satisfac'.*

W.152.

PRæcept' est ballivo ibid. quod capiat C.D. et eum in prisona sua, salvo custod' fac' quousq; satisfecerit I.S. tam de xx.s. p debito quos præfatus A.B. recuperavit versus eum, quam 12. d. pro mis. et custag' suis &c. Teste &c.

Fitz.89.g.

A Iusticies may be directed to the Sherife, to hold plea in diuers cases, and of diuers matters, and then the writ is not returnable, but the matter shall be tried and Determined in the Countie befoze the sberife, and that by an enquest accordyng to the order of the common law. Fitz.86. *Iusticies.*

*In what cases, or for what matters a Iusticies may be granted.*

Iusticies de accompt; For the forme of the Iusticies, or writ of Accompt, which shalbe sued in the countie court befoze the sberife: See Fitz. 117.a.c. *Accompts*

Fitz.86.

Iusticies de action sur le Case, scz. for breaking downe sea banks &c. or for detaining in a park cattel distrained, wherby they are spoiled; or for taking away cattell demised befoze the terme be ended &c. *Action sur le case.*

Iusticies de admeasurement de Dower. Fitz. 148.g.h.

Iusticies de admeasurement de Pasture. Fitz. 125.b.c.

Iusticies de annuitie. Fitz. 152.b. See the forme of the writ. *Admeasurement.*

Fitz.127.g.

Iusticies de curia claudenda, scz. where a man ought to inclose his ground against his neighbors ground, & will not. *Curia claudenda.*

Fit.151.b.c.

Iusticies de customes & seruices, scz. where the tenant withholdeth his rents or seruices from his Lord. *De customes & seruices.*

Fit.119.g.h.

Iusticies de Debt, and this may be either for a debt of money, or of other goods; and this may be remoued out of the county, into the court of common pleas by a Pone, either by the plaintife or defendant. *Det.*

Fitz. 138.b.

Iusticies de Detinue, and this plee may be also remoued by a Pone, out of the county, at the suit of the plaintife or defendant: but the defendant must shew cause in his Pone, and so needs not the plaintife. *Detinue.*

Iusticies de Dower, vnde nihil habet: See the forme of the writ. Fitz. 148.b.d. *Dower.*

Iusticies de Droit de Gard: See the forme of the writ. Fitz. 139.f. *Droit.*

Iusticies in brieve de droit patent. 39.H.6. Br. Iustic' 6.

Iusticies

# The Countie Court.

*Mefne.*  
*Nufans.*

Iufticies de *Mefne*. See the forme of the writ, Fitz. 135. n.  
Iufticies de *Nufans*. Fitz. 184. b.

Now the writs of *Nufans* which are vicontieles (scz. which belong to the Sherife, or which are triable in the County, or Sherifes Court) appeares by these verbes following :

rica ca gultū ges lendinum  
Fab, fur, porta, domus, vir, gur, mo, murus, ovile,  
Et pons, tradantur hæc vicecomitibus.

*Plegijs ac-*  
*quietand.*

Iufticies de *Plegijs* acquietandis. See the forme of the writ  
Fitz. 137. d.

*Quarentine.*

Iufticies de *Quarentine*. Fitz. 161. e.

Note that vpon this writ the sherife shall presently award proces against the party, to cause him to come &c. & to answer &c. and shall proceed therupon as Iustices shall do vpon a Commission of *Oyer and Terminer* &c.

*Quod per-*  
*mitat.*

Iufticies de *Quod permittat*. See the forme of the writ,  
Fitz. 123. g.

*Rationab.*  
*diuisis.*

Iufticies de *Rationabil' diuisis*. Fitz. 128. p. q.

In this the plaintife shall make his plaint before the sherife in the nature of a count, & thereupon the sherif shall make his precept to warne the defendant &c. and when hee cometh, the pl shall make his count, and the def. shall answer thereunto in the county; and if the def. cannot deny it &c. then the sherife shall make the partition and diuision of the lands between them by meets and bounds: but if the def. will plead, and ioine the issue, *sur le mere droit, & luy mitter in grand assise*, then the pl ought to remoue this &c. or the def. may remoue it vpon shewing cause &c. Fitz. 128.

*Secta ad mo-*  
*lenda.*

Iufticies de *secta ad molendinum*. See the forme of the writ, Fitz. 123. a.

*Trespas.*

Iufticies de *Trespas*: Note that for euerie manner of trespasse done, a man may haue this writ directed to the sherife to determine the matter before him in his Countie Court; And by this writ the sherife may heare and determine of the trespas by an enquest according to the order of the common law; and the plaintife may count vpon this writ to the damages of xx. l. or more, Fitz. 85. 86.

But note that the Iusticies, is no originall, but onely a Commission to the sherife, to giue him power to hold plee aboute pl. s. in his County Court. Br. Iusticies 1. 3. 3. H. 6. 14.  
7. E. 4.

And in a Iusticies, although the writ be directed to the Sherife, and be quod Iusticies T. & c. yet the Sherife is not Judge therein, but the suitors are Judges; and a writ of *faile* 7. E. 4.  
Br. Iust 32

false judgement lyeth vpon their erroneous judgement &c.

3.H.6.  
Br. Iust. 1.

A Iusticies commeth to the sherife to hold plee vpon an obligation of 1000. marks, the sherif by vertue of the said writ may hold plee therof; but the sherif cannot therupon award a Capias, nor a Capias ad satisfaciendum.

1000. marks  
Capias ne  
gift.

2.H.4.  
Br. Iust. 4.  
Faux Im. 30

And so the sherife cannot take the bodie of a man vpon a Iusticies, nor vpon the writ de Nativo habendo, for although the writ be Habere facias talem nativum, & fugitivum suum &c. yet this is to no other intēt, but only to giue the sherif power to hold plee &c. And the proces in a writ de Nativo habendo, is, and alwaies hath been summons, attachment, & distresse.

So that this writ of Iusticies is but in the nature of a Distringas, to distraine a man by his goods, to answer there to the plaintifes action; for his body cannot be touched with it by law, nor his lands.

34.H.6.  
Br. Iust. 2.  
Fit. Bar. 161

Also vpon a Iusticies, the sherife cannot make his precept or warrant to the bailife of a franchise, neither may he suffer him to haue conulance, neither may any other hold plee by force of a Iusticies directed to the sherife, but onely the sherife himselfe.

Vid' seer luy  
me/me.

A Iusticies came to the sherife to hold plea of 1000. l. & he held plea thereof in his countie, before his vndersherife, and that was assigned for error, in a writ of false Judgement. 21.H.6.Br. Officer 38.

*Nota que le Proces in Iusticies est attachment, a quel iour sil appiert, ou soit essoine, le chose per que est attach ne serra forfeit, mes sil ne appiert, ne est essoine, serra forfeit. 21.E.4.Br. Attach. 11.*

Proces:  
Attachment.

Note that whensoever an action is brought, or sued, in the countie court before the sherif, by a Iusticies, or otherwise, the same suit or plee may afterwards be remoued out of the countie court, into the Kings Bench, or Common place, by a Pone, either at the suit of the plaintife or Defendant.

Plea remoued

Fitz 69.  
70. a.  
Liber Intf  
sit Iusticier.

And this the plaintife may do in most cases without any cause shewed by him in his writ (or Pone): But the defendant cannot remoue the plea, without shewing cause in his Pone; As if the defendant will shew that hee before whom the writ depends, maintaines or fauours the plaintife &c. Fitz. 70. a. & 119. i.

*Oule def. poet plead vn forreine plee, que ne poit estre trie in le county Court &c. Fitz. 119. i.*

Regula.

Fitz. 70.

*Nota que si le Replevin soit sue in le countie,*  
per { Brieve }  
{ Plaint sans brieve } } doit estre remoue, per { Pone.  
} Recordare.

*Si pleint soit remoue hors del countie per Recordare &c. et le brieve*  
F f de

## The Countie Court.

de Recordare port date avant que le pleint soit enter in le county, vncore le record est biē remoue, pur c' que amb. courts sōt courts le roy. Fi. 71. d.

Si le pleint soit discontinue in le county, vnc' le pl. ou def. poit remouer ceo pleint in cōmon banke, ou bank le roy, per Recordare &c. & serra bone, & il poit counter sur ceo &c. & le court tener plee sur ceo pleint : car si le pleint soit continue in le counsy, & issne ioine sur c', vnc' riēs ferr' remoue forsq' le pleint solemēt, & in common bank le pl. counter de novel &c.

Si pleint soit remoue hors del county in banco, ne serra apres remaūd, quia amb. sont courts del roy ; & le cause de remouem't hors del County nest trauersable. Vide Fitz. Cause de remouer plee 17. 31. E. 3.

Si le vic. remoue le plee hors dascun court per Pone, al suit le pl. ou def. et puis les bailifs, ou officers del court proceed sur le pleint, & dōe judgemēt, & font exec' &c. dōq' le def. ou cēy vers que iudgmēt ou exec' est fait, aūa brief dattachmēt vers les bailifes, ou ceux que issint proceed al iudgement &c. de rn' d. al roy cibie del cōtēpt, cōe al party des damages &c. Fi. 119. k.

Son frankte-  
nement.

In action de trespas port in le county court, si le def. plead son frankte-  
nement, ou auter tiel plee, le court ne doit proceed ouster, mes doit ceaser de tener plee ; & sils proceed, brieft de faux iudgement voet giser.

Br. Court  
Bar. 21.

Issint si le def. clame le pl. deste son villein, le court ceaser de tener plee.

Ibid.

Prohibition.

Si home sue auter en le county court, pur charters concernant inheri-  
tance, ou franktenement, prohibition gist.

Fitz. 47. b.

Si home impleade auter in le county court (sans Iusticies) des detts,  
ou chattels, que amount a le somme de 40. s. le party auera prohibition  
vers le vic. commandant luy que il ne tener plee, & que il dira al party  
pl. que il suer in le common banke.

Fitz. 46. a.

Si home doit al auter sinke marks, & le creditor sua seuer al pleints de  
ceo in le county court vers le dettor, prohibition gist. Fitz. 46. a.

Issint est si home voil suer in le county court, brieft de Couenant, ou de  
Trespas, al damage de 40. s. ou plus, le party auera prohibition. Ibidem.

Issint si le executors sue in le county court, pur det de sixe marks,  
per diuers pleints &c. lou le det est sur vn contract, ou sur vn obligati-  
on, ore le defendant poet monstre cel, & pleader al iurisdiction del court,  
ou il poit auer brieft de prohibition &c. & sil auer iudgement in ascun  
des pleints sue del parcel del ceo det, vncore in le prohibition il poet luy  
inhibiter de proceed in ceux pleints, que sont pendants, & que il cessa del  
execution del iudgement del residue. Ibidem.

Après iudge-  
ment.

Auxy si home sue in le county vn pleint de 20. li. & ad iudgement de  
recouer ceo in mesme le court, vncore le defendant poit suer vn brieft de  
prohibition, cōmandant le vic' & les suitors, que ils ne executer cel iudge-  
ment, coment que ils ad admit le iurisdiction auans. Ibidem.

Après exec'.

Issint apres iudgemēt done, & executiō agard in le county court, (de det  
de sum de 40. s. &c. ou des damages in trespas amountant a tiel sum,  
ou plus) le def. poet auer brieft de prohibic' al vic' que il surceffer de faire  
execution,

Fitz. 46. a.



execution, Et sil ad distr<sup>o</sup> le party de faire satisfaction &c. que donq<sup>e</sup> il releaser cest distresse &c. & que il reuoke ceo que il ad fait in ceo part.

Nota si le vic<sup>o</sup> &c. ne surcease, sur tiel prohibition deliuer a luy, donque Alias, Pluries, et Attachment, giser vers le vic<sup>o</sup> &c.

Nota que est rule in le Register, Que si placita de cattallis, vel debitis, que summa quadraginta solidor<sup>o</sup> attingunt vel eam excedunt in comitatu (vel in alia curia) sine breve placitentur (quod absit), non fiat inde breve de falso iudicio, nec recordent<sup>o</sup>, nec breve de Execut<sup>o</sup> Iudicij; exceptis cur<sup>o</sup> civitatis, & alijs, que secundum consuetudin<sup>em</sup>, hujusmodi iurisdic<sup>o</sup> habent, Fitz. 46. 47.

Fitz. 86. g.

Auxi nota que pur chesc<sup>o</sup> maner de trespas fait, hōe poet eslier de auer br<sup>e</sup> e direct al vic<sup>o</sup> a determin<sup>er</sup> cest matt<sup>o</sup> deuant luy in son county; Ou de suer brieve direct al vic<sup>o</sup> retournable in bank le roy, ou common bank. Trespasse.

Fitz. 47. a.

Br. Iustic<sup>o</sup> 5.

Et vnc<sup>o</sup> le vic<sup>o</sup> ne poet tener plee in son countie court de trespasse, ou auer action, lou loffence serra lay destre vi & armis, et sil fait, le def. poet auer prohibition al vic<sup>o</sup> command<sup>er</sup> luy de surcesser &c.

Nota per Littleton, que home poit au<sup>er</sup> Iusticies de trespasse sans vi & armis, & la le def. ne serra sine pur le trespas 8. E. 4. 15. Br. Iustic<sup>o</sup> 5. vide Fitz. 85. g. que le brieve de trespasse que est vicountiel, ne dira quare vi & armis, &c. Et vide le forme del brieve ibidem.

Sur faux Iudgement done sur pleint in County ou Hundred Court, et sur brieve de Iusticies in le countie, brieve de faux Iudgement gist, & nēy brieve de error, comment que le Iudgement est de det, ou trespasse ouster 40. s. Fitz. 17. 18. et 19.

Nota que pleint ne poet estre fait in countie court, sinon in plein county. & fedente curia, & non extra curiam; car les suitors sont Iudges la, et le vic<sup>o</sup> est forsq<sup>e</sup> minister, et le proces serra agard per les suitors 21. E. 4. Br. Pleint. 21. Pleints.

Vncore vic<sup>o</sup> poit faire replein hors del court, aliter serra mischiefe de berger le county, Et ceo adestre vse de temps dont memory &c. per tout Anglitterre, per Pigot et Brian ibid<sup>e</sup>.

Mes Withernam ne poet estre nisi in pleine county, Pigot ibid<sup>e</sup>.

Plees deuant le vic<sup>o</sup> in son county, ne sont de Record.

Auxi nota que tiel entries, pleints, respousiones, barres, et issues, sont destre fait, et mise eins, al county courts, come sont vse in le Hundred court, ou court Baron, Mutatis mutandis.

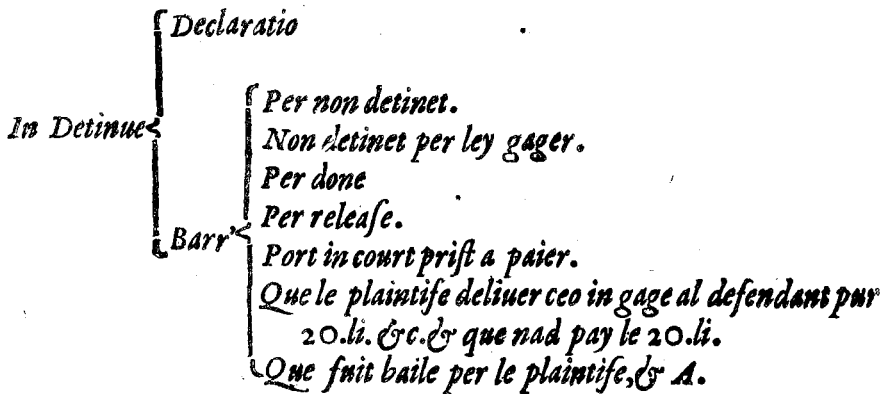
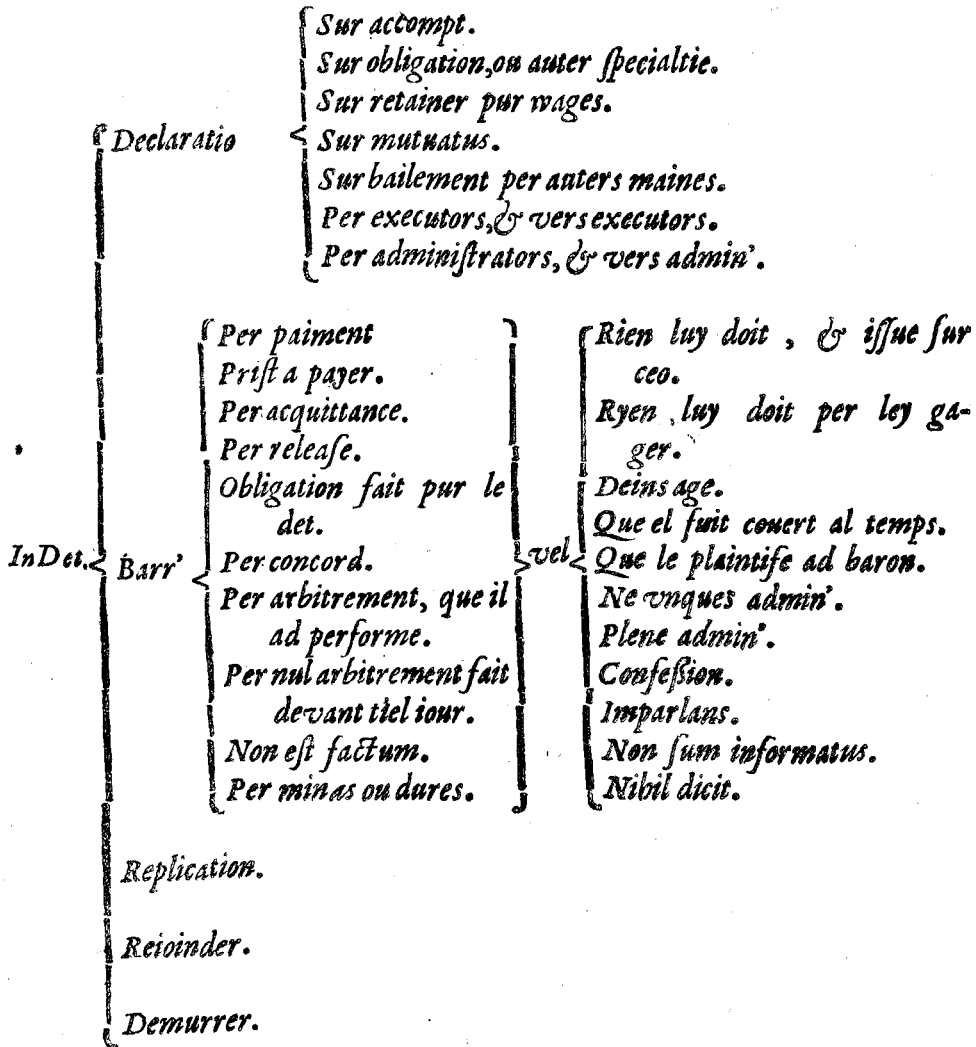
Auxi tous trialls deuant le vic<sup>o</sup> in son county court, serra per gager del Ley, (sc. per le serement del parties), ou per le verdis de xij. homes, come semble.

**If any man will enter any pleints in the county court, they must be entred after this manner.**

A. B. querit<sup>o</sup> versus C. D. de placito debiti (vel de placito detentio<sup>is</sup> vel de placito captio<sup>is</sup> et injuste detentio<sup>is</sup> averio<sup>is</sup> suorum, vel de placito transgress<sup>o</sup> vel similia, **as the case shall be.**)

# The Countie Court.

## Pleadings &c. in Debt.





For the better and more ample forme of all these, and the like pleadings &c. See the booke of Entries.

The sherife and his officers and clerkes, for the entring of pleints, proces, ples, and judgements in their Countie Courts, shall take the ordinarie and vsuall fees, and if they take any more, it is extortion.

The sherife vpon complaint made to him (that the beasts of any man bee taken and wrongfully withholden) may *Replewin;*

53.H.3.c.21  
P.Repl.1.

## The Countie Court.

Deliver them, without let or gaineſaying of him that tooke the beaſts, if they were taken out of libertie; And if the beaſts were taken within any libertie, and the bailife of the libertie will not deliver them, Then the ſherife for default of thoſe bailifs, ſhall cauſe them to be delivered: and this is by force of the ſtatute 5 2.H. 3. Whereas before by the Common Law, it ſeemeth the ſherife could not make Replevie or deliverance of cattell, or goods, taken & withholden, without the Kings writ. Dyer 246.

By another ſtatute made Anno 3.E. 1. It is provided, that if any take the beaſts of another man, and drive them into a Caſtle or Fortreſſe, and there hold them (being ſolemnly demanded by the ſherife, or bailife) againſt gages and pledges, ſo that the ſherife or bailife cannot make deliverance of them to the owner, There the ſherife, or bailife, taking with them the power of the Countie or Bailiwicke, ſhall beate downe the Caſtle: And the plaintife ſhall recover double Damages for all the loſſe which he hath received by his cattell, hindrance of his gainage, or in other manner (after the firſt demand of the cattell made by the ſherife, or Bailife) againſt him that tooke the cattell, or againſt his Lord, if he be not able to anſwere them: Weſtm. 1. 3. E. 1. 17.

3.E.1.c.17.  
P.Distr.4.

So that by this former ſtatute of Weſtm. 1. Cap. 17. The Sherife may breake open a mans caſtle, or houſe, to make a Replevin, when the cattell or goods of another, which he hath diſtreined. be by him conveyed into his houſe, or Caſtle, to prevent the owner to have Replevin of his ſaid goods: And yet here before the ſherife (or his officers) ſhall breake ſuch houſe, or caſtle, they ought firſt to demand that the cattell, or goods, be delivered them; Co. 5. 93.

Alſo the ſtatute made 13.E. 1. c. 2. Forasmuch as Lords of fees, diſtreining their Tenants for ſervices due unto them, were many times grieved, becauſe their Tenants did Replevie the diſtreſſes (by writ, or without writ) And when the Lords at the complaint of their Tenants did come (by Attachment) into the County (or other Court &c.) and did avow the taking of the diſtreſſe to be good and lawfull, by reaſon that the Tenants did diſavow to hold ought of him which tooke the diſtreſſe, and avowed it, He that diſtreyned was amerced, and the Tenants went quite (and puniſhment cannot be there aſſigned for ſuch diſavowing &c.) It was therefore ordeined that where ſuch Lords cannot obtaine Juſtice in the Counties, (and ſuch Courts) againſt their Tenants, as ſoone as they ſhall be attached at the

the suite of their Tenants, a Writ (called a Recordure) shall *Recordare.* be graunted to them to remoue the plea, before the Iudges, (before whom, and none other where, Justice may be administered, vnto such Lords) And the caue shall be put in the Writ, because such a man distreyned in his fee for his seruices and customes to him due &c. P. Repl. 2.

Also by the same statute, it is further ordeined, That because it chanceth sometimes that the Tenant after that hee hath Repleuied his beasts, doth sell them away, or dye them farre of, whereby retozne cannot be made vnto the Lord that distreined, if it be adjudged: It is thereby therefore provided, That sherifes, and bailifes, from thence forth should not onely receiue of the plaintife, pledges for the pursuing of the suite before they make deliuerance of the distresse or beasts taken: But also pledges for the retozn of beasts, if retozne be awarded; And if any take pledges otherwise, hee shall answer for the price of the beasts: and the Lord that distreyned shall haue his recovery by Writ, that he shall restore or deliuer vnto him so many beasts or cattell; And if the bailife be not able to restore or satisfie, his superiour (scz. the high sherife) shall restore or pay it: (P. Repl. 3.) 13. E. 1. c. 2.

*Westm 2. 2.* Note that as soone as Retozne of the cattell is awarded to him which did distrein the same, the sherif shall be commanded by Writ, to make retozne of the cattell, to the partie which tooke the distresse, Stat. 13. E. 1. c. 2.

*Apres Retorne del beasts &c. agard, & retorne de eux fait, si le partie Repleuie eux arere &c. Vide plus le stat. de Westm. 2. c. 2.*

*1. & 2. Ph M. c. 13.* Also by another statute made in the times of King Phillip and Queene Mary, for the more speedy deliuerie of cattell, taken by way of distresse, it is further enacted, That euery sherife, shall depute and appoint, foure Deputies (at the least) in his County, to make Repleuies, and deliuerance of such distresses, in such manner and forme as the sherife, may and ought to doe. *Deputies.*

So then (although by the Common law the sherife could not make Repleuies, or deliuerance of any distresse without the Kings Writ, as is shewed before Dyer 246. Yet) now by force of these former stat. the high sherife himself, the vndersherife, or any other of the sherifs deputies, (appointed as aforesaid) vpon complaint made to them, or any of them, by any man that hath his beasts or other goods taken, and wrongfully withholden, And vpon pledges found &c. may without any Writ to them directed, (in all places) make Repleuies,

## The Countie Court.

*Sans breue.* pleues, and may deliuer the distresse (scz. the beasts, or goods so taken and withholden :) And also the sherife may determine the same in the Countie Court.

But then the sherife &c. is to giue day vnto the parties, vntill the next Countie Court : At which day the plaintife may be essoined ; But if hee make default, then the defendant may demaund Judgement of the Non suite, and shall haue retorne of the distresse ; And the plaintife, and his pledges shall be in misericordia.

Britton. f. 4.

But the defendant may not be essoined at the first day ; For if he make default, then the distresse shall be awarded to the plaintife, And the defendant in misericordia.

And if both the plaintife and defendant shall appeare at the first day ( either in person, or by attorney, ) then the plaintife ought to count or put in his declaration against the defendant.

*Per breue.*

Or else the partie may haue a Writ (out of the Chancerie directed) to the sherife ; whereupon the sherife, or his bailife knowne, and swozne, ( after sureties or pledges found, &c. ) ought to goe to the pound, &c. and to deliuer the beasts, or goods, impounded, to the partie.

But when a man sueth a Repleuy, by writ to the sherife, hee ought presently to enter his plaint befoze the sherife : Fitz. 78. a.

And if the sherife, or his bailife be disturbed in the execution of this writ, they may leuie a power, &c. and may take such disturbers, and impzison them.

But if the beasts, or goods, bee in an house, so as the sherife or bailife cannot come by them ; or be driuen, or carried into another Countie, &c. then may the sherife take of the goods, or beasts, of the deforceor ( to the double value ) in Withernam : see hic.

Britton. 54.

But if the partie that tooke the goods, do claime proprietie in them, then the power of the sherife, or his bailife ceaseth, so as they may not Repleuie or deliuer them, whether it were by plaint, or by writ ; but the other partie ought to sue his writ De proprietate probanda.

Fitz. 77. c.

Note that the seruant may claime proprietie for his Master, and one defendant may claime proprietie, but an estranger cannot claime proprietie, but that the sherife ought to make deliuerance notwithstanding the strangers claime.

Fitz. proprii prob. 1. 2. 5.

Note also that vpon proprietie found for the plaintife, the sherife shall make deliuerance, and shall also attach the defendant to answere as well the King, as the partie: Fitz. proprii

priet' pband. 3. et Register f. 83. accord. Et p. Co. 8. 60. a. le defendant que claime propertie fauxment, &c. serra fine & imprison mes ceo serra: per les Iustices in Banco, & nemy per le vicount.

If a man sue a Repleuin in the county, by plaint, without writ, & the sherife maketh his pcept to the bailife to make Repleuie, and the bailife retoznet to the sherife at his next countie, that he cannot haue the view of the cattell to make deliuerance, &c. or that they be esloigned, Then the sherife at the same Countie Court ought to enquire thereof by an enquest (of office,) And if this be found by enquest, that the cattell be esloigned, (or conueied away, &c. then the sherif in the same Countie Court may award, (ex officio) a pcept, in the nature of a Capias in Withernam, directed to his bailife, to take the beasts of the defendant, &c. or else the plaintife may haue a writ out of the Chancerie to this purpose.

But whether the beasts of the defendant, being taken in Withernam, shall be deliuered to the plaintife, or that the sherife shall keepe them, &c. may be a question: It appeareth by the words of the writ (of Withernam out of the Common place) that the sherife shall keepe them, vntill the sherife can make repleuie and deliuerance to the pt of his cattell, & so is the booke 2. H. 4. Fitz. Wither. 3. that the sherife shall keepe them: And yet by the vse of the Kings Bench it seemeth they shall be deliuered to the plaintife: Fitz. 73. f. et 74. a. b. d.

And therefore where the sherife in his countie court shall award a Withernā, quere, if there the sherife may not either keepe the cattell himselfe, or deliuer them to the plaintife to keepe vntill, &c. at his pleasure; And whether the sherife or plaintife shall haue the keeping of them, it seemeth reasonable that the defendant shall also pay for the keeping of them befoze he hath his cattell againe.

The sherife vpon complaint made to him of cattell taken, &c. may command his bailife by word of mouth, to make Repleuie of them: and it is as good, as if it were by a pcept in writing; for perhaps the sherife, nor his bailife, haue any thing about the wherewithall to write, &c. F. 69. e.

*Si homo sua Repl' de potts et panns, Withernam serra des biens al value: 31. E. 3. Fitz. Wither. 9.*

*Vicount in pais agard' Withernam a prender al value, et nemy al Number: Vide Fitz. Wither. 7. et 10.*

*Vicount bien agarder Withernam sur plaint arant luy in pais, Et ceo sur Elongata Retorne per son Bayliffe; Mes corvient primes de enquirer per enquest, si le Retorn del balife soit voier, &c. Fitz. Wither. 2. et 10.*

Fitz. 74. p.

*Le proces sur cel Withernam, est Alias, et Plur. et sic infinite.*

The

# The Countie Court.

## The forme of a Replevin.

Replevie.

**A**.B.miles vicecomes com̄ p̄d̄ ballivo hundred' de H. nec non Canteb.  
*Io.S.* ballivo meo hac vice et eorum vtrique, conjunct' et divisim salutem, Quia *W.P.* invenit mihi sufficient' securit' tam de clam̄ suo prosequendo, quam de averijs suis (*viz.* vna spadone, tribus equis sive vna bove &c.) que *Io.C.* cæpit et injuste detinet, vt dicitur, retor', si retor' inde adiudicetur, Ideo ex parte dñi regis vobis et vtriq; vestr' cōjunct' et divis. mādō, q̄ repl' et deliber' fac' p̄fat' *W.P.* aver' sua p̄d' (sive bovē p̄d') Et q̄ ponat' seu, &c. p̄ vad', et salvos pleg' p̄fat' *Io.C.* Ita q̄ sit ad p̄xim̄, com̄ meū apud castrū Canteb' tenēd̄, ad respondend' p̄fat' *W.P.* de p̄sito capt' et injuste deten', aver', suor' p̄d̄, Et qualit', &c. Mihi ad p̄xim̄ com̄ meum certificet' seu, &c. sub periculo incumbēt', dat' sub sigillo officij mei, Ultimo dei Iulij añ regni dñi n̄ri *Jacobi* die grac' Angliæ Scotiæ Franc' et Hiberniæ regis fidei defensor' &c. *viz.* Angliæ Frac' et Hiberniæ vicefimo et Scotiæ quinquagesimo sexto.  
 p̄ me *A.B.* Milit' Vic'.

**And if this Replevin be granted by a Deputie, to the shereife, then he must set his name to the Replevin, Thus;**

p̄ me *I.A.* vnum deputat' dicti Vic' secund' formā statuti.

**And if the first Repl' be not executed, then the shereife or his deputie, may grant an Alias Replevin, & so a Pluries Replevin, vel causam mihi significes; & after a toties quoties, if need be,**

## An Alias Replevin.

Alias Repl.

**A**.B. miles vicecom' com̄ p̄d. ballivo hundred' de R. Necnon Canteb.  
*I.S.* ballivo meo hac vice, &c. Quia *W.P.* invenit mihi sufficient' securitatē tam de clamore suo p̄sequendo, Quā, &c. (vt supra) Ideo ex parte dñi regis vobis, et vtrique vestrū conjunctim et divisim mando, sicut Alias vobis mand' averia p̄d. (sive bovem prædict.) eidem *W.P.* sine dilatione replegiare fac', seu vnus vestrum repleg' fac' vel causam mihi significet', vel vnus vestrum signif. Quare mandata mea vobis inde directa exequi noluiti aut non potuisti. Et q̄ ponat' seu vnus vestrum ponat per vadios et salvos pleg. præfat. *Io.C.* Ita q̄, &c. (vt supra.)

Plur' Repl.

**And if the baillife doe not deliuer the plaintife his cattell vpon this Alias Replevin, nor shew sufficient cause why hee did not, then the partie may haue a Pluries Replevin, which must be made Verbatim, as the Alias Replevin was made, only changing this word Alias into Pluries.**

And



And note that vpon all these Replevins, there must bee a bond of fortie pound at the least, taken of him to whom the Replevin is graunted, for his appearance at the next Court after, and for the prosecution of his suit, and to make returne of the cattell, if returne be adiudged.

*The forme of which Bond and Condition must  
bee as followeth.*

**N**Overint vniuersi per præsentis me *Will' P. de C. in com' C.* *The Obligati-*  
geñ teneri et firmiter obligari *A. B. milit' viccom', com' p̄d* *tion.*  
in Decem libris bonæ et legalis monetæ Angliæ solvend' eidem  
vic' aut suo certo atturnat', executor', vel admīn suis. Ad quam  
quidem solutionē bene et fideliter faciend', obligo me hæred'  
executor' et admīn meos firmiter per præsentis, Sigillo meo si-  
gillat' dat' &c. (as all other Bonds are.)

**T**he condition of this present obligation is such, that if *The Condition.*  
the aboue bounden W.P. do appeare at the next Countie  
Court to be holden at the castle of Cambridge, and then and  
there doe prosecute his action with effect against I. C. for  
wrongfull taking & detaining of his cattell, viz. of one gel-  
ding and thzee hozles, as it is alleaged, and doe also make  
returne thereof, if returne thereof shall be adiudged by law, &  
also do saue & keepe harmeles, and indemnified, the aboue  
named sherife, his vndersherife and baillifes, for, touching  
and concerning the deliuerie of the said cattell, That then  
this present obligation to bee void and of none effect, or else  
the same to stand, remain, and continue in full force, strength  
and vertue.

And if in this case the taker of the cattell doe iustifie the  
taking, as in his freehold, then the Countie Court can pro-  
ceed no further therein; but the cause must be remoued from  
thence by the Kings writ (out of the Chancerie) called a Re- *Recordare.*  
cordare facias loquælam, Directed to the sherif, returnable the  
next terme following, either into the Kings Bench, or into  
the court of Common Plees, which the partie will: and then  
this writ of Recordare ought to be openly read & allowed  
in the said Court, to the end that notice may be giuen thereof  
to the plaintiff in the replevin, that he may appeare at the day  
of the returne thereof, and declare against the taker of his  
cattell, or else the taker will haue a Retorno habend' averiof,  
to the disadvantage of the plaintife.

*Now*

# The Countie Court.

*Authoritie  
del Court.*

Now concerning the authoritie of this court, and of the Sherife, &c. therein.

If a man bee convicted befoze the Sherife ( in his countie court) in a writ of Recaptio, it seemeth the Sherif may amerce him, & also may award Damages to the party; but the Sherife can impose no fine in this court vpon any offendor, for that no court can impose any fine, but such courts as are courts of Record, whereas the countie court is no court of Record: Co.8.41. et 60. et 11.43. Fitz.73.d.

Co.8.41. a.  
et 60. b.

And ( it seemeth ) that if any contempt or Disturbance to the court bee made befoze the Sherife, or his steward, in the countie court, they may amerce such offendors, for such contempt or Disturbance, & that such amercement needeth not to be affired: for whereas the statutes of Mag' Charta, c. 14. and of Westm 1. c. 6. will, quod nemo amercietur nisi secundum quantitatem delicti, which cannot be knowne but by affiring, yet it seemeth that the statutes, and this affiring are to be vnderstood for amercentments set or imposed for offences committed or done out of court, and not of contempts or misdemeanors done or committed in court, befoze the Judge or steward there; who hauing conuifance thereof, & of the manner and qualitie of the offence, are the moze meet to impose, take, and assesse such amercentments for such offence; and so such amercement to be in the nature of a fine imposed (by the Sherife or steward) vpon the offendors: see 10. H. 6. fol. 7. Br. Amercement 50. et Co. 8. 41.

Co.8.41. c.  
11.43 d

And for an amercement in the countie court, the Sherife may distraine thzoughout all the countie: 2. H. 4. Br. Dist. 13.

*Imprison.*

But the Sherife may not imprison one, nor arrest or take the body vpon the writ de Nativo habendo, &c. (Br. Faux. Imprif. 30.) Nor in any other suit, nor for any contempt or offence done in the countie court, as it seemeth.

*Recog.*

The Sherife in his countie court may take a recognisance to pay another a certaine summe of money at a certaine day, & if it be not paid at the day, the Conusee may haue a writ out of the Chancerie to the Sherife to make execution therevpon: (Et in tiels Cases semble que le vicount poet vender les biens le partie, pur payer le Conusee: Fitz. 133. b.)

Fitz. 133. b.  
133.

And this is where there is a plea of debt depending in the countie court befoze the Sherife, betweene two, either of the parties may there acknowledge a recognisance ( befoze the Sherife) to the other partie, of any summe of money ( as it seemeth ) and that whither the plea bee there depending by writ, or without writ, as Master Fitz. held,

Also

Also if a man will come in to the Countie Court before the Sherife, and therein Court will acknowledge to owe or pay a certaine summe of money to another person at a certaine day &c. when there is no plaint or action depending there betweene the parties, it seemes by the opinion of M. Fitzh. that such recognisance is good, if it be vnder the sum of fortie shillings. Fitz. 133. a. And the partie may haue the kings writ directed to the Sherife to make execution of such a recognisance. Ibid.

*Le forme del dit briefe al vicont pur faire execution. Vide Fitz. 133. b.*

Fitz. 133. b. *Mes il semble que per le dit briefe, si le recognisor ne voile recognustre le det arere deuant le vicount quant il vient a luy de faire execution &c. mes dire que il ad ceo pay &c. que donque le vicount ne poet faire execution de ceo.*

**K** Knights for the Parliament, Coroners, Verderers, & their election, is alwayes made by the Kings writ, and in the open and full Countie Court. *Knights del Parliament, fl. v al Countse.*

And these must all be chosen by the freeholders of the same Countie.

See hic antea fol.

And the knights for the Parliament are to be chosen betweene the houres of eight and eleuen of the clocke in the fore noone, and *Sedente Curia.*

The names of such freeholders as are at the election of Coroners, and Verderers, ought to be set downe in the County Court booke for to certifie such their election. *Coronors & Verderers.*

And yet the Coroners, their electio also may be by voyces, or by holding by hands &c. (as the knights of the Parliament, whereof see hic antea fol.) and then their names, or number cannot be certainly known nor set downe. Pl. 126. a.

Also the Sherife is to minister vnto the Coroners, & Verderers, their seuerall oathes for the due execution of their offices.

When the Coroner is chosen, the high Sherife of the same Countie, or his vnder Sherife must giue him his oathes, as *The Coronors oathes.* followeth.

First the Sherife shall giue the Coroner his oath to the Supremacie.

The forme of which oath. See hic antea fol.

Then the Sherife must giue the Coroner his oath concerning his office, as followeth.

## The Sherifes Officers.

*The forme of the Coroners Oath, for the due execution of his Office.*

**Y**OU shall sweare, that you well and truely shall serue our Soueraigne Lord the Kings Maiestie, and his liege people, in the Office of a Coroner: And as one of his Maiesties Coroners of this Countie of Cambridge: And therein you shall diligently and truely doe and accomplish all and euerie thing and things appertaining to your Office, after the best of your cunning, wit, and power, both for the Kings profit and the good of the inhabitants within the said Countie, taking such fees as you ought to take by the Lawes and Statutes of this Realme, and not otherwise: So helpe you God, and the holy contents of this Booke; *And so let him kisse the Booke, to affirme his Oath.*

**The formes of the writs for the choosing of the Coroners, and Verderers:** See in the Register Fol. 177. & Fitz. 163. 164.

**The forme of the Verderers Oath:** See.



Now concerning the Sherifes Officers, *scz.*  
His Vndersherife, Clerkes, Deputies, Bailifes  
of Hundreds, and Gaolers.

**I** will heere first set downe what securitie is commonly taken by the high Sherife from his said Officers: And then certaine generall obseruations or rules concerning them all; And after I will treat moze particularly of euerie of them by themselves.

First, it is meete and safe for the High Sherife, to take good securitie from his Vndersherife, and other officers, before he trust them with their Offices: And for this, commonly the High Sherife taketh Bonds and Couenants of the Vndersherife and his friends; As also of his Bailifes, and Gaoler.

*The forme of an Indenture betweene the High Sherife,  
and his Vndersherife.*

W.9.10.

Quere, If  
this be not  
contrary to  
the Sherifes  
oath. Artic.  
12. and con-  
trary to the  
Stat. see his  
fol.

**T**His Indenture made, &c. betweene *R. O.* of \_\_\_\_\_ in the  
Countie of Cambridge Esquier on the one partie: and *H. R.*  
of *G.* in the said Countie gent' of the other partie, witnesseth,  
that whereas the said *R. O.* being by the Kings most excellent  
Maiestie appointed to bee High Sherife of the said Countie of  
Cambridge for this yeere to come, hath vpon speciall affiance,  
confidence, and trust, that hee hath and beareth in and towards  
the said *R. H.* promised and graunted to the said *R. H.* the vse of  
the exercising of the Office of his Vndersherife of the said  
Countie, together withall fees, fines, forfeitures of bonds, pro-  
fits, commodities, aduantages, casualties, allowances, liber-  
ties, franchises, courts, tornes, leets, perquisites of courts, and  
other emoluments, certaine and vncertaine whatsoever, to the  
Office of Sherifewicke, or Vndersherifewicke, belonging, or in  
any wise appertaining, that any Sherife or Vndersherife of the  
said Countie, hath heeretofore iustly and lawfully claimed or  
had, To haue and enioy during, and by all such time as hee the  
said *R. O.* shall bee, remaine, and continue High Sherife of the  
said Countie of *C.* this appointment or election not discharged.  
*In* consideration whereof, the said *R. H.* couenanteth, granteth,  
and agreeth, and faithfully promifeth for him, his heires, execu-  
tors and administrators, that he the said *H. R.* his heires, execu-  
tors or administrators shall and will discharge, or otherwise suf-  
ficiently saue and keepe harmelesse, as well the said *R. O.* his  
heires, executors, and administrators, as also his and their, and  
euerie or their goods, chattells, lands, tenements, and heredi-  
taments of, and from all, and all manner of troubles, vexations,  
suits, actions, informations, complaints, contempts, fines, for-  
feitures, amerciaments, penalties, paines, summe and summes of  
money payable, or leuiable to, or for the Kings Maiestie, or any  
other person or persons whatsoever, for any matter or thing to  
be done, in or about the said Office. *And* of and from all, and  
all manner of losses, hindrances, & damages, that shall or may be  
lawfully moued, stirred, procured, commenced, prohibited,  
profecuted, happen or fall, or lawfull asked, demanded, or leui-  
ed vpon the said *R. O.* his heires, executors or administrators,  
or of, or vpon his or their, or any of their goods, cattels, lands, te-  
nemets or hereditamets, for or by reason of the said office of she-  
rife, either by nonsuing, or vnlawfull returning, slow returning,  
or misreturning of any precepts, writs, warrants or processe to

*Les Profits.**De sauer  
harmelesse  
generalment.*

## The Sherifes Officers.

*Extortion.* the high Sherife directed, or to bee directed; or for by cause or meanes of any excessiue or vnlawfull extortion or exacti- on, or taking of any money, or other gaine, or commodi- tie for the seruing or not seruing of any such Writs, War- rants, Precepts, or Proësse, or for or by reason of any mis- demeaner, misusing, or misgouernement, negligence, lacke of skill, or of ignorance that shall bee in the said *H. R.* in, or about the doing, exercising, or executing of the said Office of Vndersherife. *And* the said *H. R.* for himselfe, his heires, Executors and Administratours by these presents doth fur- ther couenant and graunt to, and with the said *R. O.* his Heires, Executours and Administratours, in like manner to discharge, or otherwise to saue harmelësse and indempnified as well the said *R. O.* his Heires, Executours, and Admini- stratours, as also all their goods and cattells, lands, tenements, and hereditaments, of, and from all manner of escapes, both wilfull and negligent, of Traytors, Felons, and all other pri- soners committed, or to bee committed to his or their safe keeping, or charge, in breach of prison, and of and from all fines, forfeitures, amerciaments, summes of money, and pe- nalties that hee or they, or any of them shall or may incurre, beare, pay, or sustaine, for any escape or breach of prison, during all the time of his continuance in the said Office of High Sherife of his appointment. *And* moreouer the said *H. R.* shall giue attendance conuenient and requisite, vpon the Kings Courts at Westminster, vpon the Iudges of Assises and Iustices of Peace, and other Commissioners and Officers with- in the said Countie, vpon whom the said *R. O.* or the said *H. R.* in respect of the said Office of Sherifewicke ought by the Lawes of this Realme to attend. *And* furthermore shall with- in one yeare next after the discharge of the said *R. O.* from his said Office, iustly and truely make a perfect account in the Kings Eschequer, or else where, of all the summes of money, receipts, and other things wherewith the said *R. O.* shall or may bee charged as Sherife of the said Countie of Cambridge, and shall within the said time or yeare deliuer vnto the said *R. O.* his Heires, &c. a sufficient acquittance or *quietus est*: *And* it is further agreed vpon by the said parties to these presents, That

*Escape.*

*A doner At- tendance.*

*De faire son Account.*

*Lowr bailifes* euery one of the Bailifes of hundreds, and also other the officers vnder the Sherife, shall enter into sufficient bonds by obligation that they and euery of them shall truely and diligently deale in, exercise and execute their Offices during the time aforesaid. *And* if any shall refuse to enter bond, or shall misdemeane him- selfe

selfe in his or their said Office, that then it shall be lawfull to, and for the said *H. R.* in his discretion to place another meeete for that Office, in the roome of such person that shall refuse to enter bond, or shall misdemeane himselfe, as is aforesaid. In witnesse whereof, &c.

*Another forme of Indenture betweene the High Sherife,  
and his Vndersherife.*

*West. Pl. 75.* **T**His Indenture made, &c. betweene *F. S.* Sherife of the Countie of Cambridge Esquire of the one partie. And *A. G.* of &c. on the other partie witnesseth that it is couenanted, &c. that is to say, The said *F.* doth by these presents ordaine, constitute, depute and make the said *A. G.* to bee his Vndersherife in the said Countie of *C.* And to haue, occupie, and enioy the said Office of Vndersherife there to the said *A. G.* during all such time as the said *F.* shall continue and bee in authoritie of the Office of the said Sherife of the said Countie of *C.* by vertue and authoritie of our said Soueraigne Lord the Kings Maiesties Letters Patents of the Office of Sherif there to him directed, bearing date, &c. And also that the said *F.* doth by these presents graunt, &c. to the said *A.* that hee shall and may take and haue during the said terme, all manner of farmes, rents, *Les Profits.* fees, rewards, and profits lawfully to the said Office of Sherife, or Office of Vndersherife, or for seruing, executing, or returning of any manner of Writs, Warrants, Precepts, or Processe in the said Countie of Cam' belonging or appertaining. And also all Felons goods, and Escheates that shall happen to bee lawfully due to the said Sherife during the said time, within the said Countie of Cam'. And the said *F.* doth by these presents grant, assigne, and depute to the said *A.* the lawfull ordering, custodie, and gouernement, of all and singular manner of Gaoles, prisons, and of the prisoners now, or heereafter to *Le Gaole.* bee therein, to bee lawfully and duely ordered, kept, and demeaned, by the said *A.* or his deputie or deputies, seruant or seruants, during the said terme that the said *F.* shall haue the said Office, or the custodie, order, or gouernement of the said Gaoles, prisons, and prisoners, by vertue and authoritie of the said Office of Sherife, and Letters Pattents aforesaid. In consideration whereof, the said *A.* doth by these presents graunt, &c. to and with the said *F.* that hee the saide *A.* and his Assignes, shall at all and singular time and

## The Sherifes Officers.

*De fauer  
harmelesse.*

times from time to time after the date of these presents, conferue, discharge, exonerate, saue harmelesse, and acquite the said *F.* his heires, executors, administrators, and assignes, and everie of them, (and the sureties of them and euerie of them) of, for, and from all and all manner of forfeitures, paiments, and fines, paines, penalties, amerciaments, charges, losses, issues, damages, incumbrances and demaunds whatsoeuer in any wise, in any Court or elsewhere, to bee set, assessed, paid, or sustained, suffered, or had to our said Soueraigne Lord the Kings Maiestie, his heires and successours, or to any other person or persons in any wise, for, or vpon any escapes, executions, or returns of Writs, Commissions, Priuie Seales, Proclamations, Proceffe, Precepts, Seales, and Warrants, by any wayes, manner, or meanes to, or vpon the said *F.* for, vpon, or vnder the said Office of Sherife in any wise directed, named, or had for any Act, matter, default, office, or thing to be committed, done, neglected, or suffered, perpetrated, or had by the said *A.* or any of his said seruants, ministers, deputies, or assignes, during the time that the said *A.* shall continue in his said authoritie or office, or any of them: *And* also the said *A.* in consideration aforesaid, doth by these presents grant, &c. that hee the said *A.* shall duely, pay, enter into, make perfect, finish, acquite and discharge, for, and in the behalfe of the said *F.* in the Kings Court now commonly called the Eschequer, and elsewhere, all and singular, and all manner of profits, rents, debts, duties, and demands, accounts, costs, charges, fees, recognifances, and bonds, for, and vpon the said Sherife, or any his sureties, or by reason or meanes of the said Office of Sherife, of, and in the said Countie of Cam' or of any officer or minister of the said Sherifes Office in any wise due or demaundable, during the time that the said *F.* shall haue the said Office of the said Sherife of the said Countie of C. or to bee accountable thereof: *And* that the said *A.* shall duely, lawfully, and in conuenient time, by himselfe or his assignes, bring vnto the said *F.* his heires, executors, or administrators, his and their lawfull acquittance and discharge for the accounts and duties of the said Sherifes Office of the said Countie of Cam' for the time that the said *F.* shall haue bene Sherife there by the said Letters Patents. *Also* the said *A. G.* doth by these presents grant to and with the said *F.* that the said *A.* shall well, and worshipfully, make, prouide, sustaine, and maintaine at all and singular times (during the time that the said *F.* shall haue the said Office of Sherife of the said Countie of C. by force or vertue

*De faier as-  
compt.*

tue



tue of the said Letters Patents ) conuenient and compotent  
 meat, drinke, lodging, food, sustenance, and entertainment *De entertejn*  
 of the Iustices of Assises, Iustices of Gaole Deliuerie, and *les Iudges;*  
 the Clerke of the Assises, and for all and euerie of their *&c.*  
 Clerkes, ministers, and seruants, and for the horses and  
 moiles of them and euerie of them, and for all other at-  
 tendants at, and about the said Iustices of Assise or Gaole  
 Deliuerie, at or within the said Countie of Cam' during the  
 time and times of their Assises, at and by the ouersight and  
 appointment of the said F. or such other person or persons  
 as the said F. shall thereunto nominate and assigne. *Provi-*  
*ded* alwayes, and it is graunted and agreed by these pre-  
 sents betweene the said F. and A. that the said A. or any *Pur Retorne*  
 other person in his behalfe shall not make or returne any other *les Inyors,*  
 Pannell, Iurie, or Enquest, for, in, or vpon any Writ of *ve-*  
*nire facias*, or of any other Processe, pursued, directed, or *oue le pri-*  
 had, during the time of the said Sherife of the Countie of *uicy del vic.*  
 Cam' out of any of the Kings Maiesties Courts, common-  
 ly called the Chauncerie, the Kings Bench, Common Place,  
 or Eschequer, vnlesse the same Pannell, Iurie, or Enquest  
 shall bee confirmed with the hand of the said F. or of some  
 other partie that hee shall nominate or appoint. *Nor* that  
 hee the said A. nor any other person in his behalfe shall in  
 any wise doe, or cause to bee done, without the speciall *Et executor*  
 licence of the said F. first obtained and plainly had done *proces &c.*  
 or appointed, any Act, matter, or any thing vpon any Writ,  
 Commission, Action, Presentment, Iudgement, Indictment,  
 Processe, or suit that in any wise, manner, or meanes shall  
 bee for or against any of the Earles of, &c. or any of them,  
 or, for, or against any other person or persons, that is, or  
 heereafter shall bee knowne or declared to the said A. by  
 the said F. to bee his friend. *And* it is also provided and *Lour Bai-*  
 agreed by these presents betweene the said F. S. and A. G. *lifes.*  
 that the said F. shall and may make, ordaine, constitute,  
 and appoint from time to time, during the time of his Of-  
 fice by the said Letters Patents, such persons which during  
 that time shall haue, occupie, and enioy the two Baliwickes,  
 and Offices of Bailifes, of, and in the Hundreds of R. and  
 C. and either of them, with the appurtenances in the Coun-  
 tie of Cam' aforesaid, and that the same persons shall haue,  
 take, occupie, and enioy the said Bailiwickes, and either of  
 them, together with all and singular manner of profits, com-  
 modities, and aduantages, with the appurtenances appendant

## The Sherifes Officers.

*De Account  
et vis.*

to the same Bailiwicks, or either of them in any wise concerning growing, belonging, or during the time ouer and besides that shall be to the Kings Maiestie, any thing in these presents contained to the contrarie in any wise notwithstanding. *And* the said *F.* doth morcouer grant by these presents to the said *A.* that the said *F.* and his assignes shal in due and conuenient time, as shortly and conueniently as may bee after the time of the said Office ended, account and declare to the said *A. G.* or his assignes, at the said Mannor of, &c. the true value and rent, of all and singular, rents, reuenues, duties, and forfeitures, due to bee payed and then leuied or leuiable to the Kings Maiesties vse or behalfe within the Countie of *C.* for, vpon, in, or by the said Office of Sherife there, during the time that the said *F.* was, as is aforesaid Sherife there, and so much of the rents, reuenues, duties, and forfeitures that the said *F.* or his assignes shall pay, or cause to bee payed then to the said *A.* as the same *F.* or any other person to his vse then hath receiued, and all the residue of the said rents, reuenues, duties, and forfeitures there, which conueniently shall bee leuied, the same shall cause to bee payed to the said *A.* or his assignes so shortly and speedily as may bee, after that time they shall bee conueniently leuied and gathered there: *And* the said *A.* doth by these presents covenant and graunt that the said *F.* his Executors, and Assignes shall within fortie dayes next after the said accounts for the said Office of the Sherife of the Countie of *C.* finished or determined, pay, or cause to bee payed well and truely to the said *F. S.* his Executors or Assignes, all maner of allowances, profits, commodities, and aduantages that in any wise shall bee admitted, deducted, or allowed in the said account or accounts, or by any part thereof in the said Eschequer, for the diet of any the Iustices of Assises, or Gaole, or any of their Clerkes seruants or attendants in the said Countie, or for any summons of *pracipe*, or of any greene Waxe, or of any such like matter or thing in the said Shire of *C.* *And* also the said *A.* doth by these presents graunt to the said *F.* that hee the said *A.* at least in one day in euerie of one and twentie dayes, during the time that hee shall bee Vndersherife, as is aforesaid, and personally bee in, or neere vnto the said Countie of *C.* shall come thence vnto the said *F.* and on that one day, vtter and declare the state of the said Countie of *Cam'* and the affaires concerning the said Office, with the appurtenances thereof. *And* that also the said *A.* with all his Officers

*De attend le  
vie' shesun  
3. semaine.*

*Posse Comi-  
tatis.*

Officers and Ministers, and power of the said Countie, shall duely and diligently attend to the said Office, if any warre, rebellion, or other notable matter or occasion, during the time of the said Office shall arise or bee in the said Countie or thereabouts: *And* also that the said *A.* shall well and diligently, honestly and iustly occupie, serue, and execute the said Office of Vndersherife of the said Countie, and honestly behaue himselfe in all points, during all the time that the said *F.* shall continue, and bee high Sherife of the said Countie of *C.* by vertue of the said Letters Patents, and nothing done by himselfe, or any other person or persons in any wise concerning the said Office of Sherife or vndersherife of the said Countie of *C.* which shall bee to the dishonour of the said *F.* *And* also that the alterations of matters, articles, and things in these presents in any wise mentioned or contained, may, and shall be reformed and had at any time from time to time, by the learned counsell of the said *F.* for the better and more perfect discharge and saving harmlesse of the said *F.* his Heires and Executors by these presents, by, and in all things to obey, performe, and fulfill. In witnesse whereof, &c.

*Bene se' gere  
re.*

The Bonds are commonly taken of the Undersheriffe, and his Sureties, for the performance of these former Couenants: *And* they are ordinarily as all other Bonds are for the performance of Couenants: *And* they are in this manner following, or the like,

*Bonds.*

*A Condition to performe Couenants.*

**T**He Condition, &c. That if the within bounden *Th. F.* doe well and truely hold, performe, obserue, fulfill, and keepe all and singular Couenants, Graunts, Articles, Paiments, Promises, and agreements, which on the part and behalfe of the said *T. F.* his Heires, Executours, &c. or any of them are to bee holden, performed, obserued, fulfilled, or kept, contained, written, declared or specified in one paire of Indentures, bearing date, &c. made betweene the said *T. F.* of the one partie *And* the within named *T. T.* of the other partie, according

## The Sherifes Officers.

According to the tenure, purport, true intent and meaning of the said Indentures, That then, &c.

### *A Condition to passe an account, and to procure a discharge for a Sherife.*

**T**HE Condition of, &c. that if the aboue bounden *T. F.* his heires, executors, and administrators, doe make a true and perfect account, of, and for the aboue named *T. T.* his heires and executors, in the Eschequer of our Soueraigne Lord the King, and the heires and successors of the said King, of for and vpon all issues, charges, summe and summes, which bee or shall bee charged or demanded of or vpon the said *T.* as late Sherife of the said Countie, an doe get and procure a sufficient *quietus est* thereof, for the said *T. T.* his heires and executours. And moreouer doe well and truely discharge saue and keepe harmelesse the said *T. T.* his heires &c. against our said Soueraigne Lord his heires and successors, and all other person and persons of for and concerning the said Office of Sherife, and all the receiptes and charges thereof, That then &c. W. Pl. 225.

### *A Condition for a Bailife to enter into, so the Sherife.*

**T**HE Condition, &c. That whereas the aboue named Sir *B. T.* at the speciall instance and earnest intreatie of the aboue bounden *I. P.* hath authorized and appointed the said *I. P.* to bee one of his bailifes within the Countie of *C.* abouesaid, and in more particular hath committed to his charge the Bailwicke of the hundred of *M.* and *B.* if therefore the said *I. P.* and all such persons, &c. for and about the executing of such things as shall be giuen him in charge to do and execute as Bailife of the hundred doe iustly, &c. execute his said office according to the effect and intents of such Warrants and Precepts as shall bee directed vnto him, and come to his hands from the aboue named Sherife, or from his Vndersherife to bee executed, and shall and doe vpon the view of euerie Warrant vpon meane proces from the said Sherife, take sufficient bond with two sureties for the apparance of the defendant arrested according to the Statute in that case made and prouided. W. 115.  
And

And shall safely conuey and deliuer euerie such bond vncancelled vnto the said Sherife or his Vndersherife, before such time as the Proceffe whereupon the said Warrant is made is returnable. *And* also at all times, and from time to time, during the continuance of the said Sherife in his Office of Sherife of the said Countie, bee readie and attendant both vpon the said Sherife, and vpon his Vndersherife, as well at euerie Assises and Sessions, as also at euerie Countie Court to bee holden, &c. then and there to execute his said Office as appertaineth; *And* also shall well and truely pay, or cause to bee payed to the said Sherife or his Vndersherife, at the feasts of Easter, and Saint *Michael* the Archangell now next comming after the date of these presents, all and euerie such summe and summes of money as hath bene accustomed yearely to bee payed to the Sherife of the said Countie for the Kings Maiestie out of the said hundreds vpon the account of euerie Bailife of the said hundreds, commonly called, Sherifes Torne money: *And* do in like manner before the said Feast of Saint *Michael*, collect and gather of the inhabitants within the said hundreds, all summes of money due to his Maiestie, vpon the Summons and Schedules of the greene Waxe, a sufficient Warrant being in conuenient time deliuered vnto him, to that end and purpose, and doe accordingly pay the same to the said Sherife, or to his Vndersherife, within one moneth next after hee hath gathered and collected the same, without co-  
Sherifes  
Torne mo-  
ney.

*Another Condition to exercise a  
Bailwicke.*

**W.P1227.** **T**HE Condition, &c. That if the within bounden *I. A.* shall well and truely exercise and occupie the Office of the Bailwicke of the hundred of Ch. vnder the within named *E. T.* being Sherife of the said Countie of Cambridge, and bee readie and attendant to the said Sherife and his deputie, at all times when hee shall bee required in executing his said Office of Sherifewicke, and discharge, and saue harmeleffe the said Sherife against our Soueraigne, &c. and all other persons for executing of all manner of Proceffe, Precepts, Warrants, and commaundements, to bee directed, execu-  
ted,

## The Sherifes Officers.

*Issues, &c.  
del hundred.*

ted and done by the said *I.* and of all prisoners as shall bee in his custodie : *And* well and truly content and pay to the same Sherife, his Executors or Assignes, all the issues, reuenues, and profits of the said Hundred, whereof the certainties amount to the summe of foure pounds, by the confession of the said Bailife, to bee paid duely at the feast of Easter, &c. And also leuie, content, and pay to the said Sherife, all such greene waxe, pipe siluer, and issues, as the said Sherife shall bee charged withall within the said Hundred, and as shall be estreated out to the said Bailife to gather, to bee paid to the said Sherife afore the said feast of, &c. That then, &c.

### *A Condition for a Gaoler to enter into for the safe keeping of his prisoners.*

**T**he Condition, &c. That whereas the within named Sir H. W. at the special instance and request of the within bounden W. W. hath constituted and appointed the said W. W. to bee his keeper of all such prisoners as shall bee arrested or attached by any manner of writ, warrant, or precept made, or to bee made, by, or in the name of the said Sir H. W. or by, or in the name of I. W. his Undersherife, If therefore the said W. W. his deputie or deputies, assignee or assignees, or any of them shall and doe well and safely keepe all such prisoners as shall be committed to him or them, or any of them, and therein shall saue and keepe harmelesse and indemnified the said Sherife, his heires, executors, and administrators, at all and euerie time and times heereafter, of, and from all, and all manner of escapes of all manner of prisoners that shall be committed to the custodie and safe keeping of the said W. W. or left vnder the custody or charge of any of his deputies or assignes : And of and from all, and all manner of judgements, executions, fines, charges, troubles, and incumbrances whatsoever, which shall or may heereafter grow or happen to bee taxed, imposed, estreated, or leuied vpon, of, or against the said Sherife, as Sherife of the Countie aforesaid, for, and by reason of any such escape or escapes as aforesaid : And also if the said W. W. his Deputie or Assignee shall not discharge or set at libertie out of his or their custodie and safe keeping,  
any

any prisoner or prisoners which now are, or that hereafter shall or may be by the said Sherife or by his Undersherife or Deputie, or by any of their Bailifes, taken, committed, deliuered, or left, in the custodie of the said W. W. his Deputie or Seruant, without the speciall warrant in writing vnder the hand and seale of the Officer of the said Sherife in that behalfe first had and obtained, that then &c.

27. El. c. 12.  
P. Sherifes  
32. 53.

Every Undersherife before he intermeddle with the vse or exercise of the said office, and all and every Bailife of franchise, Deputie, and Clerke of every Sherife, and Undersherife, and all and every Bailife of hundzed, and euerie other person and persons which shall haue authoritie, or take vpon him to impannell or returne any Enquest, Iurie, or Tales, or to intermeddle with the execution of Proces, in or out of any Court of Record, before hee or they intermeddle with execution thereof. shall receiue and take two corporall oaths vpon the holie Euangelist. The one for and concerning the Kings supremacie, in such manner as is expressed by the statutes made 1. Eliz. cap. 1. & 5. Eliz. cap. 1.

*Le Seremē:*

The other oath, for and concerning the true exercising of their office, the forme whereof is as followeth,

**I** Henry Sl. shall not vse or exercise the office of Vndersherife, (Bailife, Deputie, or Clerke, or other such words conuenient for the office, or place in which the partie which taketh the oath is to be exercised in) corruptly during the time that I shall remaine therein, Neither shall or will accept, receiue, or take by any colour, meanes, or deuise whatsoever, or consent to the taking of any manner of fee, or reward of any person or persons, for the impannelling or returning of any Enquest, Iurie, or Tales, in any Court of Record, for the King, or betwixt party and partie, about two shillings, or the value thereof, or such fees as are allowed and appointed for the same by the Lawes and Statuts of this realme, But will according to my power truely and indifferently with conuenient speed impannell all Iurors, and returne all such Writ or Writs, touching the same, as shall appertaine to be done by my duerie or office, during the time that I shall remaine in the said office, So helpe me God.

*Le seremens  
concernans  
loffic.*

27. El. c. 12.

These oaths are (by the said Undersherife, Bailifes, and other Officers) to be taken before the Justices of Assise, or one of them of the same circuite, or before the

Hh

Custos

## The Sherifes Officers.

Custos Rotulorum, or two Justices of the Peace (one of them being of the Quorum) of the same countie whereof the said vnderherife, bailife, or other officer shall be.

If any of the said persons limited to take the Oath aforesaid, doe take vpon him to impannell, or retorne any Enquest, Jurie, or Tales, or to intermeddle with the execution of Proces, not hauing befoze taken the oathes aforesaid, euerie such person shall forfeit fortie pounds, the one moitie to the King, the other moitie to him that will sue for the same. 27.El.c.12.

If any vnderherife, or other person here aboue mentioned in this Act, shall doe or commit any act or acts contrarie to the oathes aforesaid, or either of them, or contrarie to the true intent and meaning of this Act, euerie such person so offending shall forfeit for euerie such offence to the party or parties griued, his or their treble Damages. 27.El.12d

All the generall forfeitures befoze mentioned shall or may be recovered in any of the kings courts of record by action of debt, bill, plaint, or information, in which suit no wager of law, essoine, or protection shall be allowed. 27.El.12d

Also the Judges of assise, and Justices of peace in their open sessions, may heare and determine the offences aforesaid, vpon presentment, information, or indictment, & vpon conuiction of the offenders may award executioe for to leuy the forfeitures by Fieri facias, Attachit, Capias, or Exigent. 27.El.12d

Also the head officer of the place if it be a towne corporat, wherein such bailife, or other vnder officer shall be, may take the said oathes of such officers, befoze they shall or may exercise their said offices. 27.El.12d

Also by the statute made 7. Jac. regis cap. 6. euerie officer or minister of justice (within which words the vnderherife, bailife, sherifes clerke, and deputies seeme to bee comprehended) is to take the oath of obedience or allegiance, if they been of the age of 18. yeares or aboue, and that it be lawfully tendered to them. 7.Jac.6d

Bailifes and other the sherifes officers shall be swozne by the Justices of peace, that they shall gather no more of the shire ameracements than is forfeited, and contained in their estreats sealed by the said Justices. See hic antea tit. Countie Court fol. 11.H.7.c.15

No vnderherife, Sherifes Clerke, Sherifes Receiuer, nor Sherifes Bailife shall bee Atturney in any of the Kings Courts during the time that hee is in any such office with any Sherife; And the Sherife is bound to haue 1.H.5.c.4.

*Oath of allegiance.*

*For collector le shire ameracements.*

*Ne serra Atturney.*



haue a care hereof, and to pzeuent the same, as well by the statute, as by his oath.

42. Ed. 3. c. 9  
22. H. 6. ca 8

No Undersherife, nor Sherifes Clerke shall abide or tar- *Not above one yeare.*  
rie in his office aboute one yeare (except the Undersherife, and Officers within London &c. See infra) vpon paine to forseit two hundred pounds yearely, as long as such person shall occupie such office contrarie to the effect of the said statute; & euerie man which will may sue for the same. See hic antea fol.

1. H. 5. c. 4.

Also euerie pardon made for such offence shall bee void; besides the high Sherifes Oath seemeth to bind him from hauing such an Undersherife. The mischief of such offi- *The mischief*  
cers continuing long in their office, or interchanging out of one of these offices into another; is obserued (in the Preamble of another Statute made primo Hen. 5. cap. 4.) to bee that the Kings liege people durst not pursue and complaine of the extortions, and oppressions done to them by the Sherifes Officers (that is to say by Undersherifs, Sherifes Clerkes, Bailifes, and Receiuers) by reason thereof; and therefore it was by that Statute ordained, That Sherifes Bailifes should not bee in any such office by the space of thre yeares next following; But quære *Bailifes ne terra deins 3. ans.*  
for the vse hereof; for at this day in most places Sherifes Bailifes doe continue in their said offices from yeare to yeare, for diuers yeares together: And also Undersherifes, and Sherifes Clerkes in many places also doe continue in their said offices many yeares together; interchanging from the one into the other; By reason of which continuall being, and continuing in the said offices, the Undersherifes, Sherifes Clerkes, and Bailifes, grow so cunning in their seuerall places, as that they are able to deceiue, and may well be feared that many of them do deceiue both the King, their high Sherife, and countrie.

13. H. 6. ca 8  
6. H. 3. ca. 18

And yet the Undersherife, and all other officers within the Citie of London, as also the Undersherife, and all other officers of Sherifes, within the Shire or Countie of the towne of Bristow, may continue and occupie their said offices from yeare to yeare, without any danger or forseiture, notwithstanding the former Statutes of 42. E. 3. 9. and 23. H. 6. 8.

23. H. 6. ca. 8

Also such countiees in which any persons were inheritable to the office of Sherife at the time of the making of the said statute of 23. H. 6. (viz. 25. Febr̄, anno domini 1444.) And all letters patents befoze that time made to them of

## The Sherifes Officers.

the office of sherife, vndersherife, and sherifes clerke, are ex-  
cepted out of the said statutes.

*Vic' amerce  
pur default  
ses officers.*

Note that the act or deed of the vndersherife, or his de-  
putie, in the name of the sherife, shall charge the sherife; and  
for their act the sherife himselfe shall be amerced and none  
other. 8.H.4.20. Accordant. See hic antea fo. 69. 70.

5.E.4.2.  
Br. Officer  
24. & 33.

And for their bailifes, it is parcell of the Sherifes oath  
to take no bailife but such as hee will answer for. And so  
for the gaolers or keepers of the common gaole and prison  
of the countie, the sherifes must put in such gaolers or kee-  
pers for whom they will answer; for if there be an escape  
of a felon suffered by the gaoler, the sherife may be indicted  
of felony for the same: And if an escape shall be suffered by  
the gaoler, or other officer, of a prisoner who is in vpon  
an execution, the Sherife shall bee charged for the whole  
debt.

14.E.3.c.10  
Co 4.34.

Lam. v.v.5.  
& West.M.1

### The Vndersherife.

The Vndersherife in auncient time was called Senef-  
challus vicecomitis, and in the Statute of Westminster  
2. cap. 39. is first called Vndersherife, and in the Statute  
of 11.H.7.ca.15. he is called Vndersherife, or the shire clerk.  
Co.9.49.

Co.9.49.

These Vndersherifes haue at this day to them commit-  
ted by the high Sherife the whole, or most part of the  
exercising and executing of the office of the high She-  
rife, and may bee called the Sherifes generall deputie.  
And accordingly by the booke 20.Hen.7. the Vndershe-  
rife is said to bee but the high Sherifes deputie or bailife,  
and one that vseth and occupieth the place or office in the  
right of the high Sherife.

20.H.7.fo.  
12.b.

If it shall come in issue whether hee that made the array  
be Vndersherife or not, this shall be tried by the countrie and  
not by examination of the officer, and the array impanel-  
led and returned by the Vndersherife in the name of the she-  
rife shall bind the sherife.

8.H.4 fo.20  
Br. Officer  
33.

### Their Deputies.

*In courts at  
Westm.*

Every Sherife shall yearely make a Deputie of record in  
every of the kings courts of his Chauncerie, the Kings  
Bench, the Common Place, and in the Exchequer (before  
that

23 H.6. c.10

that they shall returne any Writs) to receiue all manner of Writs and Warrantes to bee deliuered them. See hic antea fol.

1.Ed.6.c.10  
5.Ed.6.c.26  
Euerie Sherife of the twelue counties in Wales, and of the counties of Lancaster, Chester, and the citie of Chester, shall haue a sufficient Deputie in the Kings Bench, and Common Place, to returne all Writs directed to such Sherife.

31.El.c.9.  
The Bishop of Durham, and during the vacation of the said Bishopricke, the Chauncelloz of the said Countie Palatine for the time being, shall haue one sufficient deputie, at the least, in the said courts of the Kings Bench and common Place, to receiue all Writs of Proclamation directed to such Bishop or Chauncelloz.

27.H.6.c.10  
1 E.6. ca.10  
5.Ed.6.26.  
31.El.9.  
Euerie Sherife, as also the Bishop or Chauncellour of Durham making default herein, shall loose to the party indamaged treble dammages, and besides shall forfeit forty pound, the one halfe to the King, and the other moiety to him that will sue for the same.

1.& 2.Ph.&  
Ma.cap 12  
Euerie Sherife of any Shire (being no Citie, nor Towne made Shire) at his first Countie day, or within two moneths next after hee hath receiued his patent of his office of Sherifewicke, shall depute, appoint, and proclaime in the Shire Towne within his Bailwicke, foure deputies at the least, dwelling not aboute twelue miles one distant from another (within the Countie where he is Sherife) vpon paine that euerie Sherife for euerie moneth that hee shall lacke such deputie or deputies shall forfeit for euerie such offence five pounds.

4. Deputies  
our faire Re-  
pleues.

1.& 2.Ph.&  
M.cap 12.  
Euerie of the said deputies so appointed, and proclaimed, may in the Sherifs name make Repleuies, and deliuerance of distresses, in such forme and manner as the Sherife may and ought to do.

31.H.7 f.37  
The Sherife may make his Undersherife, Bailife, and deputies without any deed or writing, by Conesby, Brudnell, and Tremaile.

Sans fait.

Where the Sherife cannot make a deputie: See hic.

Their Bailifes of Hundreds.

14.E.3.ca 9  
Sherifes shall appoint such bailifes for whom they will answer. Vide hic.

Bailifes.

And so shall those Lords which haue hundreds and wapentakes in fee.

## The Sherifes Officers.

No Sherifes Bailife shalbe Atturney in any the Kings courts during the time he is in such office. Vide hic.

The sherifes bailifes are to take the oathes, and to bee sworne to the supremacie, and for the exercising of their office. See hic. 27. Eli. c. 12.

Sherifes clerkes nor bailifes being one yere shall not be in any such office by the space of thre yeares after or next ensuing (except the bailifes of those sherifes which haue inheritance in their Sherifewicks) quære for the vse hereof at this day. 1. H. 5. c. 4.

The sherife shall haue in his countie but one bailif errant onely: See the stat. of 14. Ed. 3. c. 9.

Bailifes of hundreds shall be credible persons, and shall haue sufficient lands in the same shire whereof to answer the king and his people, in case that any man shall complain against them, and so that they shall not need to vse extortion. 9. Ed. 2. Lincoln. & 2. Ed. 3. c. 4. 4. Ed. 3. c. 9. 5. Ed. 3. c. 4. & 14. Ed. 3. ca. 9.

If the sherife shall chuse any man to be his bailife of any hundred or wapentake, who hath not sufficient lands in the same countie (according to the statutes of Westm. 3. of 4. & 5. Ed. 3.) a writ shall be sent vnto the sherife, commanding him to discharge and remoue such bailife, and to chuse a new bailife in the others roome; and hereupon any man may haue an Alias, Pluries, and an attachment against the sherife, if he shall not do according as he was commanded by such writ: The forme of which writ you may see in Fitz. Na. Br. 164. & Register fo. 178. So as vpon such a writ the Sherife may remoue his bailifes of hundreds which haue not lands or tenements sufficient within his countie. Register 178. Fitz. 164. b.

*Counties and Hundreds let to ferme.*

It seemeth that in ancient times, all the counties in England were assessed to a certaine ferme (scz. were let by the king to every sherife at a certaine ferme) and then all the hundreds and wapentaks in the sherifs hands were again by them letten, and were also rated to their ferme, which was an occasion of great oppzession; wherupon it was first ordained, that the bailiwicks of hundreds should be leased and bailed by the sherife for a reasonable rent, so that the bailife need not to vse extortion vpon the people by reason of too outrageous ferme: and after by the statute made 4. E. 3. ca. 15. it was ordained that sherifes should let their hundreds for the old ferme (and not aboue) to their bailifes; and by another statute made 14. E. 3. it was shortly after ordained that sherifes should keepe their hundreds in their owne hands

*\* Scz. the profits thereof.*

*9. E. 2. Stat de vic' 4. E. 3. 15.*

*14. E. 3. ca. 9.*

hands or else should let them upon the old rent: But sithence Sherifes (by the statutes made 23.H.6.ca.10.&5.&6.Ed.6. cap.16. as also by their oathes) are restrained from letting to farne any of their counties, or any of their bailiwickes, hundredes or wapentakes in any maner whatsoever.

9.E.2. No bailife of any hundred shall lease his office to any other in farne or otherwise, stat. de vic'.

The execution of all writs which come to the Sherife shall be done by the Hundredors; sc. by the bailifes of hundreds, and such as are knowne and swozne in the full counties, and not by others; if it bee not by the open default or notozious disturbance of the Hundredors, sc. velle the bailifes of hundreds will not, or cannot execute them, And then execution shall be done by other persons meete and swozne, see the statute 9. Ed. 2. de vice comitibus.

*Suorum*

13.E.1.37. No distresse shall be taken, but by a bailife swozne and known; And if any other shall distraine they shall yeid damages to the party griued, & also be punished to the king.

And so by the statute 27. Eliz. cap.12. No bailife of any hundred, nor other person, shall take upon them to execute any proces &c. before they be swozne, see hic antea fol.

And yet the common experience and practise at this day is, that speciall bailifes, or other persons (bring neither swozne nor knowne officers) doe execute such writs, And such speciall bailifes are often mentioned in our bookes, as in 8. Ed. 4. 1. 2. 1. H. 7. 37. Co. 9. 69. Br. *Monstrance des faits* 117 And they seeme to be the more allowed, for that they many times may and do execute the kings proces, when such bailifs as are knowne, cannot, in regard that such as are in det doe vsually flie from them &c.

Bailifes of hundreds shall attend upon the Just. of Assises, Justices of gaole deliuerie, and Justices of P. in euerie of their courts and sessions; see the statutes 27. H. 8. 24. et 34. H. 8. 26.

See more concerning bailifes of hundreds hic antea tit. Countie Court.

2.E.3 cap.4. Sherifes, and bailifes of free, shall cause their counties, and bailiwickes to be kept, by such as haue lands therein.

Bailifes of free, are officers of free within their iurisdiction or precinct; And for the execution of proces, there the Sherife shall not write or send his Precept, to these bailifes as to a bailife of a franchise, but as to the bailife of gildable; and the Sherife shall retorne his answer, as if the Sherife himselve had serued the proces, 27. Ass. Br. Proces 98.

*Bailifes of Free.*

## Bailifes of Franchises.

*Bailifes of Franchises.*

All bailifes of franchises and liberties, befoze they intermeddle with the execution of their office, shall take two copozall oathes, the one concerning the supzemie, the other for the true exercising of their office, see *hic antea*.

*Low serement*

A bailife of a franchise oz libertie is an officer by himselfe, and hath not to doe with the sherife, 21.H.7.fol.23.1.

*Post bailer.*

Bailifes of liberties, may baile such manner of persons being in their custodie, as sherifes may; And they may take the like obligations for the apparance of such persons by them to be bailed. 23.H.6.c.10

*Ne serua attorney.*

No steward, bailife, noz minister of lordz of franchises which haue retorne of writs, shall be attorney in any plea, within the same franchise oz bailiwicke whereof he is oz shall be minister oz officer. 4.H.4.19.

Stewards and bailifes of franchises, and their deputies and clerkes, may keepe and enioy their said offices for so long time as the same is oz shall be giuen vnto them. 27.H.8.24.

*Low fees.*

Bailifes of liberties shall take such fees, as the statutes haue set downe for the sherifes and their officers; which see *hic postea*. 27.H.6.c.10

*Low forf.*

All other statutes made befoze the 4. Februarij Anñ 27. H. 8. for oz concerning sherifes, oz their vndersherifes, bailifes oz other ministers (for making oz returning any Juries, seruing of any proces, taking of fees, for extortions, oz for any other thing concerning their offices), And all paines & penalties in euerie such statute contained shall be in force against, and extend to, all stewards bailifes, and other ministers & officers of liberties and franchises, hauing retorne of writs and executions thereof; in like maner as they extend to sherifes, vndersherifes &c. As if the said stewards, and bailifes of liberties &c. had bene particularly named in such stat. sauing that the said stewards, bailifes of franchises, their deputies oz clerkes, may occupy their offices aboue one year, viz. for so long time as they be giuen to them. 27.H.8.24

Fines and amerciaments for insufficient returnes (of writs, and other proces) made by stewards oz bailifes of liberties, shall bee set vpon the heads of such stewards, oz bailifes, and not vpon the sherifes. *Ibid.*

The king shall haue all maner of fines, issues, amerciaments, and forfeitures, that shall be forfeit by any stewards bailifes oz other minister oz officer of any libertie, for non execution oz misexecution of any writ, warrant, oz proces to them directed; Or for insufficient returnes thereof, Or for any contempt oz other misdemeaneer whatsoeuer concerning

cerning their offices, in and for the due execution or administration of Justice: P. Prer. 20.

27.H.8.24. All bailifes and officers of liberties, shall attend vpon the Justices of Assise, Justices of gaole deliuerie, & Justices of peace, of the same shire wherin such liberties & franchifes be; And shall make due execution of all proces to them directed for ministracion of Justice within such libertie. *Attender les Iudges, &c.*

All Lords that haue franchifes, or their bailifes, shall attend vpon the Justices of Assise and Gaole deliuerie, vpon paine of forfeiture of their franchifes 20. E.4. fol. 6. Br. Forfeiture 115.

27.H.8. c.24. Also all such bailifes (or their deputies) shall attend and assist the sherife, together with the sherifes bailifes, at all Courts of Gaole deliuerie, for execution of prisoners according to Justice.

Ibid. Provided that the officers of cities, and boroughs, shall not attend elsewhere, but shall enioy their liberties and priuiledges.

4.E.3.9.  
5.E.3.4. Bailifes of liberties shall haue sufficient lands, in the places where they be ministers, or in the same countie wherof to answer the king, and his people, if any will complaine against them. *LOUR sufficient ency.*

Regist. 178. If the Lord of a libertie shall choose any man to be bailife of his libertie, who hath not sufficient lands within the same countie, then a writt shall be sent to the sherife (of the same countie whererein such libertie is) commanding him to discharge or remoue such bailife, and to choose another bailife in his place: Fitz. 164.b.

And an Alias, Pluries, and an attachment, lyeth against the sherife, if he shall not doe according as he was commanded by such a writt.

12.E.2.c.5. Bailifes of liberties haue full power to returne the kings writts: And euerie returne to bee made by any bailife of any franchifes or libertie, shall bee deliuered to the Sherife, by such Bailife of libertie, by Indentures to bee made betweene the Baylife of the franchise, by his proper name, and the Sherife by his proper name: And if any Sherife shall change the returne so deliuered him by Indenture, and bee thereof conuict (at the suit of the Lord of the franchise, and at the suit of the partie indammaged, &c.) he shall be punished by the king, for his false returne, and shall yeeld vnto the Lord, and to the partie double damages. *Returne of Writts.*

12.E.2.c.5. Bailifes of liberties, that receiue the kings writts, re- *Mitter lower nosmes.*  
turnable

## Bailifes of Franchifes.

turnable in his Court, shall put their owne names to their returne; So that the court may know of whom they take such returne, if need be: And if any bailife leaue out his name in his returne, hee shall be grievously amerced to the Kings vse: see hic antea, Retorne of Writs.

*Amerce.*

Amercementz for insufficient returnes of Writs, or other proces, made by stewards, or bailifes of liberties, hauing return of Writs, and execution of the same, shall be set vpon the heads of such stewards or bailifes, and not vpon the therise: 27. H. 8. c. 24.

2. H. 7. c. 8.  
15. H. 6. c. 5.

*Retorne En-  
questz.*

Bailifes of liberties shall impannell and returne vpon enquestz, sufficient persons, and such as bee dwelling within their bailiwickez, &c. in Cases of Attaints and Riots.

8. H. 6. c. 9.

Where a precept is made to the Sheriffe by the Justices of Peace, to returne a Jurie to inquire of a forcible Entree, and the Sheriffe direct his precept to the bailiffe of a libertie to returne the Jurie, for this, for that the force is made within the libertie; Now the bailiffe of the libertie ought to make a due returne and execution of the precept to him directed (scz. the bailiffe ought to returne vpon euerie Iuroz twentie shillings in issues at the first day, &c. and that euerie Iuroz within his libertie, who is to enquire of such forcible Entree, may spend fortie shillings p annua) vpon paine of twentie pound for euerie default.

Bailiffes of liberties, shall returne none of the Sheriffes officers, nor any of their seruants, vpon enquestz.

13. H. 6. c. 10

But where the bailiffe of the libertie is partie to the suit, hee shall not returne the Jurie, or make the pannell of the Array.

Fitz. Chals.

*Auerment.*

A man may aber against the false returnes of bailiffes of liberties; And shall recouer as well against them, as against the Sheriffe, of too little issues returned, as in other cases: And therefore vpon a Writ of Distresse directed to the Sheriffe to distraine the defendant in the same Writ, or the Iuroz of any enquest, if the Sheriffe therevpon shall make his precept to the bailiffe of the libertie, the bailiffe ought to returne good and sufficient issues vpon the defendant; or vpon the Iuroz, if they haue sufficient lands or tenementz within his bailwicke; otherwise the plaintife in the action shall haue an aberrement against this returne of the bailiffe, scz. that the bailiffe might haue returned greater issues, if the defendant maketh default, or the Iuroz: Crompt. 215.

1. E. 3. c. 5.  
13. E. 1. c. 39

Where



Where the Sherife may and ought for to enter  
a Libertie or Franchise &c.

31.H.3.c.21  
3.E.1.c.17.  
P. Sherifes  
18.

If any mans beast or other goods be distrained or taken, *Vic post enter Franchise.*  
and withholden or impounded, if they were taken within  
any libertie, the bailife of the libertie is to make repleuin  
and to deliuer them; But if the bailife of the libertie (after  
complaint to him made &c. or after the sherife hath made the  
retozne of the kings writ vnto him) will not or doe not de- *in defauit del bailife.*  
liuer them (or cause them to bee forthwith deliuered) then  
the sherife himselte, for default of such bailife, shall present-  
ly enter into the libertie and shal deliuer them or cause them  
to bee deliuered without delay, vpon paine of forfeiture of  
double damages; And this is by force of the statutes made  
52.H.3.ca.21.et 3.E.1.ca.17. see the Register fo.81.b.et Fitz.  
N.B.fol.68.f.

Fitz.68.f.

If vpon a Repleuin, sicut Alias, or Pluries, the sherife shall  
retozne, that he hath commanded the bailife of the franchise  
&c. who hath made no retozne to him, or who will make no  
deliuerance &c. it seemeth that these are no good retoznes,  
for that by the statute of 3.Ed.1.17. the sherife (vpon such  
default, or retozne made to him by the bailife) ought pre-  
sently to enter into the franchise, and to make deliuerance  
of the goods taken &c. And so if a plea of withernam bee  
in the countie, by plaint, befoze the sherife, and the Sherife  
commandes (or sends his precept to the bailife of the fran-  
chise to make deliuerance &c. and the bailife doth nothing,  
then the sherife, or his officer, may enter into the franchise  
and make deliuerance, without any writ directed in such  
case.

Fitz.68.f.

11.H.4.fol.  
6.94.  
Br.Offic' 34

In a writ of Redisseisin, & in a writ to enquire of wast, *Where he is a Iudge.*  
the sherife is both Iudge and officer, and there, if the land  
doe lie within a franchise, the sherife cannot retozne Man-  
davi ballivo &c. for he cannot grant ouer his iudicial power,  
nor make his deputie in such case; But the sherife ought  
there to enter the franchise and to serue the writ himselte; *No poet faire Deputie.*  
And if he shall doe otherwise, it is error; For in these cases  
of Redisseisin, & wast, the Sherife is Iudge of the record.

Fitz.188.c.  
Br. Retof 26

Note that the said writ of Redisseisin commaunds the  
sheriffe, quod in propria persona sua accedat ad terram &c. et p  
sacramentum faciat inquisitionem &c. And so the writ to  
enquire of wast is, quod accedat ad locum vastatum 2.Hen.  
4. fol.1.

## Where the Sherife may enter a Libertie

In an Ejectione custodie, at the distresse with proclamation, the sherife returned Mandavi ballivo libertatis &c. <sup>2.H.4.7. Br.Eic&. Custod. 1.</sup> And by the opinions of Thirning, and Markham, the sherife ought to bee amerced, for the proclamation is to bee made by the sherife by the statute (of 13.E.1. cap.35.) And then for that <sup>2. Where the thing is intier</sup> the distresse with proclamation, is a thing entier, the sherife ought to haue entred the franchise and executed the whole w<sup>o</sup>rit himselfe: But Rikhill and Tirwit held the contrarie, Ideo quare. <sup>Ibid.</sup> Yet note that in a Precipe quod reddat of land part in guildable, and part in a franchise, the sherife shall make his precept to the bailife of the franchise for parcell, and must serue and execute the rest himselfe.

<sup>3. The bailif a party.</sup> Where the bailife of the libertie is partie to the suit himselfe, he shall not returne the Jurie, or make the pannell, but the sherife (as it seemeth) ought to enter the libertie, and to pannel the array. <sup>Fitz.Chalf. 2.</sup> Herle 7.E.3.56

<sup>4. The king a partie.</sup> If any felon or other offendor against the Kings peace &c. shall be within any libertie or franchise, and the Justices of peace &c. shall direct their warrant or proces to the sherife for the apprehending of such offendor, The sherife is to enter such franchise, and to execute the proces or warrant and not to w<sup>o</sup>rite to the bailife of the franchise, for that here the king is a party, see 38.Aff. 19. et 41.Aff. 17. Br. Franch. 18.31.

And note that in all cases wheresoeuer the king is a party, the proces alwaies must be with a Non omittas propter aliquam libertatem, And there the sherife ought not to w<sup>o</sup>rite or send his precept to the bailife of the franchise or libertie, but ought himselfe to enter and to execute and serue the proces; And see Fitz.Chalf 129. that the King hath no other minister than the sherife, And where the king is a party, no franchise shall be allowed &c. <sup>38.Aff.19</sup>

But in other cases if the sherife shall enter a franchise to execute any the kings proces, it seemeth he shall be subject to the action of the lord &c. And therefore if the sherife, or his officer, taketh one in execution for debt, within a libertie, although the execution be good; For that the sherife is the immediate officer of the King, and to the Kings courts, to execute all proces; Yet the Lord of the Libertie or franchise, may haue his action of the Case against the Sherife, for entring into his Libertie: Fitz. N. Br. 95. b. et 20. H. 7. fol. 7.

But if the Sheriffe or his officer, shall take one within a franchise, vpon a Capias, or other originall proces, the party to

*Fitz. 95. b.* So taken shall have no remedie ; For it is all one to the partie so taken whither he be taken by the Sherife, or by the Lord, or Bailife of the libertie ; And yet here the Lord of the franchise shall have his action against the sherife. *Enfreint leur libertie* 43. E. 3. 30. & 11. H. 4. 9.

*Br. faux. amp 26.* If the bailife of the franchise shall take one in execution within the Guildable, it is error. 11. H. 4. fol. 9. Br. Offi. 35.

Al Capias goeth out to the sherife of Middlesex, and they arrest the partie in London, a writ of false imprisonment lieth against them, for this arrest, And yet the sherifes of Middlesex are sherifes of London.

*1. R. 3. c. 3. Stamf. 193.* Bailifes of franchise ought not to take or seise the goods of any person, arrested or imprisoned for felony, before the same person bee convicted or attainted of the felonie according to lawe ; Or that the same goods bee otherwise lawfully forfeited ; vpon paine to forfeit the double of the goods so seised to the partie griued &c. *Seise biens de felens.*



Bailifes of Liberties.

*1. E. 3. c. 7.* **S**herifes, Bailifs of Liberties, and Gaolers, which have the keeping of prisons or gaoles, if by duress of imprisonment they shall compell prisoners to appeale or accuse others, they shalbe punished by the Justices of Gaole deliuey : see the statutes 13. E. 1. cap. 12. & 1. E. 3. cap. 7. *Cause prisoner deste approuer.*

*14. E. 3.* But after by the statute made 14. E. 3. c. 10. It was made felonie for a gaoler or keeper of the prison to cause a prisoner to become an approuer or appealor.

*4. E. 3. c. 10.* Such bailifes of liberties, shall receiue felons arrested or taken within their franchise, and safely keepe them in prison without taking any thing : Crompt. 215. *Receiuer felons.*

*5. E. 3. c. 14.* Such bailifs shal receiue night walkers or other suspected persons, which shall be arrested or taken within their franchise, And shall keepe them in prison till the comming of the Justices of the Gaole deliuey &c. *Et persons suspect.*

*3. H. 7. c. 3.* Such bailifs, shall certifie the names of such prisoners, as they haue for felonie, at the next Gaole deliuey in that countie or franchise. *Certifier leur prisoners.*

# Gaolers.



## Gaolers.

*Gaolers.*



Sherifes and Gaolers shall receiue and safely keepe in their prisons, all theeuers, felons, and persons appealed, or indicted, which shall be taken and attached and deliuered or brought to them by the Constables and Townships; without taking any thing for the receipt of them, And the Justices of Gaole deliuerie haue authoritie to heare their complaints that will complaine of the Sherife and Gaoler in such case, & to punish them if they be found guilty.

4.E.3.c.10.

*Receiuer felons.*

And the Justices of Gaole deliuerie haue authoritie to heare their complaints that will complaine of the Sherife and Gaoler in such case, & to punish them if they be found guilty.

11.E.4.fo.14.

*Vic charge one Gaole.*

Sherifes shall haue the keeping, rule, and charge of euery of the common Gaoles in euerie of the Counties where they be Sherife, and of the Prisoners therein: And they must put in such keepers, for whom they will answer: Statute 14.E.3. cap.20. et 19.H.7.cap.10. et 23.H.8. cap.2. (See my Countrey Iustice pag. 148.) Except all Gaolers whereof any person Spirituall or Temporall, or bodie Corpozate haue the keeping of estate of inheritance or succession.

Co.4.34.

*Felons lahamum.*

And all murderers, and felons, shall bee imprisoned in the Common Gaoles, and not else where.

23.H.8. c.2.

*Certifier laur prisoners*

Euerie Sherife, Bailife of franchise, and euerie other person hauing authoritie of keeping of gaoles, or of prisoners for felonie, shall certifie the names of euerie prisoner in their keeping, and of euerie prisoner to them committed for any such case, at the next generall Gaole deliuerie, in euerie Countie or franchise where any such Gaole is, or shall be, there to be kalendred before the Justices of the deliuerie of the same Gaole, whereby they may aswell for the King, as for the partie, proceed to make deliuerie of such prisoners, according to the lawes, vpon vaine to forfeit to the King for euery default there recorded six pound. 3.H.7.cap.3.

1.H.7. c.3.  
P.Prison. 3.

*Habeas corpus.*

No Writ of Habeas Corpus shall be granted to remone any prisoner out of any Gaole, except it be signed with a Justices hand of the same Court, out of which the same writ shall be awarded or made.

1. & 2. Ph. 2.  
M.c.13.

*Misuse prisoner.*

If a man be committed to the Gaole for debt, or arrearages of accompt, and the Gaoler maliciously puts vpon him so many prongs, or puts him in the stockes, or withholds his victuals from him, by reason whereof he becomes decrepitate, lamed, or otherwile diseased &c. he may haue his action of the case against the Gaoler.

Fitz. 93. h.

And yet by the statute of Westm. 2. ca. 11. Accomptants, and

and such as are in execution, the Sherife or Gaoler may put yrons or fetters vpon them, (scz. in reasonable manner. See hic antea : Execution vpon a Capias ad Satisfac'.

If the Gaoler shall suffer a prisoner to escape, which prisoner was found in arrearages before Auditors, and by them committed to his Gaole, now must the Gaoler pay to the partie, the summe of money which was behind vpon the accompt. Fitz. 95. c. & 130. b. *Escape.*

And if the prisoner were in vpon an Execution, (for debt, or Damgages) and shall escape, the Gaoler shall be chargeable for the debt &c. Fitz. 121. a. p.

Co. 10.  
100. b.

If a Gaoler shall take any obligation of his prisoner, with condition (endorsed &c.) to be true prisoner, it is void. *Pris. oblig.*

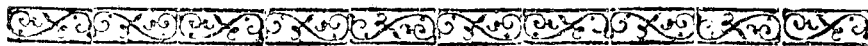
So of a condition to pay for his meat and drinke, such obligations are void. Co. 10. 100. b. For the sherife, gaoler, or other officer, are not bound to find meat or drinke for their prisoners. Flo. 68. a.

And it seemeth that gaolers may not take any bond or obligation, of any thier prisoners, or of any other, for the inlargement of their prisoners, in any sort whatsoever.

Concerning the gaolers fees &c. see hic postea titulo Fees. *Fees.*

Flo. 206.  
Br. faux  
imp. 32.

Note that in some case a prisoner sent out of one Shire or County, ought to be receiued by the sherife or gaoler of another Countie : And therefore wheras the stat. of West. 2. c. 11. prouideth that in case of accompts before Auditors, & arrearages found, Arrestent' corpora eorū & per testimoniu Auditorū eisdem compoti, mittantur & liberentur proximæ Gaolar, dñi Regis in parribus illis &c. Thereupon it was holden in 27. Hen. 6. that the Auditors ought to commit the accomptant to the next gaole although the next gaole be in another Countie, for that they might not varie from the place limited by the stat. And then if the sherife or gaoler shall refuse to take such a prisoner being deliuered to them, & so the prisoner shall escape &c. the sherife or gaoler seemeth to be chargeable for the debt, by the same statute of Westminster 2.



### The Fees, Allowances, and Availes due to the Sherifes and their Officers.



Sherifes ought to take no reward, or other thing, for doing of their office, but onely of the King, or that which is appointed for them to take by the Statutes (and Lawes of this land) and if they doe otherwise

## Their Fees, &c.

*Extortion.* otherwise it is extortion in them : And if any sheriffe, or any of his officers, &c. shall doe any extortion, & be thereof attained, he shall yeeld twice as much as he tooke, to the partie grieved, and besides he shall be punished for the same at the kings will : or hee may bee indicted thereof, befoze the Justices of Gaole deliuerie, or Justices of peace, and by them be punished, scz. they may be fined to the King : see the statutes 3. E. 1. cap. 26. 20. E. 3. cap. 6. et 1. H. 4. cap. 11.

**Now extortion is thus defined or described.**

*Quid.* Extortio est crimen, quando quis Colore Officij extorquet quod non est debitum, vel quod est supra debitum, vel ante tempus quod est debitum. Co. 10. 102.

Another describes it thus. Extortion is where the sherife, vndersherife, bailife, or other officer, by colour of his office, shall take any exceſſiue reward or fee ; or shall take moze than the law doth allow him ( for the execution of his office ; ) or shall take any reward, or fee, for any matter, cause, or thing, where the law doth allow no fee at all : P. R. 82.

*Gather plus que est due.* If the sheriffe, or any of his officers, or any other officer, by colour of his office shall gather, leuie, or receiue, of any person, any amercentments, rents, or other duties, which are not due, or moze than is due, this is extortion : & so sir Iames Altham deliuered it in his charge at Cambridge Assises : añ dñi 1615.

*Money le Roy.* If any man doe leuie and receiue money due to the King, or for the vse, behoofe, or seruice of the King, & do not imploy the same accordingly ; or else doth not pay the same money to the King, or his lawfull receiuer, it seemeth he may be indicted of extortion : see 27. Aff. P. 15. et 17. Br. Fees 10. et 11.

*Sparing a Juror.* If any sheriffe, vndersherife, bailife of libertie, or any of their officers, shall receiue, haue, or take, by himself or any other, any sum of money, reward, or other profit, directly, or indirectly, or do take any promise, make any agreement, or assent to haue, any sum of money, reward, or other profit, directly or indirectly of any person, for the sparing, not warning, or not returning, of any person to be sworn as a iuroz, for the triall of any issue toynded in any of the Courts of the kings Bench, Common Pleas, or Eschequer, or befoze any Justices of Assise, it is extortion, and euerie sheriffe and other officer so offending, shall forfeit for euerie such offence v. li. to the King & Informer, &c. 27. El. c. 6.

*Omitt de arrestor &c.* If the sheriffe, or any of his officers, &c. shall take any money, or other reward, for the omitting of any arrest, or attachmēt to be made, it is extortio, & the sherif or other officer so offending, shall forfeit for euerie such offence xl. l. to the king, & Infor. &c. 23. H. 6. c. 10

*Pur monstre fauor.* So it is, if the sheriffe or gaoler, &c. shall take any money or other reward, for shewing ease or fauour to any prisoner or person arrested : see Br. Fees 6. Ibid. 21. H. 7. c. 17. a.

So

So if the Sherife or Gaoler shall deteine any person in prison (after they be discharged by the Court) for meat, drinke, or other thing, except for their due fees onely, it is extortion, 8.E.4. fol. 18. Br. fees. 15.

21.H.7.16.  
37  
Pl. 465.b.

And yet upon an action upon the statute of 23. H. 6. c. 10. *Barre fee.* for extortion against an undersherife, for taking of twentieth pence above his fee, of a prisoner in his ward &c. and upon evidence it appeared that the defendant and all undersherifes of the same Countie, time out of mind &c. had bled to take of every prisoner, taken for suspicion of felonie, and in their ward &c. twentieth pence, when they were acquitted; and this fee they called barre money, or a barre fee: And by the opinion of the Justices this case was out of the statute, for the intent of the statute is, when sherifes &c. shall take such summes of money of their prisoners, to giue ease and liberty to their prisoners; (who are in their ward) but here when the prisoner was acquitted, he was no prisoner &c. And this fee was assigned by the Court for a barre fee, by their discretion, in consideration of the great charge which the sherife is at in keeping, carrying, and recarrying his prisoners, and in keeping many seruants, to conuey and attend them, for danger of escape: And so where a Gaoler shall conuey or carry a prisoner into the Kings Bench, about a Writ of Error, to reuerse an Outlawry, he shall haue for his labour by the discretion of the court, and it is out of the statute.

21.H.7.17.

*Si vicont ou Gaoler prist del prisoner son toge, ou autre garment, ou argent extra bursum, maugre son teste, ceux sont extra casum statuti, nec sont extortion, meuz un trespasse; pur recouery de que le prisoner poit auer action, & recouer le value in dammages.*

If a man be committed to the Gaole for two severall felonies, and be after discharged, hee shall pay but one fee, for the Gaolers attendance was upon one person: and if the Gaoler shall take any more than one fee, it seemeth to be extortion: see 26. Aff. P. 47. Br. Fees 8.

34.H.6.42

If a man that is attainted of trespasse, doe come into the court, and praieth to make his fine to the King, and offereth pledges for his fine, if the gaoler (or other keeper of the prison) doe take any fees of him, it is extortion, for that hee came in gratis, and out of ward, and yeilded himselfe to the court: but if there bee proces awarded against him for his said fine, and he taken thereby, then hee must pay his fees to the gaoler, &c. and there it is no extortion, for that he came in by compulsion, and not willingly, P. R. 9.

42.E.3.4.  
Br. fees. 18.

The Sherife prescribed to haue xl. s. p<sup>a</sup>n of I. S. and his ancestorz for holding his Cozne at D. for the ease of the defendant & his tenants, for which summe he distrained, and by

## Their Fees &c.

the court it was holden that the sherife could not prescribe, for that he is an officer remouable yeerely, and therefore the taking of that sum was extortion.

Sherifes and their Officers, shall receiue all writs without taking any fee, 2.E.3.c.5.

Sherifes and Gaolers, shall receiue felons, without taking any thing &c. 4.E.3.c.10.

And if Sherifes, their Officers, or Gaolers shall otherwise doe, it seemeth to be extortion.

No Sherife, Undersherife, Bailife of franchise, nor any other bailife, by occasion, or vnder colour of his office, shall take any other thing, by themselves, or by any other person, to thrie vse, or profit, of any person by thē arrested, or attached, nor of any other for them, for the omitting of any arrest, or attachment, to bee made by their bodie, or of any person by any of them by force or colour of their office, arrested or attached, for fine, fee, mainprise, letting to baile, or for shewing any ease or fauour to any such person, so arrested, for their reward or profit, but such as hereunder follow.

The fees allowed them by statut, are these:

Foz the Sherife		xx.D.
Foz the Bailife who maketh the Arrest, or Attachment		} iij.D.
Foz the Gaoloz, if the prisoner bee committed to his ward.		} iij.D.
Foz any obligation for apparance, if the prisoner be bailed.		} iij.D.
Foz any warrant making.		} iij. D.
Foz the Copie of a pannell.		} iij.D.

Foz the retozne of the pannell they vse to take two shillings but it seemeth to be extortion by the opinions of Mast. Lamb. fol. 415. and of Master Crompton fol. 205. b. and the words of the statute of 23.H.6. shewes asmuch, the words be thus, The sherife, vndersherife, sherifes clerke, steward, or bailife of franchise, seruant to the bailife, or coroner, shall not take any thing by colour of their office, by him, nor by any other person to his vse, of any person, for the making of any retozne, or pannell. And yet see the sherifes oath, 27.Eliz.ca.12. that seemeth to allow two shillings for the impannelling or retozning of a Iurie, Ideo quære.

If any sherife, or any their officers, shall take any fees &c. contrarie to the said statute of 23.H.6.cap.10. they shall loose to the party griued his treble damages, and besides shall forfeit fortie pounds to the King, and Informer, or other party that will sue for the same.

No sherife, vndersherife, bailife of franchise or libertie, nor any

23.H.6.ca.9  
Pl.465.

Ibidem.

29.Elc.4

*Loure Fees  
for Arrest.*

*Retorne de  
panell.*

*Le forfeiture*

*Sur executio*



any of their officers, ministers, servants, bailiffs, or deputies, by reason or colour of their office, shall have, receive, or take of any person whatsoever, directly or indirectly, for the serving and executing of any Extent or Execution, upon the body, lands, goods, or chattells of any person whatsoever, more, or other consideration or recompence than is hereunder limited and appointed, scz. 12. d. of and for every 20. s. where the summe exceedeth not 100. l. and 6. d. of and for every 20. s. being over and above the said sum of 100. l. (scz. for every 20. s. that he or they shall so leuy or extend, & deliuer in execution, or take the body in execution for, by vertue & force of any such Extent or Execution whatsoever, upon pain that every Sherife, and other officer &c. which at any time shall directly or indirectly do the contrary, shall lose to the party grieved his treble damages, and shall forfeit besides 40. l. to the King and Informer &c.

*Le forfeiture*

But this former sta. of 29. El. extends not to any fees to be takē for any executiō done within any city or town corporat.

*Corporations*

Note that bailiffs, stewards, and other ministers within liberties, shall have like fees, & like punishmētts for extortion, as Sherifes and their officers have out of liberties, 27. H. 8. c. 7.

*Liberties.*

31. Eliz. 3.

For making proclamation at the Church dooze upon an Extent &c. the Sherife is to have 12. d.

*Proclamation.*

Also it seemeth that there are due or belonging to the office of a Sherife (or that Sherifes have in ferme) certain other fees, annuities, rents, fermis, issues, fines, amerciamētts, escheats, estraiēs, and other casual reuenues and profits. See the book 20. H. 7. f. 12. Tofts case vers. Cromer, and the vsuall Indentures made betweene the Sherife and his vnder Sherife.

*Their fermes*

6. H. 7. f. 2.  
Br. Lect. 21.

By the stat. made 1. Ed. 4. c. 2. all presentments and indictments taken by the Sherifes in their Coznes, shall be deliuered to the J. of P. to proceed vpon, who after shall estreat all fines & amerciamentts set vpon such offendors (as were indited or presented in the Cozne) & shall deliuer such estreats by indenture (to the present Sherife &c.) to the vse & profit of him which was Sherife at the time of the taking of such presentments or indictments. And the said (old) Sherifs shall haue to their own proper vse the benefit of all such fines and amerciamentts so estreated.

*Profits in  
Torne le vic.*

Pea the Sherifes shall haue all the amerciamentts, fines, and other profits of their Cozne, for that they haue no other thing to leuie so great a summe as they (and every of them) is charged withall vpon their account, but the profits of this court, by Fairfax, Fineux, and Tremaille. 6. H. 7. fo. 2. & 3.

Quare the certainty what the other profits of the Cozne are, which the Sherifes are to haue.

And

## Their Fees &c.

And see the stat. of 2. & 3. Ed. 6. what allowances and rewards Sherifes shall haue vpon their accompts in the Exchequer, and P. Sherifes 38.

But note concerning felonies presented in the Torne, the Sherife is to haue no profit thereof, but only the king, 6. H. 7. 3.

*In the County Court.*

Queene Elizabeth during the vacancie of a Sherifewicke, granted (by her letters patents vnder the great seale) to one, the office of the Clerke of the County Court, with all the fees &c. during his life, and after a Sherife was chosen and made of the same countie, and vpon question made thereof, the Queenes grant was adjudged to bee void, for that the Countie Court, and the entring of all the proceedings therein, are incident to the Sherifes office, and so of the Sherifes Torne; and therefore the Sherife is to appoint clerks vnder him, both in his County Court, and Torne, such as hee will answer for. Co. 4. 33.

*Wales.*

By the statute made añ 34. H. 8. the Sherifes in Wales shall keepe their County Courts monethly, and their Hundred Courts for plees vnder xl. s. as is vsed in England, and shall take for the entring of plaints, proces, plees, and iudgements in their said shire Courts and Hundreds, such small fees as are vsed to be taken in Shires and Hundreds in England. P. Wales 41.

All bills sued befoze the said Justices in personall actions, whereof the debt, duetie, or damage is vnder xl. s. the Sherife shall haue for the returne of euery bill ij. d. and for euery Venire facias, Tales, Habeas corpora, and Distringas ij. d. and for writs of execution vpon the iudgment in any such bill xij. d. And in bills sued befoze the said Justices in actions personall aboue the summe of xl. s. the Sherife shall haue for the returne of euery such bill iiii. d. and for the returne of euery Venire facias, Habeas corpora, Distringas, and Tales iiii. d. and for euery writ of execution ij. s. And in all personall actions sued by originall writs returnable befoze the said Justices, the Sherife shall haue for euery Iterum sum'm, Distring', and Alias Distring' iiii. d. And for euery Venire fac', Habeas corpora, Distring', and Tales vj. d. and for euery writ of execution to bee executed vpon the iudgment in any such actions ij. s. For the seruing of euery writ of Elegit vj. s. viii. d. And in all reall actions or mixt, pursued befoze the said Justices by originall writ, for returne of euery originall writ ij. s. and for returne of euery other writ and iudiciall proces depending vpon the same befoze iudgement ij. s. & for euery writ of execution after iudgement vpon euerie originall in actions reall or mixt ij. s. and for seruing of euery writ of Habere facias P. 45.  
34. H. 8.

facias seisinam 6. s. 8. d. And for attachmentg vpon Capias, or other proces sued before the said Justices by originall or iudicial writ if he returne Cæpi corpus, 2. s. and for a Redditi se vpon an Exigent of felonie in appeale of murder, or maine, or vpon any indictment of felony or murder, 2. s. And vpon a Redditi se vpon an Exigent of debt, trespass, detinue, and all other actions personalls 12. d. And for the making of a Repleg' 12. d. and Withernam vpon the same 12. d. For the returne of every writ of appeale of murder, felony, or maine 12. d. And vpon all other proces growne vpon the same, as Venire facias, Tales, Habeas corpora, and Distring' 12. d. And in every action taken before the sherifes by Iusticies for the summons thereof 4. d. and for every other proces thereupon 4. d. And for every prisoner deliuered by acquitall, or by proclamation for any maner of felony 12. d. 34. H. 8.

24. H. 8.  
P. Wales 48

And the said sherifes shall haue for the returne of a writ of false Judgement out of a base court before the said Justices 2. s. And the said sherife shall take no maner of fee for the returne of any of the said writs of execution before expressed, vnlesse he returne the same executed. 34. H. 8.

Every sherife within the 12. shires of Wales, hath for his fee yearely b. p. 34. H. 8. ca. 26. *Wales.*

Where the sherif of Cambridgeshire is to haue to his owne vse for his time, x. l. per ann. out of the manor of Maddingley, in the said countie. See Stat. 34. H. 8. cap. 24. hic tit. Knights of the Parliament. *Cambridge.*

Sherifes are to certifie into the Exchequer the defaults of all such as shall not keepe stoned trotting hozles for the saddle &c. according to the stat. of 33. H. 8. c. 5. and are to haue the moity of the forfeiture. See hic fol. 150.

22. H. 8. c. 10

Every sherife (within one moneth after the arriual) may seise all the goods of Egyptians &c. that shall come into this realme, and may keepe the one moitie thereof to his owne vse, making accompt to the king in the Exchequer for the other moitie.

Their

# Their Accompts.



## Their Accompts.

*The time.*

**A**S well high sherifes as vndersherifs (of most shires) in Hillarie Terme next after they are out of office, are sworne to yeeld by and giue a iust and true accompt to the king, and his officers in the Exchequer of all such dueties, perquisites, and profits whatsoeuer (happening within the time, or compasse of their office) which are due and belonging to the king, and chargeable vpon them to answere for by reason of their office. See the statutes 5 I. H. 3. de Scaccario. Statut de Rutland 10. E. 1. 1. R. 2. ca. 5. & 5. R. 2. c. 11.

*For what things.*

What things they shall bee accomptable for, appeareth in part here befoze, tit. Franchises, Rents, Fermes, Debts, Issues, Amerciaments, Fines and Forfeitures: But yet for your better satisfaction, the experience and course of the Exchequer is to be learned.

It seemeth that sherifes shall not bee accomptable but for their owne times, and for the yeare of their sherifewicke only; neither shall they be charged, in or vpon their accompt, with any arrearages or duties due to the k. by any of their predecessors, in the said office of sherifewicke. See the stat. 2. & 3. Ed. 6. cap. 34.

*The manner.*

The manner of their Accompt: See master Wilkensons Booke of the Office of a Sherife fol. 36. 37.

*Their allowance.*

What allowances they shall haue vpon their accompt, see the statutes of Rutland made 10. E. 1. 4. H. 5. c. 2. & 2. & 3. Ed. 6. c. 4. And besides learne the vse and course at this day.

*The charge.*

For the ordinarie charges of the sherifs account, see a particular thereof in master Wilkensons said booke, fol. 38. 39. 40. & 41.

But besides those ordinarie charges, the extraordinary fees and charges of passing the sherifs accompts seeme to be such, and the busines it selfe so tedious, as it troubleth them all (be they neuer so skilfull therein:) which thing requireth a redres, considering that the vndersherifs, or officers vpon whom this burthen lyeth, are thereby not only stripped themselues of almost whatsoeuer they shall iustly or honestly saue in their offices, but are also enforced thereby to extort and wyng from the subiects to make themselues sauers.

*Torting.  
Nobilling.*

Amongst other things, it seemeth behouefull for sherifs or vndersherifs, vpon the making of their accompts, to haue a speciall

speciall care, what they Tot, and whom they Nichill, that is, that they charge or discharge men orderly, honestly, & with vnderstanding; for if they tot or charge any thing, though it can neuer be leuied, yet it will now hardly be auoided, but it must be paied; and if it be nichilled, if it be issues of Juroz, though they be neuer so bad, and cannot be leuied, yet between the old sherife which returned them, and the new sherif which nichilled them, they must be paied, (by the stat. made 27.E.1.c. 2.) although it be seuen yeares after, if there come no pardon in the meane time. And yet where the old sherife returneth a Juroz in issues, the next sherife cannot, nor may not returne the same Juroz Nihil, contrary to the former returne of his predecessor, by the booke 19.H.6.Br. Retorne 49. See hic antea fol. 75.

27.E.1.

W.36.

But to prevent this, it behoues all sherifs befoze they take vpon them to returne any Juroz, to get them a perfect booke of all the sufficient freeholders names in the shire, and especially of all those which dwell in the guildable (howsoever they do of those which are in liberties, but of both is best, that the one may helpe the other,) and to returne few, or none that bee meane freeholders in the guildable, least (by the former recited statute) they be enforced to pay their issues for them; and this they may bring to passe, either by the helpe of the Justices of P. in their seuerall diuisions, who may cause the constables of euery particular towne, to bring a true certificate (of the sufficiencie of euery freeholder within their seuerall townes) vnto the first quarter sessions (that shall be holden in that countie &c.) after the election of the new sherife, to be to him deliuered there; or else the new sherife himselte may cause his bailifs to do this within euerie of their hundreds or diuisions; and besides the helpe of the subledie books wil not be a little auailable hereunto.

*Liver des  
nosmes les  
freeholders.*

This word Totting, or Totted, is a word vled of a debt which the forreine opposer, or other officer in the Exchequer noteth for a good debt to the king, by writing this word (Tot) vnto it. *Minsh.*

Also this word Nichilling, or Nihil, is a word set vpon a debt by the forreine opposer in the Exchequer, when that it is illeuable, or cannot be leuied.

Forreine opposer, Forinfecarum Oppositor, is an officer in the Exchequer, to whom all sherifes &c. bailifes do repaire, by him to be opposed of their greene wax, and from thence draweth done a charge vpon the sherifes &c. bailifes, to the clerke of the Pipe. *Minsh.*

*Forreine op-  
poser.*

Greene wax, this word seemeth to be vled for the estreats deliuered to sherifes out of the Exchequer, vnder the seale of that

*Greene wax.*

## Their Accompts.

that court, to be leuied in the county, *ibid.* See the statutes made 42.E.3.c.9. & 7.H.4.c.3.

*Clerke of the Pipe.*

**Clerke of the Pipe**, is an officer in the **K. Exchequer**, who hauing all accompts and debts due vnto the **K.** deliuered and drawne downe out of the Remembrancers offices, chargeth them downe into the great Roll; who also writeth summones to the sherife to leuy the said debts vpon the goods and chattels of the said debtors; and if they haue no goods, then doth he draw them downe to the Lord Treasurers Remembrancer, to writ extreats against their lands. The ancient reuenues of the crowne remaineth in charge befoze him, & he seeth the same answered by the fermers and sherifs to the king. He maketh a charge to all sherifes of their summones of the Pipe, and Greene wax, and seeth it answered vpon their accompts. He also hath the ingrossing of all leases of the kings lands. *Ibidem.*

*Remembrancers.*

**Remembrancers of the Exchequer** (Rememoratores) be three officers or clerks; one called the Kings Remembrancer, Stat. 35.E.1.c.5. And another called the Lord Treasurers Remembrancer, vpon whose charge it seemeth to lie, that they put all the Justices of that court (as the Lord Treasurer, and the Barons) in remembrance of such things as are to be called on, and dealt in for the princes behoofe; The third is called the Remembrancer of the first fruits, concerning whom, See the statutes 37.E.3.c.4. & 5.R.2.stat. 1.c.14. & 15.

The **K. Remembrancer** entreteth in his office all recognisances taken befoze the Barons, for any the **K.** debts, for apparances, or for obseruing of orders. He also taketh all bonds for any of the **K.** debts, for apparances, and for obseruing of orders, and maketh out proces vpon them for the breach of them. He writeth proces against the Collectors of Customes, Subsidies, and fifteenes, for their accompts. All informations vpon penall statutes are entred in his office; and all matters vpon English bills in the Exchequer chamber are remaining in his office. He maketh the bills of compositions vpon penall statutes; taketh the statements of debts; maketh a record of the certificate deliuered to him by the Clerks of the Star chamber of the fines there set, and sendeth them to the Pipe. He yearely (in *Crastino Animarum*) readeth in open court the statute for the elections of sherifes, and giueth those that chuse them their oathes. *Ibidem.*

The Treasurers Remembrancer maketh proces against all Sherifes, Escheatozs, Receiuers, and Bailifes, for their accompts. He maketh proces of *Fieri facias*, and *Extent*, for any debts due to the **K.** either in the Pipe, or with the Auditors. He maketh proces for all such reuenue as is due to the  
king

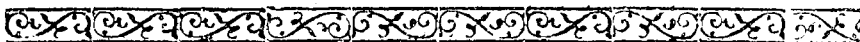
king by reason of his tenures: he maketh a record, whereby it appeareth whether sheriffs & other accountants pay their profits due at Easter & Mich. he maketh another record, whereby it appeareth whether sheriffs & other accountants keep their daies of prescription. All estreats of fines, issues, & amerçiaments set in any courts at Westm. or at the Ass. or Sess. are certified into his office, & are by him deliuered to the clerke of estreats to write proces vpon them: he hath also brought into his office all the accompts of customers, controllers, & other accountants, to make thereof an entrie of record. Ibid.

The Remembrancer of the first fruits taketh all compositions for first fruits and tenths, and maketh proces against such as pay not the same. Ibid.

The clerke of the extreats is also a clerke belonging to the Excheq. who termely receiueth the extreats out of the Lord Treasurers Remembrancer his office, & writeth them out to be leuied for the k. he also maketh schedules for such summes extreated as are to be discharged. Ibid.

Note that if the sherife shall seise the goods of one that is outlawed, or for other like cause, & when hee maketh his account, he doth not account for the same &c. it seemeth the owner of the goods may haue an actio of trespass against the sherife for such seising or taking of his goods; for that the sherife must plead that he hath accepted for them: & if he shal not accept for the same, he shalbe said to be a trespassor ab initio, see 3 H. 7. 3. b. & 21. H. 7. 23. also see 18. E. 4. 23. 7. H. 4. 5. & 14. H. 6. 5

For the better helpe of sherifes I haue heere againe shortly set downe their dangers &c. that so by their care and diligence they may the better preuent and elchew the same.



The dangers, forfeitures, and punishments of sherifes,  
for things done, not done, or misdona, by them,  
or by their officers.

**A**lbeit that the care of our Parliament hath alwaies bene, that choice should be made of such persons, for this office of the Sheriffe. as should be men of good sufficiencie, such as might attend to execute this office (for the good of the King, and his people) and such as needed no reward for their trauell and paines in that behalfe (as may appeare by the severall statutes here before recited,) yet partly in regard of their great charges by them vndergone, as well in their attendance and execution of their places &c. as also of the great summs of mony wherewith they are charged vpon their accompts; and partly in regard that it is not possible that the sherifes themselues should do execution of all things

k k

belonging

## The Dangers of Sherifes &c.

belonging to their offices, but that they must vse the helpe of diuers and sundrie other inferioz officers and persons therein; therefore the lawes and statutes of this realme haue not only rewarded the high sherifes themselues, but also their inferioz officers with some small allowances, auailes, & fees, as may appeare here befoze. And on the other side, for that the negligence, remisnes, and misdoing of men put & placed so highly in trust, if it should not sometimes be corrected by due chastisment or punishment, it would breed not only too much dulnesse or carelesnes in these chiefe officers themselues, but also much extortion, oppression, and other wrongs both to the king, and his people, from them, but especially from their inferioz officers and ministers. Therefore the lawes and statutes of this land haue likewise inflicted due punishments and paines, not only vpon the highsherifes themselues, but also vpon their inferioz officers; and in many cases vpon the highsherife himselfe, for the faults and defects of his vnder officers; as may partly appeare here befoze thzoughout this booke, and more particularly in this that followeth.

And therfoze in some cases the sherif &c. shalbe amerced, and in some cases shal pay a fine, or forfeit to the k. In other cases he shal be imprisoned; and in some cases may bee indicted as an offendor against the k. in the highest degree; & in other cases shalbe liable to the action of the party grieued, & chargeable to pay his debt or damages.

*Escape.*

And first note, that the sherife of euery county shal haue the keeping of, and shal be chargeable & charged with the comon gaole & prison of the same county (where he is sherife) & with all the prisoners therein; and must put in such gaolers for whom they will answer, by the statutes of 14.E.3.C.10.&19. H.7.C.10. Co.4.34. And therefore the highsherife himselfe shalbe answerable for the escape of a felon, suffered by his gaoler, & (by some opinions) may be indicted of felony for the same, if the escape suffered by his gaoler were voluntary. See the Presidents to this purpose in Lamb.v.v.5. and in West.M.1.

*De felon.*

And yet sir Iohn Sauadge being a sherife in fee, was (in 5.M.) indicted in the k. Bench for the escape of two felons, felonice & voluntarie &c. and his office was only seised therefore &c. as it seemeth in Dyer fol. 151.

And indeed such an escape suffered by the gaoler, or other the sherifes officer, without the sherifes knowledge or consēt, may seeme but a negligent escape in the sherife, & so but fineable in the sherife, (or a cause to seise his office being in fee) and to be felony only in the gaoler or officer, who voluntarily suffered the escape. See Crompt. 252.b. & quære inde.

*Felon nient  
attach.*

By the statute of 3.E.1.cap.9. if any sherife for any cause shall



shall conceale any felony done within their county; or shall not attach or arrest such felons within their countie, as they may, they shall be imprisoned for one yeare, and fined at the kings pleasure.

If any Sheriffe or Gaoler shall denie to receiue any felon, by the deliuey of any Constable or towneship, or shall take any thing for receiuing of such, they shall be fined by the Justices &c. 4. E. 3. ca. 10.

Euery Sherife ought to certifie in a Kallender the names of all their prisoners which be in their gaole for felony, at euery Assises or Gaole Deliuery, sub poena 5. l. hic 143. 144.

3. E. 1. c. 4.

If the Sherife, or any other, do take or leuy any thing for the escape of any felon, before it be adiudged by the Justices in Eyre, Justices of the K. Bench, or before some other Justices that haue authority to enquire thereof, he shall restore to the party, or to him that paid it, as much as he receiued, and besides as much to the king. Westm 1. 4.

*Leuy money  
per Escape.*

13. E. 1. c. 11

If the Sheriffe do suffer any bailiffe, chamberlaine, seruant, receiuer, or other accoptant to go at libertie, which is committed to prison by Auditozs; or if the sherif shall baile, or otherwise deliuer them without the consent of their master, the Sheriffe shall answer the whole debt.

*Escape del  
dettor.*

Ibid.

So if the gaoler shall suffer any such bailiffe &c. or other accoptant which is committed to prison by Auditozs, to go at libertie, or to escape, if the gaoler be not able to pay and answer the debt, the Sheriffe that committed the custody of the gaole vnto him, shall be answerable.

And so it seemeth in all cases of Escape, the gaoler or vnder officer who hath the actual possession of the gaole or office, shall answer for all escapes: But if they haue not sufficient wherewithall to answer, respondeat Superior, sc. he which committed or granted the custody of the gaole vnto him shall answer it, Co. 9. 98.

A man is taken in execution vpon a Capias ad satisfac, and is committed to the gaole, and the Sherife suffereth him to make an escape, the Sherife is chargeable for the whole debt, hic fol. 8. 50. 57. 58.

So if his vndersherife, or any of his bailifes hauing taken one in execution, suffereth the prisoner to escape; or if the prisoner of his own wrong breaketh away: or if the prisoner be rescued by strangers: in these cases the sherife himselfe shall be charged for the escape, and shall be chargeable to pay the whole debt: for the act, or default of their vndersherifs, deputies, or bailifs, shall charge the sherif himselfe. See the stat. 1. R. 2. c. 12. & 7. H. 4. c. 4. Fitz. 93. c. & Br. Officer 24. & 33. & hic antea fol.

And it is no good returne for the Sherife, quod mandavit

## The Dangers of Sherifes &c.

ballivo itineranti, *que respondit que il arrest le partie, & rescous est fait*; for this was the arrest of the sherife himselfe: And if it were vpon a Capias ad satisfaciend', or Capias vtlagatum after iudgement, the sherife himselfe shall be charged for the escape, except it were by the Kings enemies: but if it had beene by Bailiffe of a franchise, the returne had beene good, and there a Non omittas should haue gone out, Dyer 241.

Note that in case of such a Rescous, the Sherife must take his remedie by action of the Case, against them which made the Rescous (Dyer 241.) and they many times little worth, and so the Sherifes remedie in such case very easie.

*Escape del  
deitor.*

Now what other acts shall be said to be an escape, which shall charge the sherife,

The Sherife, or his officers, haue one in execution for debt, and after carrieth the prisoner into another countie to talk and take order with his creditoz, this is an escape, Vide Dyer 296. Crō.204.b.

The Sherife &c. hauing one in execution for debt, takes bonds of the prisoner, and of diuers others, to pay the sayd debt or summe at a certaine day, to the Sherifes sonne, or other friend, and then lets the prisoner go at large, this is an escape. Crō.206.a.

The sherife vpon a Capias ad satisfac' returneth a Cæpi corpus, but hath not the bodie at the day &c. he is chargeable for an escape, hic 69.82.

So if vpon a Fieri fac' he returneth Fieri feci, but hath not the mony at the day, he is chargeable for the money, hic 69.

*Ne fait re-  
turne.*

The Sherife (or his officers) arresteth one vpon a Capias ad satisfac', and do not return the writ, this is an escape. Crōp. 207.a. & hic fol.

The Sheriffe &c. hath one in execution for debt, and then licenseth the prisoner to go at libertie for a time, and then to returne, who returneth accordingly at his day, yet this is an escape. Co.3.44.

If the Sherife &c. shall suffer the prisoner (which is in vpon an execution) to go at large, although it bee by bayle, or maineprise, or by balston (scz. with a keeper) before the prisoner hath agreed for his debt, this is an escape; for such prisoners ought to be kept in salua & arcta custodia. See the Statutes 1. Rich.2.cap.12. & 7.Hen.4.cap.4. & Co.3.43.44.

But if a prisoner who is in vpon an execution, shall of his owne head and wrong go at libertie, and after shall returne againe, and shall yeeld himselfe prisoner or shall bee taken againe by the Sherife or officer vpon fresh suit (before any action be brought by the plaintife against the Sherife for the escape)

Co. Ibid.  
Br. Escape  
4. & 35.

escape) this is no escape. See Co. 3. 44. & 52. & hic fol. 57.

And so if one in execution for debt, shall of his own wrong escape into another countie, and the sherife or his officers, shall there take him againe vpon fresh suit, and before any action brought &c. this is no escape.

If one in execution for debt, bee set at large by the act of any of the kings courts, (scz. by the kings writ from out of any of the kings courts) this is no escape which shall charge the sherife, except it be in some speciall cases. See 38. E. 3. fo. 8. & 2. E. 4. 8. Crompt. 215. & hic fol. 58.

See the case of a Burgesse of the Parliament deliuered by a writ of Priuiledge &c. Dyer fol. 6. & hic fol.

And yet vpon a writ de Homine repleg', the sherife deliueres a prisoner who is in for Redisseisin, the sherife shall bee amerced, hic fol. 46.

So if the sherife shall suffer his prisoner who is condemned in arrearages before Auditors, to escape, or shall deliuer him vpon a writ de Homine repleg. the sherife shall pay the debt, hic fol. 46.

And if one in execution for debt be set at libertie, or suffered to go at large. by the sherife, or other officer, vpon the commandement of any of the kings courts, without writ, this seemeth to be an escape. See hic fol. 58.

*Si vn in execution pur det, soit suffer daler a large per le vic' ou autre officer, sur commandement del roy meisme, sans briefe, semble deste vn escape. See Dyer 297. hic fol. 58.*

A man in execution within the Cinque ports, was brought vp to London &c. vpon a priuie seale, or the like, this is no escape. 30. H. 6. fol. 6. Br. Escape 44.

A man is in execution for debt, & a woman being warden of the Fleet marieth the prisoner, this is an escape, for that he cannot be his owne prisoner, nor a prisoner to his wife. Pl. 37.

A woman is in execution for debt, and the sherife, or gaoler marryeth her, Quare whether this be an escape or no.

Note that if a prisoner being in vpon an execution, shall escape of his owne wrong, without the consent of the officer, there the officer may take him againe at any time, hic fol.

Note also that if a man who is in execution vpon a stat. or recogn', shall happen of his owne wrong to escape, yet the sherife may extend his lands and goods vpon the same stat. &c. 33. El. Also see Co. 3. 44. & 5. 86.

If any sherife &c. shall leuie any of the kings debts, without shewing to the parties the estreats of the same vnder the seale of the Exchequer, they shall loose to the party griued treble damages, & also make fine to the k. 42. E. 3. c. 9. & 7. H. 4. c. 3.

## The Dangers of Sherifes &c.

If any estreat of issues shall be gathered of any person, other than of such as by vertue of the said estreats shall of right be chargeable, or charged therewith; the gatherer thereof shall loose five markes to the party griued, and five markes to the king. 27. El. ca. 7.

*R. Debtor.*

A sherife who hath receiued the kings Debt, if at his next accompt he shall not discharge the debtoz, he shall pay to the plaintife thrice as much as he receiued, and also shall be fined to the king. See *hic antea*. 3. E. 1. c. 19.

If any sherife &c. shall make any warrant for the arresting, attaching, or summoning of any person without an originall writ &c. they shall be committed without baile, vntil they haue paid 10. l. to the party griued, besides costs and Damgages, and also 20. l. to the king. 43. El. c. 6.

*Arrest.*

If any sherife &c. shall omit any arrest, or shall shew any ease or fauour to any person arrested, or to be arrested (at any mans suit) for any reward: 23. H. 6. c. 16.

Or shall take any fees, or other thing, for any arrest &c. more than their due: See *hic fol*.

Or (vpon any arrest) shall take any obligation by colour of their office, but only to the sherife himselte, and by the name of his office, and vpon condition only to appeare according to the writ or warrant:

Or shall detaine any prisoner, or person by them arrested, being baileable, after sufficient sureties offered:

Or shall do any other thing contrary to the statut of 23. H. 6. c. 10. in any point, they shall loose to the party griued treble Damages, and shall also forfeit for euery such offence 40. l. to the king and Informer.

If any sherife shall imprison any man for any matter inquirable in their Cozne, except such as haue bene indicted there by enquest &c. an action of false imprisonment lyeth against the sherife. 13. Edw. 1. cap. 13. See the Statute 1. Edw. 4. cap. 2.

If any sherife shall suffer any barrettoz, or maintainers of quarrells in their County Courts, they shall be grieuously punished. 3. E. 1. c. 32. See *hic fol*. 16.

*Their courts.*

If any sherife &c. haue arrested or imprisoned, or caused any fine or ransome, or amerciament, to be leuyed of any person, by reason of any indictment, or presentment made in the sherifes Cozne, without proces from the Iustices of Peace for the same first obtained, they shall forfeit one hundzeth pounds &c. 1. E. 4. c. 2.

If any sherife hath not brought in such indictments and presentments to the Iustices of peace at their next Sessions, they shall forfeit fortye pounds, *hic fol*. 155. *Ibid.*

Sherifes

Sheriffes &c. procuring or soliciting suits in their Courts, shall make fine to the King, and yeeld treble Damgages to the partie grieved, 13.E.1.cap.36.

11.H.7.c.15

If any Sheriff &c. shall enter into their booke, any plaints (for Debt, trespasse, or couenant &c.) in any mans name, not being present at the Court, either in his owne person, or by his sufficient and honest Atturney or Deputie:

Or shall enter any moze plaints, than the plaintife suppo-  
seth that he hath cause of action for :

Or if the Sheriff shall suffer the plaintife to enter moe than  
one plaint, for one trespasse, debt, contract, or cause :

Or if the Sheriff shall not cause the plaintife to find pledges  
to pursue his said plaint, scz. such persons as are known there  
in that County :

Or if the bailife of the Hundzed shall make default in war-  
ning, or executing any warrant against any defendant in the  
Sheriffes Court :

Or if the bailiffes, or other person shall gather the Sheriffes  
amerciaments (or hire amerciaments) without a booke or e-  
streats Indented betweene the Sheriff, and two Justices of  
peace, &c.

Or if the bailiffes, or gatherers of the Sheriffes amercia-  
ments shall take or gather any moze money than is forfeited  
and contained in such estreats.

Euery Sheriff, bailiffe, and other officer, offending in the  
premisses, and being thereof lawfully convicted &c. shall for-  
feit to the King fortie shillings for euery such default.

If any Sheriff, or any other, shall baile, or let any goe at *Bailement.*  
large by suretie, that is not baileable, if he be Sheriff, or officer  
of fee, he shall loose his fee, and office for euer : And if they bee  
not officers of fee, whosoener they be, they shall be fined by the  
Justices of Gaole deliuerie, 3.E.1.c.15 - 27.E.1.c.3.Fit.251.i.

If any vnder Sheriff, or bailife, of such as haue fee, for kee-  
ping of prisons, doe it contrary to their Lords will, Or any  
other bailife being not of fee, they shall haue thre yeares  
imprisonment and make fine &c. Ibid.

If any Sheriff &c. shall deteine a prisoner that is baileable,  
after that the prisoner hath offered sufficient suretie, he shall be  
griuously amerced to the King, by the statute 3.Ed.1.cap.15.

23.H.6.c.10

And see the former statute of 23.H.6. he shall loose treble dam-  
mage to the partie, and fortie pound to the King and informer.

And if any Sheriff &c. shall take any reward for the deliue-  
rance of any such as are baileable, hee shall pay double to the  
prisoner, and shall be in the mercy of the King.

Sheriffs, & their officers are also punishable for extortion in *Extortion.*  
taking any fees moze than their due, see hic fol.

Sheriffes,

## The Dangers of Sherifes &c.

Sheriffes ought to array their **Dannels** for the **Assises**, five dayes before &c. sub poena twentieth pound.

Also they shall deliuer coppies indented of such **Dannels**, to each partie demanding the same vpon paine of fortye pound. See hic fol. 119.

If the sheriffe shall not retozne **Dannels**, as they be retozmed by the **Iustices**, they shall forfeit twentieth pound. hic 119.

If any sherife, or any of his officers, shall retozne vpon any **Jurie**, any of their officers, or seruants, they shall loose to the partie griued treble **Dammages**, and shall also forfeit fortye pound to the **king**, and informer. 23.H.6.c.10. hic fol. 121.

*Juries.*

If any sherife &c. shall retozne vpon any **Jurie**, any person that is decrepite, or diseased; or such as dwell out of the **Countie**; or men insufficient, or labored &c. they shall yeeld **Dammages** to the partie griued, and be amerced to the **king**: see hic fol. 147. 148.

If any sherife &c. shall take any reward to spare any **Juroz**, or for not warning, or not retozning of any person to bee swozne as a **Juroz** &c. they shall forfeit five pound to the **king** and **Informer** 7.Eli.cap.6.

If any sheriffe &c. shall retozne any **Juroz** without a true addition of his dwelling &c. he shall forfeit five markes to the **king** and five markes to the partie griued. 27.Eli.cap.7. vide hic fol.

They shall forfeit twentieth shillings for euery **Hundreder**, if five be not retozned &c. hic fol. 122.

They shall forfeit five pound, if they take any reward &c. to spare any **Juroz**. hic 122.

They shall forfeit twentieth pound for not retozning sufficient **Juroz** &c. hic fol. 125.

*Issues.*

If any sherife &c. shall leuie any **Issues** without warrant &c. he shall yeeld treble **Dammages** to the partie griued, and be sued to the **king** hic fol.

If the sheriffe &c. shall retozne **issues** vpon one who is not sufficient, he himselte shall be charged therewith, see hic fol.

If the sheriffe &c. shall retozne any **Juroz**, or any **Issues** vpon any **Juroz** &c. who was not lawfully summoned &c. he shall loose double, so much as the **issues** lost by such **Juroz** &c. hic fol. 121. 128.

If the sheriffe &c. shall not retozne due **issues** vpon euery **Juroz**, the sheriffe shall forfeit five pound in some cases, and in some cases twentieth pound, and in other fortye pound. hic **Retorne of Issues**.

If the sheriffe &c. shall leuie any **issues**, other than of such persons as of right are chargeable, he shall forfeit five markes to the **king**, and five markes to the partie, hic. 152.

**If**

If the Sheriffe &c. shall retorne too small issues vpon the defendant ; Or shall retorne no issues, he shall be amerced &c. Fitz. Amercement 3. Br. 86.

If any High Sheriffe shall exercise his office, before hee hath taken his oathes, &c. hee shall bee fined in the Starre-chamber, and be imprisoned &c. hic fol. *Oath.*

If any Undersherif, or other the Sheriffs officers &c. shall exercise their offices, before they haue taken their oathes &c. they shall forfeit xl. l. &c. to the king and informer. hic fol. 175.

If any Undersheriffe, or other the Sheriffes officers, &c. shall doe or commit any act or thing contrarie to their oathes, they shall loose to the partie grieued treble Dammages. 27. Eliz. cap. 12. hic 175.

If the High Sheriffe shall not performe his oath concerning his office, it seemeth he is fineable in the Starre-chamber. See hic fol.

If any Sheriffe shall let to ferme his Countie, or any of his Bailwicke, he shall forfeit fortie pound to the king and informer &c. 23. H. 6. c. 10. hic fol. *Their office.*

If any Sheriffe, vndersheriffe, or Sheriffes clerke, shall abide in their office aboue one yeare, they shall forfeit to the king and informer two hundred pound hic fol.

If any Sherife, or vndersheriffe, which hath beene so by one whole yeere, shall be in that place againe within three yeares next ensuing, they shall forfeit &c. two hundred pound.

If the Sherife be not resident within his Countie, he is punishable.

If the Sheriffe shall not appoint Deputies in euery Court at Westminster, before hee retorn any writ, hee shall forfeit xl. l. to the king &c. & treble Damages to the party grieued. hic fol.

If he shall not appoint foure Deputies (at the least) in his Countie, to make Repleuies, he shall forfeit to the King, for euery month &c. fiue pound, hic fol.

If he shall not put in sufficient sureties (by Recognisance) in the Eschequer &c. before he exerciseth any part of his office he shall forfeit one hundred pound, See hic fol.

If he shall neglect to execute his office, by reason of resistance ; Or shall retorne that he could not execute the kings Proces for resistance, he shall be amerced, hic fol. 19. 136.

If the Sheriffe shall not enter a franchise to execute the Kings Proces, where there is default in the bailife of the franchise, the Sheriffe shall loose to the party grieued double Damages, See hic fol.

If the Sheriffe, &c. or his officers, shall distreine (for the Kings debt, or otherwise) any plow cattell, or sheepe :

Or *Distress.*

## The Dangers of Sherifes &c.

Or shall take any excessive distresses :

Or shall drive any distresses too farre :

Or shall sell any distresse (taken for the Kings debt) within fifteene dayes :

Or shall not shew, the Proces of the Eschequer, for the leuying of the Kings debt, vpon demand :

Or shall not deliuer the distresse, the party offering sufficient sureties &c. befoze the retozne of the writ :

In all these former cases the party (as it seemeth) may haue an attachment vpon the statutes, or else an action of trespassse, against the Sherife, or officer, See hic fol. 23.

If the officer vpon a Repleuy shall take one mans horse, bullocks, or other thing for anothers, he is a trespasser, hic fo.

If the Sherife &c. shall make Repleuie of any goods, or cattell, and shall not take pledges, de Prosequendo, Ac de retorno habendo, &c. he shall answer the price &c. hic & Fitz. Amercements fol. 2.

If the Sherife &c. shall seise the lands, or goods of one man for another man &c. the partie griued shall recouer double Damgages, hic 36. Br. officer. 8. & 10.

If the officer vpon a Fieri facias shall deliuer in execution, any goods which are not the proper goods of the defendant, he is a trespasser &c. hic fol. 58.

*Arrest.*

If the Sherife &c. shall arrest or attach one man for another, he is a trespasser &c. hic fol. 47.

If the officer shall arrest one without a warrant, though after he hath a warrant &c. yet he is a trespasser, hic fol. 47.

If the officer shall arrest any Minister in the Church &c. he shall be imprisoned, and yeeld recompence to the partie, hic fol. 48.

If the officer shall not arrest a man when he may (hee hauing warrant therefoze) an action of the case will lie against him, and the partie griued shall thereby recouer in Damages all that he shall loose through such default of the officer, hic fol. 123.

*Retorne.*

Also the Sherife shall be punished for his delay, in not executing, or not returning of Proces deliuered to him, &c. hic fo. 44. vpon a writ directed to the Sherife vpon the statute of 31. H. 6. c. 9. for the inforcing of women to enter bonds &c. if the Sherife shall not duely execute the same, he shall forfeit three hundred pound. See the statute at large. & P. women. 15. Br. officer. 40. 13. E. 1. c. 39 Fitz. execution. 248.

Note that the Sherife ought to execute the Kings writ at his perill, although resistance be made, Otherwise he shall be grievously amerced; And besides the partie shall haue his action against him, if the writ be not executed, for hee might haue



haue taken the power of the Countie to haue aided him &c. see hic. 16.65.

The Sherife shall be amerced, for not retorning, misretorning; or false retorning of a writ. See Fitz. Amercement. 4. & 18. 5, Eliz. 23. & 6.R.2.c.4. & hic fol. 44. 50. 70. 71.

He shall be amerced for imbeassing the writ; or for retorning of another, which was not the writ. Fitz. Amercemēt. 5.

A Sherife retorning a Mandavi ballivo libertatis, where there is no libertie he shall be punished as a disinheriter of the King, hic fol.

The Sherife maketh a false retorne vpon an Excom<sup>r</sup> Capiendo &c. he shall forfeit to the partie grieved forty pound hic fol. 68.

The Sherife amerced at fiftie markes for his false retorne of an Exigent, hic 75.

Sherifes misreturning, or not retorning any writ, to them directed and deliuered, concerning the leuying of the kings Debt, rents, reuenues, or issues &c. they shall pay such fines and amerciements, as shall be assessed vpon them by the chiefe officers of the Kings Courts of Reuenue &c. 7.E.6.c.1.

A Sherife returneth a writ without setting his hand thereto, he shall be grieuously amerced, hic fol. 74.

Sherifes shall be amerced for the default of their vnder-sherifes, or bailifes, in making false, or insufficient retornes. See hic titulo retorne fol.

Sherifes not making due election of knights, for the Parliament; or retorning knights &c. of the Parliament falsly, or contrary to the statutes, shall be imprisoned for one yeare, without baile, and besides shall forfeit to the king one hundred pound, and to the partie chosen knight &c. and not returned another hundred pound, hic 131.

Sherifes not attending the seruice for the assessing of waxes of the knights of the Parliament shall forfeit xl.s.

If they shall not assele euery hundred, and towne, thereto according to the statute, they shall forfeit thirty pound.

If they shall leuie vpon any towne, more than is so assessed, they shall forfeit thirtie pound.

So if they shall not deliuer the same &c.

Sherifes shall bee punished in the Starre chamber for their vnttrue demeanings in making of Pannels, and other vnttrue retornes; or for taking vndue fees, or bzibes. 3.H.7. cap. 1. P. Courts 4.

If the sherife vpon request, shall not aide & assist him frō whō *Purueyor* any Cator, of any Noble man, or other subiect, shall take any goods, or carriage against the will of the owner, the sherife shall forfeit to the k. & party grieved &c. xx. l. hic fol. 15.

## The Dangers of Sherifes &c.

Riots.

If the Sherife or Undersherife shall not ioyne with the Justices of peace, in executing the statute of 13. Hen. 4. against rioters; 1cz. to arrest the rioters; to make a record of that which they shall see so done; & to imprison the offenders, they shall forfeit one hundred pound. hic fol. 15.

If the riot cannot be found by the Justices of peace &c. then within one moneth, the Justices of peace, and the sherife or Undersherife, shall certifie the fact and circumstances, to the King &c. vpon paine of euery of them to forfeit one hundred pound. hic fol. 15. 16.

If the riot be not found, by reason of any maintenance, or embracery &c. Then the Justices and sherife or Undersherife, in the same Certificat, shall also certifie, the names, and misdemeanors of those maintainers & embracers, vpon paine of euery of them making default to forfeit xx. l. hic fol. 15.

Sherifes which shall not arrest all persons, that ride or goe armed &c. shall be punished by the Justices of Gaole deliuerie, &c. hic fol. 2. E. 3. c. 3.

If the sherife shall not execute the precepts of Commissioners of Sewers, &c. they may assesse and impole fines &c. vpon the sherife. hic fol.

Seruants and laborers departing into other shires, if the Justices of peace doe grant out any Proces against them, the sherife is duely to execute such their Proces vpon paine of twentie pound. 2. H. 5. c. 4.

If the sherife shall not duely execute all Proces and Precepts, as shall come to him from the Justices of peace, he is punishable &c. See hic 144.

Note that the Justices may commit the Sherife to prison, for an offence done before them, and they may make or appoint another officer (for the time) to keepe him. Martin. 8. H. 6. 60.

A bailife being indited of extortion, his rod was taken from him, and he was committed &c. 42. Aff. p. 5.

Sometimes the Sherife or other officer shall be punished for executing their warrant.

As where the Court (out of which the Proces or Warrant shall come) hath not iurisdiction of the cause, and yet shall grant out Proces &c. and the sherife or other officer shall execute the same, they are punishable. See hic fol. 45. 46.

If the old Sherife, after that he is discharged, shall make his warrant to arrest another, and the bailife shall execute this, a writ of false imprisonment lyeth aswell against the old Sherife, as the bailife which executed such his Warrant &c. hic fol. 9. & 47.

Where

Where the Sherife for his default, shall be Amerced to the King, and also subiect to the action of the partie ; and so twice punished for one default.

If the Sherife (vpon a Capias ad satisfact' : or vpon the Exigent) retozneth Coepi corpus, and yet hath not the body at the day, he shall not onely be amerced, but the plaintife also may haue an action of Desceit against the Sherife, by an Originall Writ ; Or else the plaintife may sue against the Sherife in the Eschequer, vpon his accompt. Br. Retorne 31. & 107.

The Sherife vpon a Fieri facias, retozned quod fieri fecit x. l. parcell de xx. l. in breue specificat' &c. And at the day had not the money, there the Court might amerce him, and besides after a new Sherife was made, a Scire facias went out to the new Sherife, against the old Sherife to haue execution against him &c. 9. E. 4. Br. Retorne 55.

If any writ shalbe deliuered to the Sherife &c. And the Sherife shall make retozne thereof, but shall not summon or warne the defendant ; Or otherwise shall not serue the writ as he ought ; by reason whereof the plaintife, or defendant, shall be in any sort damnified, he shalbe amerced, and besides the partie griened may haue their action of the case &c. against the Sherife.

If any Sherife, or his officer, without speciall warrant, shall disseise any man of his freehold, the disseisee may haue his writ of Nouell dissein', wherein he shall recouer double Damages, and besides the officer shall be grieuously amerced to the King. 3. E. 1. c. 24.

A man was indited befoze the Sherife (in his Cozne) wherupon his Lands and Chattels were seised by the Sherife, and by Deuon, the Sherife had no warrant by the inditement to seise the lands, and therefore aduised the party to bring his Assise &c. Fitz. Assise 373.

And therfoze sherifs befoze they seise any mans lands, must haue good warrant, or cause so to doe, Vide hic fol. 19. 25.

Vide plus. Br. *Action sur le case.* 48. 51. 53. 73. & 121. & h. c fol. precedente.

Where the Sherife for his default, shall be subiect to the action of either partie, *scz.* of the plaintife and defendant.

If the Sherife taketh one vpon a Capias, and retozneth not the writ, the plaintife may haue his remedie by force of the stat. 13. E. 1. c. 39. & shal recouer his Damages, And the defendant may haue his action of false imprisonment, hic. 70.

## The Abuses of some Sherifes.

Upon a Fieri facias the sherife leuieth the money, but neither retorne the writ, nor paieth the money to the plaintife, here the plaintife may charge the sherife in an action of accompt, and the defendant in an action of trespasse, hic 70.

If any sherife &c. shall retorne vpon any Jurie, any persons which are not sufficient &c. Or contrary to the stat. the sherife shall be subiect to the actions of the parties plaintife and defendant, as also of such Juroz so returned, hic 120. 121.

Where the new Sherife shall haue an action against his Predecessor, for his false Retorne.

The old sherife retorned a Venire facias Iurat', and then was discharged, and Proces continued to the distresse, and the new sherife retorned vpon a Juroz, Nihil habet, and was therefore amerced, for that he ought to haue pursued the first retorne of his Predecessor, and to haue shewed the speciall matter &c. And therefore if the Juroz were not sufficient at the first, the new sherife shall haue an action of Deceit against his Predecessor. 19. H. 6. Br. Retorne. 49. See plus Br. *Action sur le safe.* 53.

Where the Lord or bailife, of a franchise, shall haue their action against the sherife. See fol. 72. 73. 181.



## The abuses practised by some Sherifes, Vndersherifes, and Bailifes, &c.

*Accompts.*

**S**herifes, haue obtained often times, vpon their accompts, outragious allowance, vnder pretence of the Kings workes and busineses. Stat. 51. H. 3.

*Felons.*

They haue (for reward, prayer, feare or affinitie) concealed felonies: Or haue neglected to attach them. 3. E. 1. c. 9.

They haue procured pysoners to become approuers; scz. to appeale innocent and guiltlesse people, of felonies, thereby either to get ransome of such appealed persons, for feare of imprisonment; Or else out of malice, or other cause: See the statute 13. E. 1. cap. 12. & 1. E. 3. cap. 7.

*Feised in  
dissements.*

They haue fained persons to be indicted of felonies, or other trespasses, in their Tournes, & haue imprisoned them, and haue exacted money from them, by colour thereof, 13. E. 1. cap. 13.

They

They haue procured Commissions, and generall Writs, and by colour thereof haue made and taken diuers Enquests and indicted people at their will, And then haue taken fine & ranfome of them to their owne vse, and so deliuered the persons indicted, not bzinging them befoze the kings Iustices, &c. 28.E.3.cap.9.

They haue solicited and procured suits in the Countie Courts, compelling thereby pooze men &c. to follow their Courts, vntill they haue made fine with them, at their wills. *In their Courts.*  
13.E.1.cap.36.

11.H.7.c.15 They haue vsed to enter in their bookes, moze plaints than the plaintife supposed he had cause of action for, in their Countie Courts.

As also moze plaints than one, for one debt, trespassse, contract, or cause, to the vexation of the subiects.

Ibid. Also many times in plaints entred befoze them in their Counties, the defendants are neuer attached, summoned, or warned, and so for want of knowledge of such suits against them the defendants are vnjustly punished and vexed.

Ibid. They haue vsed to enter plaints in their said Courts, in the names of persons that were dead.

They haue taken fines of the parties, for not pleading well &c. Fitz.270.52.H.3.11.

They haue bayled persons not Baileable, whereby notable felons and offenders haue escaped. *Bailement.*

They haue kept and detained in prison persons baileable, onely to grieue or vere them, Or else to gaine and get money of them. 3.E.1.cap.15.

They haue sent strangers to take distresses (whereas none but bailifes swozne and knowne ought to take distresses) thereby grieuing their neighbours, and exacting money of them therby, 13.E.1.c.37.

They retozne men vpon Iuries, which are decrepitate, diseased, and dwelling out of the Countie; *Iuries.*

And sometime they retozned an vnrasonable number; hic fol. 122.

And vsually they retozne men of the poozest and meanest sort, least able to discern the causes in question, and most vn-able to beare the charges of attendance, sparing, & letting the rich men, and most able and sufficient freeholders to abide at home; and all this they doe to get money and byibes.

They often retozne vpon Iuries, persons suspect, and of euill fame; and sometimes persons nominated to them; taking gifts and rewards for such purpose.

They haue retozned vpon Iuries, their officers, and ser- uants.

## The Abuses of some Sherifes.

They are slacke in arraying their Pannels ; Or deliue-  
ring coppies thereof.

*Extortion.*

They extort and take vndue fees. See the statute 23. H.  
6. 8, 9. & 11.

They leuie moze than is contained in their estreats, 11. H. 11. H. 7. c. 15  
7. cap. 15.

They leuie issues double, scz. the same issues of diuers per-  
sons, being of one name, &c. 27. Eliz. 7.

They leuie the same issues, fines and amercements of the  
same man two or thzee times. 7. H. 4. cap. 3. 7. H. 4. c. 3.

They receiue the kings debts, but discharge not the Debtors.  
Undersherifes, (and other the sherifes officers) doe vsually  
practise as Atturneyes :

They also continue in their places many yeeres together :  
both which are contrary to the lawes ; And besides by reason  
thereof the kings subiects dare not pursue them, nor com-  
plaine of their extortions and oppressions.

*Arrest.*

They Arrest men sometimes without any warrant or  
Proces.

Sometimes they make warrants &c. without any Ori-  
ginall.

They wilfully omit to arrest one when they may.

After arrest, (for bribes) they shew fauour ; Or wilfully  
suffer the partie to escape.

Upon a Capias vtlagatum, if they take the defendant, they  
often take money of him, and so let him goe againe, when  
they haue also formerly taken money of the plaintife to take  
the defendant :

The like they will doe, when they haue taken vpon one a  
Capias ad satisfac' or other execution &c.

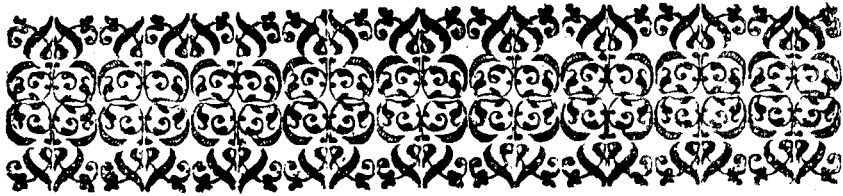
And so both the king, and the subiects are thereby much  
wzonged.

Lastly the king is many times much deceiued and wzon-  
ged betweene these vndersherifes, and the bailifes, of all his  
waiffes, straies, felons goods, outlawes goods, amerce-  
ments, fines, and other profits due to the king, which many  
times are by them either taken by and imployed to their owne  
use, Or secretly compounded for, but neuer accompted for.

Deus

Minimis

Magnus.



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FINIS.

*Solo Deo Gloria.*

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