

try; and the said *H.* likewise; therefore,  
*&c.*

And the said *N.* and *I.* by *J. H.* their attorney come and defend the force and injury, when, *&c.* and say, that they did not undertake in manner and form as the said *J.* above complaineth against them: And of this they put themselves upon the country; and the said *J.* likewise: And the said *M.* by *H. K.* his attorney cometh and defendeth the force and injury, when, *&c.* and saith nothing in bar or preclusion of the aforesaid action of the aforesaid *J.* whereby the said *J.* remaineth undefended by the said *M.* by reason whereof the said *J.* ought to recover against the said *M.* his damages, occasioned by the non-performance of his said promises and undertakings; but because it is not known whether or no the said *N.* and *I.* will be convicted of the premises; and if they shall be convicted, it is convenient and necessary that there should be only *one taxation* of damages for the whole premises in one writ specified; and those damages ought to be settled by a jury of the country in that behalf; and that the writ of inquiry of damages aforesaid against the said *M.* be stayed, until the said issue as aforesaid between the said *J.* and the said *N.* and *I.* shall be determined; therefore, as well to try the issue between the said *J.* and the said *N.* and *I.* above joined, as also to inquire what damages the said *J.* hath sustained by occasion of the premises aforesaid, the sheriff is commanded

*Award of Venire, and writ of inquiry, where two defendants appear and one lets judgment go by default.*

that he cause to come here 12 free and lawful men of the body of his county, &c. by whom, &c. and who are not related to the said *N. I.* or *M.* or the said *J.* to recognize, &c. because as well, &c.

*Easter Term, &c.*

Middlesex, *R. S.* of, &c. was attached to  
*to wit.* *R.* answer *R. T.* and *P. L.* in  
 a plea of trespass upon the case, to their damage of 43*l.* *Roll* 1022.

Afterwards, *to wit,* the 25th day of *July* in the 13th year of the reign of our lord the king that now is, the aforesaid *R. T.* and *P. L.* come by *H. P.* their attorney constituted by a special warrant to him in that behalf, before Sir *W. D.* knt. ch. just. of our said sovereign lord the king of the bench, at his chambers situate in *Serjeants Inn* in *Chancery Lane, London,* and acknowledged that they were satisfied of the aforesaid damages: Therefore let the said *R. S.* be discharged of those damages.

*Acknowledged the 25th day  
 of July 1777, at Ser-  
 jeants Inn, before me*

*W. D.*

Of suing out, entering, and returning  
Process on the Roll, in order to save  
the Statute of Limitations, 21 *Jac.*  
1. *chap.* 16.

THE attorney must make out *Precipe*  
(a) for (b) original, according to na-  
ture of action; and carry same to filacer (c)  
of that county, wherein the *Venue* is laid;  
who will procure original, which is carried  
to the Sheriff's office, in order to be returned

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(a) The Form of *Precipe* for original.

Middlesex, (A) If *James Marriot* shall make you se-  
cure, in prosecuting his claim, then put by gages  
and safe pledges, *Charles Agate* late of *Paddington*  
in the said county, shopkeeper, &c. of a plea that  
whereas (as in *declaration* by original to end  
thereof.)

Returnable, &c.

J. R.

May 17, 1778.

(b) Form of special original.

*George* the third, &c. To the Sheriff of *Middlesex*  
greeting. If *James Marriot* shall make you secure in  
prosecuting his claim, then put by gages and pledges,  
&c. *Charles Agate* late of *Paddington* in your county,  
shop-keeper (as in *Precipe* and *declaration* to end of  
them) and have there the names of the pledges and this  
writ; witness ourself at *Westminster*, &c.

(c) Pay filacer for original, same as in common cases,  
and for filing return four-pence.

*Non (d) inventus*, this return is filed with the filacer.

If plaintiff is an attorney and sues as such, he makes out his attachment of privilege, in the usual (*e*) manner.

Attachment of privilege is in nature of an original writ, and when replied to, in order to save the statute, it is sufficient to shew the *Teste* thereof, without continuances to time of declaration. *Wils. Rep. B. R. 167.* in error.

### Proceedings against Peers, Members of Parliament, and their (*f*) Servants.

Plaintiffs may proceed and prosecute their suits against peers and members of parliament, notwithstanding their meetings; and their persons only are protected from arrest. By *Stat. 10 Geo. 3. Chap. 50.*

All suits brought against peers or members of parliament in this court, are by bill, as against an attorney or officer of the court.

(*d*) Pay sheriff returning original, or attachment *non est inventus*, eight-pence.

(*e*) See *ante* fol.

(*f*) Servants of peers and members of parliament, are by *stat. 10 Geo. 3. chap. 50.* deprived of every privilege they were intitled to from their respective lords and masters; and therefore may be prosecuted and arrested as common persons.



Form of the BILL.

*Hilary Term, 18 Geo. 3.*

To the justices of our lord the king of the bench.

Middlesex, *JANE CHAPMAN* by *John Rayner* her attorney, complains of *(a) Hartwell Smythe* esq; having privilege of parliament, in a plea of trespass on the case, for that, *to wit*, That whereas, &c. [as in a common bill, according to the nature of the action to the end thereof, *viz.* bringeth *(b)* suit, &c.]

*Direction of the bill.*

<i>J. R.</i> For the plff. } For the deft. }	Pledges to prosecute	{ <i>John Doe.</i> and { <i>Rich. Roe.</i>
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*(a)* If defendant be an *English* or *Scotish* peer, you describe him thus: "*William* duke of *N.* knight of the most noble order of the garter," and instead of "*Hartwell*" say "*the said duke*" all through the bill; omitting the words "*having privilege of parliament*"; if defendant be an *Irish* peer, describe him thus, "*James Conolly* esq; commonly called the right honourable *James* earl of *W.*" and instead of *Hartwell*, say "*the said James Conolly*," but the words "*having privilege of parliament*" are not to be omitted, because the peers of *that* kingdom are considered only as commoners in *this*.

*(b)* See note in second vol. 243.

This bill must be engrossed on a treble penny piece of parchment, and signed by one of the prothonotaries, for which he demands one shilling; and then be filed in the office of that filacer, of that county, wherein the *Venue* of the action is laid; his fee, for filing same, is two shillings and fourpence; and then a writ (c) of summons, is to be sued out.

This writ of summons must be subscribed with the name of the filacer of that county wherein the action is laid; whom you pay for signing it eight pence every sheet; at seal office seven pence, and for warrant thereon in order to summon defendant, 2s. 6d. which is done by sheriff's officer's leaving copy thereof at his last or most usual place of abode. If defendant does not appear in time, sue out a (d) *distringas*.

Pay filacer of the county in which the *Venue* to the action is laid, signing *distringas* eight pence, every sheet, sealing same seven pence.

If the defendant neglects to appear at the return of the *distringas*, a return thereof must be procured from the sheriff, for which his legal demand is 2s. 4d.; upon which

(c) For the Form, see 2 vol. 244.

(d) For Form see 2 vol. 244, 245. An order of court, requiring the appearance of a peer or member of parliament, may be enforced by *distringas*, by *stat. 10 Geo. 3. chap. 50.*

another *distringas* must be sued out in same manner as the former, and a third, if necessary, when the plaintiff's attorney may move (e) in the treasury to encrease the issues, (f) which court will order to more than double the former issues, as appears by the following instances, even to the amount of the debt, though no report of such increase be found in *Barnes*.

The practice of this court had been till *Michaelmas* term, 20 *Geo.* 2. not to encrease the issues on *alias distringas's* to more than double the issues returned from time to time, on the former *distringas's*; but in that term, the court observing that the *King's bench* and *Exchequer* had done more, ordered, in conformity to their practice, issues to be returned on the *Puries distringas* to 20*l.* the debt sworn to, being 152*l.* (g). So to the like sum, four pounds issues, having been returned on the *alias distringas*; and the

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(e) This being a common motion of course, no notice thereof need be given, nor is any affidavit of facts, or state of proceedings necessary; the rule obtained of the court is to be drawn up with the secondary, for which you pay him five shillings, and sheriff must be served therewith; on whom call at return of *third distringas*, and he will pay plaintiff's attorney the amount of the debt with costs, first deducting his own fees thereout, which are about 12*s.* 6*d.*

(f) The judges, previous to their sitting in court *in term time*, meet in the treasury chamber; which lies adjacent to court; where they hear those and such sort of common motions of course.

(g) *Barnes* 418.

debt sworn to being 230*l.* (*b*). So to like sum, two pounds having been returned on the first *distringas*; and the debt sworn to, amounting to 1950*l.* (*i*). So to the sum of 100*l.*, 20*l.* having been returned on the *Pluries distringas*; and the debt sworn to being 290*l.* and (*k*) upwards.

If defendant appears after having cast an (*l*) *essoin*, or after return of the first writ of *distringas*; plaintiff must proceed as on a bill against an attorney, and when he hath obtained judgment he must sue out *distringas's* as before, till he hath recovered debt and costs.

(*b*) *Barnes* 420.

(*i*) *Barnes* 420.

(*k*) *Barnes* 422.

(*l*) *Prat*, chief justice of this court said, that casting *essoins* was a very obsolete practice, and a great abuse of the law, being an unnecessary delay of justice; that if the practice was to be revived, it would be necessary to make a new rule of court, and that an *essoin* could not be cast by attorney. 2 *Wils. Rep. C. B.* 164.



BILL of COSTS on proceedings against  
Members of Parliament.

Easter Term, 1778.

	Out of Pocket			Agent			Attorney		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Warrant to proceed and instructions	0	0	0	0	2	2	0	4	4
Drawing bill fo. 40	0	0	0	1	0	0	2	0	0
Fee to counsel to peruse and settle same	1	1	0	1	1	0	1	1	0
Attending him thereon	0	0	0	0	1	8	0	3	4
Parchment and duty for bill	0	2	6	0	2	6	0	2	6
Ingrossing same	0	0	0	0	6	8	0	13	4
Entring on the roll	0	0	0	0	6	8	0	13	4
Paid prothonotary	1	10	0	1	10	0	1	10	0
Ditto filacer for writ of summons	1	8	10	1	8	10	1	8	10
Parchment. and duty	0	3	6	0	3	6	0	3	6
Fee thereon	0	0	0	0	1	8	0	3	4
Warrant and messenger	0	2	6	0	2	11	0	3	4
Service	0	0	0	0	2	6	0	5	0
Returning and filing	0	2	4	0	2	4	0	2	4
Term fee	0	0	0	0	2	6	0	5	0
Porters, letters, &c.	0	0	0	0	1	0	0	2	0

Trinity Term following.

Searching for appearance	0	0	0	0	1	8	0	3	4
Drawing decl. fo. 40	0	0	0	0	13	4	1	6	8

En-

	Out of pocket			Agent			Attorney		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Engrossing and duty	0	2	0	0	8	8	0	15	4
Rule to plead	0	1	10	0	2	2	0	2	6
Searching for and demanding plea	0	0	0	0	2	8	0	5	4
Attending summons for time to plead	0	0	0	0	1	8	0	3	4
Copy of order	0	0	0	0	0	6	0	1	0
Instructions for replication	0	0	0	0	1	8	0	3	4
Drawing same, fol. 3	0	0	0	0	1	0	0	2	0
Ingrossing and duty	0	0	3	0	0	9	0	1	3
Fee to counsel to sign	0	10	6	0	10	6	0	10	6
Attending him	0	0	0	0	1	8	0	3	4
Rule to rejoin	0	1	10	0	2	2	0	2	6
Searching for and demanding rejoinder	0	0	0	0	2	8	0	6	4
Warrant and docquet	0	1	4	0	2	0	0	2	8
Drawing interlocutory judgment, fol. 3	0	0	0	0	1	6	0	3	0
Ingrossing proceedings on paper, and duty, fol. 43	0	1	3	0	7	11	0	15	7
Entering same on roll	0	0	0	0	7	2	0	14	4
Paid prothonotary	1	12	0	1	12	0	1	12	0
Writ of inquiry, parchment and duty	0	3	6	0	10	8	0	17	10
Paid signing and sealing	0	7	11	0	7	11	0	7	11
Fee thereon	0	0	0	0	1	8	0	3	4
Notice of executing same	0	0	0	0	1	0	0	2	0
Attending execution	0	0	0	0	6	8	0	13	4
Paid sheriff and jury	1	11	6	1	11	6	1	11	6
Stamp on inquisition	0	5	0	0	5	0	0	5	0

Attending

	Out of Pocket			Agent			Attorney		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Attending stamp office	0	0	0	0	1	8	0	3	4
Notice of taxing costs, copy and service	0	0	0	0	1	0	0	2	0
Attending taxation	0	0	0	0	1	8	0	3	4
Paid prothonotary, signing final judgment	0	7	4	0	7	4	0	7	4
Paid clerk of judgments	0	2	0	0	2	0	0	2	0
Term fee	0	0	0	0	2	6	0	5	0
Letters and porters	0	0	0	0	1	0	0	2	0

*References*

*References from Court.*

ON cause being referred by the court, application must be made to Mr. *Thomas Lloyd* the associate, at his chambers *Lincoln's Inn, New Square*, for the order of reference, you pay for the order, if one cause only referred, four shillings and six pence, if more, in proportion to the length.

The respective attornies of the parties, set down on a piece of paper, the names of such witnesses, as either of them intends to examine on the references, and deliver the same to the crier of the (a) court; who will immediately after trial, upon the witnesses being brought up to the bar of the court, swear them, he charges two shillings for every witness sworn to give evidence, for either party.

It is usual for plaintiff's attorney to get (b)

(a) It is best for both attornies to get their respective witnesses sworn in *court*, or otherwise their clients must be at the expence of bringing them before a judge, for that purpose.

(b) Form of arbitrators appointment to sit on reference.

" I do appoint *Thursday* 19th day of this instant *February*, at eleven o'clock in the forenoon, at the sign of the *Sun Tavern* on *Lesson Green, Paddington*, in the county of *Middlesex*, kept by *William Haxell*, to sit upon the matters above referred to me. Dated second day of *February*, 1778."

*James Agate.*

Witness *J. R.* plaintiff's attorney.

appointment



appointment from arbitrator, which, when obtained, he inserts at bottom of order of reference.

When plaintiff's attorney hath procured day of reference appointed by arbitrator, he delivers him copy of order of reference, and also a short brief of his client's case, with the names of the witnesses sworn to give evidence thereon.

Defendant's attorney must be served with an (c) exact copy of order of reference, with the arbitrator's appointment thereon.

Defendant's attorney also furnishes the arbitrator with a short brief of his client's case, with the names of the witnesses sworn in order to be examined for the purpose of supporting the same.

On day appointed for hearing the matters referred, the attornies on both sides agree, with the concurrence of the arbitrator, how they shall proceed, and whether the parties themselves shall or shall not be suffered to be present, during the investigation of the dispute, this being settled to mutual satisfaction, plaintiff's attorney opens his client's case, calls his witnesses, and substantiates the same by their (d) evidence; after which the

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(c) This should be carefully examined with the original order and appointment, by the person who serves it, that he may be able to make an affidavit thereof, if necessary.

(d) Both attornies have a right to cross examine the witnesses on the other side.

defence is entered into in like (*e*) manner, by the adverse party's attorney.

Both attornies have a right, on summoning up the evidence, to reply to any matters, offered against the case made out on the evidence, for their respective clients.

In case the dispute or matters in difference, are long and intricate, arbitrator is at liberty to adjourn (*f*) awarding the same, as suits his conveniency, to a future day; provided he makes his award in writing within the time limited by the order of reference.

If arbitrator cannot, or does not make his award in writing in time, either party, on affidavit of the reasons thereof, may, on motion (*g*) in court procure (*h*) enlargement of time.

(*e*) The arbitrator takes minutes of the evidence given on both sides; and generally appoints a future day for making his award.

(*f*) It is most prudent for arbitrator's attorney to give the attornies of both parties, notice in writing of the adjournments, in order to prevent all excuses for not attending, or pretence for suspecting any partiality in the arbitrator.

(*g*) Notice of this motion must be given, and affidavit of service thereof, annexed to former affidavit.

(*h*) If court grants further time, rule thereof must be drawn up with secondary, for which is paid five shillings, same must be served on arbitrator; and on his fixing a further time to arbitrate, same rule, with copy of his appointment must be served on both the attornies.

Arbitrator's attorney draws up the (i) award from the minutes taken by the arbitrator; and when prepared and executed, he gives both the attornies notice of it's being ready for delivery, that each may take away his part and pay for the same.

If party (k) in whose favour the award is made takes his part, and the other neglects coming to receive his, it will be necessary for the arbitrator to tender or cause to be tendered, his award, to the party refusing to accept the same, that, upon affidavit thereof, (l) order of reference may be made a rule (m) of court.

If order is not complied with, within the time directed by rule, an affidavit of service

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(i) The award is decisive between the parties, unless it can be clearly proved to the court, that the same was made in direct opposition to evidence, or that the arbitrator acted corruptly or dishonestly in any respect; and even then application for relief must be made before the order of reference is made a rule of court, else he will be too late. The award recites the order of reference, and then runs as awards usually do, only observing the necessary alterations throughout, arising from the difference of being arbitrated by virtue of an order of court instead of bonds of arbitration: there must be two parts, each stamped with a *five shilling* impression.

(k) After award made, party in whose favor same is given, takes award from Mr. Lloyd, with *Postea* indorsed, in order to complete his judgment.

(l) The costs at law are taxed by prothonotary on this order of *Nisi prius*, and he is governed thereby in his taxation.

(m) This rule is drawn up by the secondary, for which he is paid five shillings; it must be served on the disobedient party's attorney.

(n) there-

(*n*) thereof, court will grant an (*o*) attachment; this rule must be drawn up with secondary, for which he is paid five shillings.

If attachment is executed, court will not discharge party, till he has fully complied with award, and satisfied all costs incurred by his contempt.

### *Summonses.*

Summonses are to be taken out before a judge of the court; pay for every of them and renewal, whether it be term time or vacation, two (*a*) shillings.

Summons, regularly (*b*) obtained, is a stay

(*n*) Which must be personal. *Barnes* 404.

(*o*) The rule for making the order an act of the court, must be taken to a clerk in court, in the crown office, who will thereupon make out the attachment, for which he charges 13s. and 4d. this is taken to the sheriff of the county in which the party to be attached, resides, who will make out a warrant for 2s. 6d.

(*a*) Summons taken out by an attorney of the court, if defendant, is seldom charged any thing.

(*b*) Judgment signed after summons for time to plead, supported by court, it appearing upon affidavit, that the same was not served till after rule to plead was out. *Barnes* 241, 242, 252, 254, 273. it is an abuse upon the judge to apply for his summons, after rule to plead expired, *Barnes* 252. for had he known the rule was out, he would not have granted the summons, the judge therefore was imposed upon. *Barnes* 254. but th' such judgment is strictly regular, yet court set it aside on payment of costs, pleading general issue, and taking shortnotice of trial; *Barnes* 254. if they consider it as quick practice. See an instance in *Barnes* 265, 266.



stay of proceedings, till (a) discharged, or other order made thereupon. *Barnes* 252.

True copy of all summonses must be (b) served on proper parties; which should be examined with the originals previous to their service, because it may be necessary to make affidavit thereof.

Summons must be attended an hour before it can regularly be renewed, and when it is, it is marked on the side "*second summons*," and served and attended as before; if not attended within the hour, it must be renewed, marked "*third summons*," and served; if not timely attended, upon affidavit (c) thereof, judge's clerk will procure  
you

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(a) Because judge is not supposed to know the state of the cause, in which the summons is granted, the same being issued of course, on application.

(b) The party's attorney must always be served, in case he hath one, if not, it must be left at his last or most usual place of abode, unless *personal* service is required.

(c) The form of which may be thus :

In the *Common Pleas*.

*Jane Chapman,*  
against  
*John Rayner.*

*George Hazel*, of *Gray's Inn*, in the county of *Middlesex*, gentleman, clerk to *Charles Benton*, attorney for the plaintiff in this cause, maketh oath and faith, that he this deponent on the 13th, 14th, and 15th days of this instant *June*, severally served the summons hereunto annexed, by severally delivering true copies thereof to *William Riley*, attorney for the defendant in this  
VOL. I. R r cause,

you an (*d*) order for the matter contained in the summons; which must be served in like manner as summonses.

If summons issues for any matter, which the suitors of the court are, by any rule or order thereof, bound to obey, or in which the judge cannot make an order *ex parte*, the non-attendance of the attorney, in cases wherein it is his duty to attend to enable the judge to do the party justice, or non-compliance of the client, will subject them (on judge's order being made a rule of court, to obtain which is a motion of course) to an attachment of contempt.

The matter for which summonses are granted, are very various; some, and the most usual, are for the following purposes, *viz.* to pay (*e*) debt and costs; to shew cause  
why

cause, and at the same time shewing him the said annexed original summons. And this deponent further saith, that on the *three* several days and times therein mentioned he duly attended an hour thereon, but that the said *William Riley*, or his agent, or any other person on their or either of their behalfs, did not on either of the said three several days aforesaid attend thereon, to the knowledge or belief of this deponent.

Sworn, &c.

G. H.

(*d*) You pay judge's clerk two shillings for every order.

(*e*) The debt must be ascertained between the parties, before any order can be obtained. If party applying doth not pay the costs, when taxed, or at the time given by the order, the other side may proceed, as if no such order had been obtained. Defendant on this summons may obtain five or six days to pay debt and costs, but  
the

why common bail should not be accepted, instead of special (*f*); when affidavit for latter is not sufficient or well founded; for time to put in bail above; for leave to add to and perfect bail; for liberty to justify bail; and for time to plead.

If judge makes an order, for any of the above matters, which he generally does of course, if the party applies in time; it will be upon condition to observe the following (*g*) terms, *viz.* pleading (*b*) issuably, rejoining (*i*) *gratis*, taking (*k*) short notice of trial, or of inquiry, if necessary, within term.

Where application is made, in a *town* cause, for time to put in, add to, or perfect bail; or for time to plead, defendant's attorney will be obliged to enter into an order to plead an issuable plea: and if he afterwards pleads a dilatory plea, or such an one as prevents the law being argued, or the fact tried thereon; judgment may be signed

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the judge will hold him to above mentioned terms, of pleading issuably, &c. if early in the cause, so that plaintiff may not be delayed of trial, in case defendant does not comply with the order.

(*f*) The grounds of this application must be supported by affidavit.

(*g*) Party will not be bound to all the terms, *viz.* pleading issuably, &c. on first summons, unless state of cause requires them.

(*b*) See *P.* 182, note (*a*)

(*i*) See *Id.* note (*b*)

(*k*) See *Id.* note (*c*)

as if no plea had been pleaded, and give notice of executing writ of inquiry.

Summons for (l) time to plead was served upon plaintiff's attorney, who attended an hour; but defendant's attorney never came; whereupon plaintiff's attorney signed judgment, which was set aside by court as irregular, because he had not previously discharged defendant's summons. *Barnes* 240.

In another case, plaintiff's attorney signed judgment, though he did not attend or discharge defendant's summons, or give him an opportunity to renew cause, defendant's attorney having offered to plead issuably, and take notice of trial, time enough for plaintiff to have tried his cause at last assizes; this judgment the court declared to be irregular, the summons not being discharged, and accordingly set it aside. *Barnes* 255.

Prisoner may apply by summons (m) for an order for a *superseas*, on not being declared against in two (n) terms after return of writ.

Bankrupt must (o) summon plaintiff before a judge, to shew cause why he should

(l) Judge's summons, or order for time to plead shall be no bar to motion to change *venue*. *Barnes* 489.

(m) On neglect to attend the judge, he will make an order to discharge prisoner on *first* summons, for *that* is peremptory, this being a case of liberty.

(n) The term wherein the writ is made returnable, is always considered as one of the terms.

(o) The order of discharge or *superseas* will be granted on the *first* summons.



not be discharged out of custody, having surrendered himself in discharge of his bail, and obtained his certificate; which he producing duly allowed, by the lord chancellor, judge will make an order directed to the (p) warden or keeper of the prison in which bankrupt is confined, to discharge him without fee or reward, he being detained at no other person's suit, since the bankruptcy. See *Barnes* 104.

Defendant may be discharged when in custody, after his bail is perfected, by (q) summons also before a judge.

An infant may have a summons granted him, for plaintiff to shew cause why defendant should not name a guardian to defend his suit.

*Summons for an attorney to deliver in to his client, a bill of his fees and disbursements.*

**T**HIS summons should have the title of the causes, in which he makes his demand, on the margin thereof.

If the attorney neglects to attend, *three* summonses having been issued and served

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(p) If prisoner is not in custody of *warden*, he must be discharged by writ of *superfideas*, for an order in this case will only obtain the *superfideas*, not authorize a discharge.

(q) But three summonses, and affidavit of their being regularly served, are necessary in this case.

for that purpose, the judge will order him *ex parte* to deliver his bill of fees and disbursements in a reasonable time, and if he makes further default on his being served with a rule of court, (which is made of course upon motion and affidavit of the service and neglect of attending the three summonses,) an attachment of contempt will issue, upon which no bail is accepted, and the attorney can clear his contempt by no method but obeying the order of the judge, the rule of court, and paying the costs of the attachment.

If the attorney delivers his bill, in obedience to the judge's order, party must take out a summons to shew cause, why the bill of fees and disbursements delivered by him in the above named causes, should not be referred to the prothonotary to be taxed; in case the attorney neglects to attend, being regularly served with three summonses, on affidavit thereof, and of attending thereon, and the client undertaking, in writing under his hand, to pay the attorney the whole sum, that shall appear to be due to him on the taxation, the judge, on his application, will order the bill *ex parte* to be referred to the prothonotary to be taxed; whereon he marks an appointment for that purpose, at the bottom thereof; which order, with the appointment of taxation, must be served on the attorney, whose bill is referred; in case the attorney does not attend, being duly served with three appointments, the prothonotary, on affidavit thereof, and

of

of the regular attendances thereon, will tax the bill referred *ex parte*.

Pending the summons, order, and taxation, nor after (if the sum, at which the bill is taxed, is tendered the attorney) he cannot bring an action. See *ante* 49. *Stat.* 2 *Geo.* II. *chap.* 23. *sect.* 23. *ante* 46, 47, 48.

On defendant's delivering a dilatory plea, if plaintiff makes up and delivers paper book; this amounts to a waiver of the agreement between the parties on judge's order, whereby plaintiff loses his remedy thereon, and must then proceed on paper book, as if no such order had ever been made.

Defendant may obtain *further* time, if not under all the above terms, provided such order does not prevent cause being tried same term in which writ was made returnable; in case he could have gone to trial, had no time been granted.

Where cause of action, in country causes, is local, and cannot be tried but at the assizes, judge will be governed in his orders, in all the above cases, according to the time of holding the assizes, so as not to prevent cause from being tried at the then next assizes, if plaintiff chooses it.

In case either party resides in the country, and cause of action is transitory, same doctrine is held as in a town cause, allowing for difference of notices to bring same to issue.

Mistakes in declaration or issue, may be amended (a) by summons.

Proceedings on bail-bond, are stayed by order obtained on summons; provided trial be not lost thereby, for in that case not even the court itself, on motion, will make a rule for that purpose: and in case judge makes an order, he will oblige defendant to perfect his bail previous thereto; and also to pay (b) costs, receive a declaration, plead issuably, take short notice of trial (c), so that the issue may be tried same term.

### *Mutual Debts, and Set offs.*

Where there are mutual debts between plaintiff and defendant, or if either party sue, or be sued, as executor, or administrator, where there are mutual debts between testator or intestate, and either party; one debt may be set off against the other;

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(a) All proceedings, while on paper, are amendable by summons, by the established practice of this court; except declaration in *ejciment*, which court considers as first process in that action.

(b) If the costs, when *taxed*, be not paid, the action on the bail-bond may be prosecuted, as if no order had been made.

(c) If trial hath been lost, bail must consent that judgment may be entered against them on the bail-bond for plaintiff's security.

and



and such matter may be given in (a) evidence, upon the general (b) issue, or pleaded in bar, as the case shall require, so as at the time of pleading the general issue, (c) notice be given of the particular sum or debt, intended to be insisted upon, and upon what account it became due. Stat. 2 Geo. 2, chap. 22. sect. (d) : 3.

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(a) Before this clause of the act, mutual debts were to be pleaded specially in bar. *Rayn. Read. on stat. 2 Geo. 2 chap. 22. sect. 13. p. 31.*

(b) General issue in this clause, means any general issue. *Barnes 290. Pul. Ni Pri. 177, 178.*

(c) Reason of directing notice to be given of the particular sums intended to be set off, on pleading general issue, is, that plaintiff may thereby know nature of defendant's demands, and be prepared to controvert them, as well as prove his own. *Rayn Read. 31.* This notice cannot be amended, but defendant may withdraw his plea, and plead *de novo*, with new notice of set-off. *Barnes 308, 309.* Trial not to be put off, for absence of witness, who only proves this notice. *Barnes 437.* Plea tho' with notice of set-off must be delivered in town. *Rich. Pract Reg. 125, 281.*

(d) It had, it seems, been a practice in the courts of *Westminster Hall*, (founded on principles of common law) to disallow stoppage or retaining as payment, and for persons mutually indebted to bring action against each other; whether their respective debts were of a less or equal amount, or of the same nature; the numberless vexations and real hardships this practice was daily productive of, induced the great and good Lord Chancellor *Talbot* to promote this law, (which is founded on the strictest ideas of equity and justice) to remedy the enormous evil in question. *Rayner's reading on this clause, p. 24.* which is perpetuated by stat. 8 Geo. 2. chap. 24. sect. 4. because (says the legislature, in the preamble thereto) the provision was highly just and reasonable at all times.

Not-

Notwithstanding however the salubrity of this clause many (*e*) doubts were entertained in courts of justice, concerning the legal construction thereof; the principal opinions have been collected by a gentleman (*f*) of some authority in the profession, to whom we refer (*g*) the learned reader.

These doubts occasioning (*b*) contrariety of opinions, the legislature (*i*) thought proper to interfere, by enacting that "where there are mutual debts between plaintiff and defendant, and defendant's demand (and for which the action is brought) exceeds plaintiff's, the same shall be given in evidence," and for that purpose the defendant usually pleads the general issue, and delivers a notice of set-off; which plea and notice are to be engrossed on a treble penny stamp sheet of paper, and left with the plaintiff's attorney; the person who leaves them must engross another copy of the plea and notice on a like stamp sheet of paper, in order to read the same on the trial of the cause.

In case defendant's demand does not countervail plaintiff's, defendant must move court wherein action is depending, for leave to pay so much money therein, as, with his

(*c*) See *Barnes* 290, 354. *Rich. Pract. Reg.* 267.

(*f*) *John Rayner*, author of the readings above referred to.

(*g*) *Rayn. Read.* 24, 25, &c.

(*b*) *Id.* 28.

(*i*) By stat. 8 *Geo. 2.* chap. 24. sect. 5,

own demand, will be sufficient to satisfy plaintiff's.

Rule obtained on this motion must be drawn up and served, by annexing copy thereof to general issue and notice; another copy of plea and notice is to be engrossed as before observed, for the purpose of reading same on the trial of the cause, if necessary.

*General issue with notice of set-off.*

In the common pleas.

*Easter term, in the 18th year of the reign of king George the third.*

*Jane Chapman, spinster  
against  
John Rayner.*

AND the said *John*, by *Charles Singleton Darrington* his attorney, comes and defends the wrong and injury, when, &c. and saith that he did not undertake and promise in manner and form as the said *Jane* above complains against him; and of this he puts himself upon the country.

Take (a) notice that the above named

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(a) In the notice of set-off, the usual way is for defendant to traverse the counts in plaintiff's declaration, according to the nature of the case,

defendant intends to give in evidence, and insist upon the trial of this cause, that the above named plaintiff, at the time of suing forth the original writ against the said defendant in this cause, was and still is indebted to the said defendant in 40*l.* of lawful money of *Great Britain*, for divers goods, wares and merchandizes of the said defendant by the said defendant, to the said plaintiff, at her special instance and request, sold and delivered; and also in 40*l.* of like lawful money, for so much money by the said defendant, to and for the use of the said plaintiff, at her like special instance and request, paid, laid out, and expended. And also in other 40*l.* of like lawful money, for so much money, by the said plaintiff, to the use of the said defendant, had and received; and that the said several sums of money, or so much thereof as may be necessary, will be set off in satisfaction of and against the money supposed to be due to the said plaintiff, for the matters contained in the declaration in this cause, according to the form of the statute in such case lately made and provided. Dated the 21st day of *February*, 1778.

Your's, &c.

*C. S. Darrington*, attorney  
for defendant.

To *William Stock*, attorney  
for the plaintiff.

*Indorsement*



*Indorsement.*

Easter Term, 18 Geo. 3.

Chapman spinster }  
and } Plea and notice of set-off.  
Rayner. }

JUdgment of *B. R.* ordered to be set off against judgment of *C. B.* and balance due to plaintiff, to be paid by defendant in *C. B.* 3 *Wils. Rep.* 396.

In case of a set-off, where an indorser's name was written before plea pleaded. *Barnes* 453.

*Motions.*

ALL motions (*a*) must be made in open court, (except such as are made in the treasury,) for which purpose the serjeant who moves, must be furnished with an affidavit, stating the fact, on which he grounds his motion; if it is a matter of course, it is

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(*a*) On these motions, rules, whether *Nisi* or absolute, must be drawn up with secondary, and paid for, according to length.

granted,

granted, in the first instance, without reading the affidavit; if it is to be discussed before and by the court, notice must be given in writing of the intended motion, and the purport of it, to the adverse party's attorney, and affidavit of the service, as well of the merits must be produced to the court, which being read, a rule to shew cause is generally granted; this must be (*b*) served on adverse party's attorney, and an affidavit thereof prepared against the time appointed by the court for the opposite side to shew cause; whereupon he takes copies of all the affidavits, otherwise he will not be permitted to shew cause, which, for that purpose, are filed in the prothonotary's office.

The facts whereon these applications are made, vary extremely, but the most usual follow.

*For error in process, or the notice  
subscribed thereto.*

Previous to this motion, notice in writing must be given to the opposite party's attorney; a copy whereof, and of the writ

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(*b*) To make perfect service of *rule*, original must be sworn to have been shewn to party, *at time of service*. *Barnes* says at time of *-serving copy*, see *Barnes* 403: this expression seems absurd, for the *original* is *served* by delivering or leaving *copy*. *N. B.* This doctrine does not hold in service of process. *Barnes* 302. where same absurdity is repeated, but he hath adopted our mode of expression in p. 422.

(*a*) served,

(a) served, an affidavit stating the error in the writ, and that he was served with no (b) other, together with the affidavit of service, must also be annexed, in order to be read in court, when the (c) motion is made; whereupon court grants a rule, *nisi*, which must be served; on affidavit whereof court makes same absolute, and directs costs of application, at discretion; if cause be shewn, process must be produced.

*Error (d) on writ of inquiry, or execution thereof.*

This (e) motion requires notice, affidavit thereof, and of facts; upon reading which, rule *nisi* will be granted, it must be served; on affidavit whereof, court will make same absolute, and order costs, at their discre-

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(a) Whenever defendant will take advantage of a mistake in the process of the court, he must produce the copy served. *Barnes* 298.

(b) *Barnes* 298.

(c) This motion must be made, before interlocutory judgment signed, *Barnes* 256, 296. *ante* 92. or court will not interfere, so as to prevent suit being carried on to judgment.

(d) If defendant takes any step in cause after *error* committed by plaintiff, in his proceedings, such step cures the irregularity, and court will not afterwards redress defendant; and so *vice versa*.

(e) It must be moved, before rule on inquiry is out, else court will not release,

tion; if cause be shewn, inquiry must be produced.

*To set aside assignment (c) of bail bond.*

If plaintiff hath been irregular in taking the assignment, the court (*d*) will set it aside, on defendant's putting in and perfecting his bail; and will subject plaintiff to the costs of the application.

*For payment of money into court, and for conciliums.*

No notice or affidavit of facts is required on either of these motions. See more as to payment of money, *ante* 155 to 160. both inclusive.

*For changing the Venue.*

No notice requisite, only affidavit, this motion cannot be made last day of term, because (*e*) there is not a day left in term, for plaintiff to shew cause, and though defendant could not procure affidavit for that purpose (*f*) sooner. See more on this subject, *ante* 161 to 165.

(*c*) For more on this subject. See *ante* 118.

(*d*) But the application by *summons* is a much easier expence.

(*e*) *Barnes* 480. *ante* 163.

(*f*) *Barnes* 486.



*For special Jury.*

Neither notice nor affidavit required. See *ante* 215, 216.

*To put off trial for want of a material witness.*

This motion requires notice and an affidavit of service; and also of the (g) absence of a witness, and that he is (h) material, where he is, and when he is expected to be subpoenaable; and the motion must be made (i) two days, before the day of trial, or the court will (k) refuse it.

This affidavit must be made by defendant (l) himself, and by no (m) other person;  
belief

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(g) *Barnes* 437, 440, 452.

(h) *Ante* 215. If the witness sworn to be absent, is to prove notice of set-off only, court considering that matter as a collateral defence, refused to put off the trial, observing that no trial had been ever put off on that account. *Barnes* 437.

(i) It appearing, the witness being material was a matter that did not come to defendant's knowledge time enough to move two days before last day appointed for trial, the same was put off. *Barnes* 452.

(k) *Barnes* 438, 442, 444.

(l) *Barnes* 437.

(m) This was overruled, court observing, that there might be many cases, in which a *third* person could swear another to be a material witness, and defendant

belief (*n*) only will not do. For more on this subject see *ante* 215.

*For new (o) trials or in (p) arrest of judgment.*

If party, against whom verdict is obtained on trial, or judgment on inquiry, would have new trial or inquisition, or would arrest judgment on either; it must be done, if on verdict, before or on appearance day (*q*) of return of *Hab. Corp. Jur.* and on inquiry before time given to move in arrest of judgment is (*r*) expired.

Motion to set aside verdict must be made before judgment pronounced. *Ante* 219.

himself could not; and instanced a factor selling goods for his principal, and employing a porter to deliver them; in this case factor would know porter to be a material witness, but principal did not.

(*n*) *Barnes* 437; 448.

(*o*) See *ante* 219. Where any matter of title is in dispute, and defendant obtains a verdict, court will not grant plaintiff a new trial, unless revenue is concerned, *Barnes* 440. nor in case verdict be for defendant on a penal statute. *Barnes* 464 nor in ejectment, if verdict for defendant, otherwise if for plaintiff.

(*p*) See *ante* 219. Court will not arrest judgment on matter party might have availed himself of, before issue joined. *M. S. Cas.*

(*q*) *Barnes* 445.

(*r*) Unless the foundation of the motion, be some matter discovered afterwards. *Barnes* 442. *ante* 219.

If new trial or inquisition be denied, party may afterwards move, on proper affidavit of facts, to arrest judgment; but after motion in arrest of judgment made and refused, new trial or inquisition cannot be obtained.

In order to obtain arrest of judgment, on *postea* or inquiry, the first motion is for (s) rule to bring them into court; affidavit must be made of service of rule, and both annexed to affidavit of facts, on which the motion in arrest of judgment is grounded.

The court will set aside proceedings for any irregularity on either side, in the course of a suit, so as the party complained against be not put to a greater expence, than he would have been subject to, had the motion been made before.

If plaintiff enter appearance for defendant, before his time to enter same, is expired; this irregularity must be complained of, before judgment, *ante* 107.

Defendant cannot move to set interlocutory judgment aside, unless motion be made two days before day appointed for (t) execution of writ of inquiry of damages. *Barnes* 255, 372.

If papers are required to be delivered up, which attorney refuses, court on motion will rule him so to do, or issue attachment.

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(s) Which must be drawn up with secondary, paid for 5s. and served.

(t) So, must an application for any irregularity in delivery or notice of declaration, *ante* 134.

# BILL of COSTS on Motion to set aside JUDGMENT.

Michaelmas Term, 1778.

	Out of Pocket			Agent			Attorney		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Office copy of defendant's attorney's affidavit, at 8 <i>d.</i> per folio, besides duty									
Close copy sent, at 4 <i>d.</i> per folio	0	0	0	0	1	8	0	3	4
Affidavit of plaintiff, at 8 <i>d.</i> per folio, besides duty and oath	0	2	7	0	8	7	0	13	7
Affidavit of plaintiff's attorney, fo. 18, at same rate	0	2	7	0	9	7	0	14	7
Another fo. 5	0	2	7	0	4	3	0	5	11
Brief of affidavits, fo. 48, at 2 <i>d.</i> per folio	0	0	0	0	6	8	0	13	4
Office copy of rule <i>nisi</i>	0	3	6	0	3	6	0	3	6
Fair copy of brief for council, four sheets	0	0	0	0	6	8	0	13	4
Fee to serjeant therewith	2	2	0	2	2	0	2	2	0
Attending him and court when rule discharged with costs	0	0	0	0	3	4	0	6	8
Rule	0	5	0	0	5	0	0	5	0
Copy and service	0	0	0	0	1	0	0	2	0
Drawing bill of extra costs	0	0	0	0	0	6	0	1	0

Attending



	Out of Pocket			Agent			Attorney		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Attending taxing same	0	0	0	0	1	8	0	3	4
Term fee and letters	0	0	0	0	3	6	0	7	0
<i>Fi. fa.</i>	0	3	0	0	6	6	0	10	0
Warrant thereon, and messenger	0	2	4	0	2	10	0	3	4
Officer for levy	1	1	0	1	1	0	1	1	0
Poundage on 80 <i>l.</i> at rate of 1 <i>s.</i> per pound									

*Action for Crim. Con.*

**I**N cases of this kind, which differ from actions brought upon contracts, no bail is required, unless by the special (a) order of a judge, which defendant hath a right to apply to court to (b) discharge, if not well founded. *Rich. Pract. Reg.* 63.

This action not being considered, as a mere action of assault and battery, within the meaning of *stat.* 22 and 23 *Car.* II. *chap.* 9. *sect.* 136. but an action founded on special damage; be the damages given by the jury ever so small, plaintiff shall have full costs, without certificate of judge, under said act of parliament. *3 Wils. Rep.* 319.

(a) *Catmur* was held to bail upon lord chief justice's order, upon affidavits of *Crim. Con.* with *Hadderweck's* wife, and had four days time to put in same. *Barnes* 61.

(b) *Catmur* applied to court, and upon reading affidavits of himself and *Hadderweck's* wife, that *Hadderweck* having been long beyond seas, and she having had advice of his death, received *Catmur's* addresses, and married him as her second husband; the chief justice, (to whom *Catmur* had before applied at his chambers, and before whom the above affidavits were read, and who ordered him to apply to court,) was of opinion, that the order for bail ought to be discharged, nothing criminal appearing in *Catmur*, *Fortescue* and *Reeve*, j. thought, that entring into foundation of order, was examining merits of cause, and therefore improper before trial. *Denton* j. was absent. *Barnes* 61.

Trial at bar granted, the damages laid in the declaration, being (c) considerable, and a great (d) number of witnesses to be examined; plaintiff having liberty to examine a witness in an ill state of health, before a judge in the mean time, and defendant consenting to waive his privilege of (e) parliament. *Barnes* 438. *Rich. Reg.* 411. *Co. Cas.* 103.

Plaintiff must prove his (f) marriage on the trial; which may be done, either by copy of register, or by testimony of one who was present at ceremony; and it is sufficient to prove the marriage, according to form of any religion, as of Anabaptists, Quakers, Jews, &c. *Bul. Ni. Pri.* 28.

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(c) *Viz.* 50,000*l.* *Rich. Reg.* 411. *Barnes* 438.

(d) Upwards of 20. *Barnes* 438.

(e) *Quere*, the authority of a court of justice to enjoin a member of parliament to waive his privilege, he not being at liberty to do it, according to the better opinion, without leave of the house, first obtained by order therein, on motion; for it is not a personal common right, but a public special privilege, founded in political convenience, and therefore does not seem to fall within even the rule of "*Quilibet potest renunciare jure PRO SE introducto*," mentioned by the English "*Servius Sulpitius*." See 2 *Inst.* 183.

(f) *Pratt*, ch. j. delivered it as the opinion of this court, that "defendant's having seriously and solemnly declared, he knew the woman he had seduced was plaintiff's wife," would be evidence proper to be left to the jury, *without proving the marriage.* *Will. Rep. B. R.* 399.

Wife's confession will be no evidence against (g) defendant; so letters (h) written to her by defendant, may be read as evidence against him.

Proper plea under statute of limitations, [viz. 21 Jac. I. chap. 16.] is not guilty within six years. *Introduet. (i) to Law relative to Trials at Ni. Pr. 28.*

### *Directions for inrolling Deeds.*

**C**ARRY the deed to a judge, either at his chambers or house, or, if in term time, it may be done in *Westminster Hall*; in case of a bargain and sale, one of the parties must attend and acknowledge it; but if the deed only requires the judge's *fiat*, then the party need not attend, for the judge grants a *fiat* (a) of course, which, as well

(g) But a discourse between her and him, may be proved. *Trial at Ni. Pr. 28.*

(h) But her letters to him will be no evidence for him. *Id. ib.*

(i) This introduction is said to be originally wrote by lord chancellor *Bathurst*, and revised by Mr. *J. Buller*.

(a) The *fiat* is wrote on the margin of the deed, generally by the judge's clerk; the form whereof may be as follows: "Let this deed be inrolled in his majesty's court of *Common Pleas*, at *Westminster*. [If a Roman Catholic deed, add the words "*pursuant to the act of parliament*" immediately after the word "*Westminster*."] Dated this 20th day of *March* 1778, before

*George Nares,*  
(judge's name)



as the (b) acknowledgement, are the officer's warrant for inrolling the deed.

Clerk of (c) warrants of attorney, supplies you with rolls *gratis*, for ingrossing (d) the deeds on.

If attorney ingrosses the deed; after examining the same, he takes it to warrant of attorney's office, and the (e) clerk will immediately indorse, docquet, and inroll it, being obliged so to do.

All deeds inrolled are docquetted or entered in alphabetical order in warrant of attorney's office, for the convenience of those who may have occasion to search, or take copies or extracts thereof.

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(b) The acknowledgement is wrote on the margin of the deed, generally by the judge's clerk; the form whereof may be as follows:

“ The execution of this deed was acknowledged (in court) by *James Cox*, (*the person acknowledging same*) party thereto, this 20th day of *April 1778*, before  
GEORGE NARES.”

(c) His office is kept at N<sup>o</sup>. 6. *Clifford's Inn, Fleet Street.*

(d) Clerk of warrant, if desired, is obliged to ingross the deed upon the rolls.

(e) It not being necessary in this court, as in *King's Bench*, for attorney to indorse deed, or carry in docquet.

Fees

## Fees for inrolling.

	Off. Ch.			Attorn.		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Acknowledging in court	0	1	0	0	1	0
Before a judge at chambers	0	5	0	0	5	0
<i>Fiat</i> —                   —	0	2	6	0	2	6
Inrolling per sheet (92 words)	0	0	3	0	0	8
Docqueting           —           —	0	1	0	0	3	4

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*A Rule or Measure of Costs comprehending such Items of Disbursements and Fees, as have not occurred, or been before submitted to the Reader, in the former Part of this volume.*

WRITS.	l.	s.	d.
<i>NON omittas capias</i> ———	0	10	2
Attachment of contempt	0	8	3
Attachment proper ———	0	8	3
<i>Testatum</i> attachment ———	0	10	6
<i>Subpoena ducens tecum</i> ———	0	8	0
Drawing and ingrossing <i>Scire facias</i> } per sheet each ———	0	0	8
besides fee ———	0	6	8
Special original, per sheet —	0	0	8
Fee ———	0	6	8
Writ of possession fee 3 s. 4 d. } Making the writ 1 s. 8 d. —	0	5	0
<i>Test. Fi. Fa.</i> and <i>Ca. Sa.</i> each	0	10	6

SERVICE, &c.

Serving notice of declaration, or executing a writ of inquiry (if under 20 miles 3d. per mile to and from the place, i. e. 6d. per mile in the whole.

The like allowance in case of conduct-money.

If

	<i>l. s. d.</i>
If above 20 miles, for a neighbouring attorney ———	} 0 10 6
To allow 1 <i>s.</i> 4 <i>d.</i> for every defendant the plaintiff appears for, over and above the 5 <i>s.</i> 4 <i>d.</i> allowed for the first defendant.	
Entring appearance between attorney and client ———	} 0 5 4
Copies of affidavits in order to shew cause, <i>per sheet</i> —	} 0 0 4

*ACTIONS on judgments or statutes.*

	<i>l. s. d.</i>
Drawing, <i>per sheet</i> ———	0 0 8
Copying —————	0 0 8
Entring ——— ———	0 0 8
Term fee —————	0 6 8

*ISSUES, &c*

Drawing forejudger 2 <i>s.</i> ingrossing the whole, <i>per sheet</i> —	} 0 0 4
Drawing and ingrossing affidavit, <i>per sheet</i> ———	} 0 0 8
Drawing judgment 2 <i>s.</i> ingrossing the whole, <i>per sheet</i> ———	} 0 0 4

*Preparing for TRIAL.*

Town witnesses (if the charge exceeds 40 <i>s.</i> allowed in common costs) <i>per diem</i> ———	} 0 2 6
Country witnesses, <i>per diem</i> ———	0 5 0
	Attend-



	l.	s.	d.
Attending the trial every day 6s. } 8d. and on the day of trial, be- } tween attorney and client } If between party and party, in the } whole } <u>          </u>	0	13	4
	0	13	4

B A I L - B O N D S.

Common costs in the sheriff's name	2	10	0
On an assignment, if 12 sheets } judgment by <i>Nil dicit</i> }	4	10	6
For every three sheets more —	0	10	0
If the plaintiff enter appearance for } defendant, more }	1	0	0
On <i>Comper' ad diem</i> , the old way	3	10	0
On the new way <u>          </u>	5	10	0
For every 3 sheets above 12 in a } declaration }	0	10	0

N O N P R O S.

For not declaring where appearance	1	13	4
With bail, more <u>          </u>	0	10	0
For not replying <u>          </u>	2	13	4
If bail, more <u>          </u>	0	10	0
For not joining in demurrer to de- } claration }	3	6	8
Bail, more <u>          </u>	0	10	0
And for every other pleading } more, if short }	1	0	0
For not entering issue <u>          </u>	3	3	4
Bail more <u>          </u>	0	10	0
For every count more than the first	0	3	0

COGN'

## COGN' DAMPN'.

		<i>l.</i>	<i>s.</i>	<i>d.</i>
1. Narr' the same	—	5	0	0
Of different terms	—	5	10	0
Every Narr' more	—	0	10	0
With bail more	—	0	10	0

## By DEFAULT.

Inquiry 1 Narr'	—	7	10	0
Every Narr' more	—	0	10	0
If plaintiff enters appearance		1	0	0
If in trespass and imprisonment, assault, &c.		7	16	8
If plaintiff enter appearances		8	16	8

## TRIALS.

Common costs 1 count	—	14	10	0
For every count more	—	0	10	0
For trespass, assault, or imprisonment, 5 sheets or under		14	16	8
Every three sheets more	—	0	10	0
In ejectment, on demise	—	15	16	8
Every demise more	—	0	10	0
Common costs for not confessing lease, entry and ouster on the rule	—	16	16	8
Attending taxing costs, though many causes in a bill, only con- sidered as one cause, so only		0	3	4

## OBSERVATIONS.

1. Nothing for attending a sheriff or marshal in any case.

2. Decla-

2. Declaration where *Habeas corpus* is brought to follow the office the *Habeas corpus* is signed in.

3. Counts in a declaration, at the suit of attorney, unless it appears on the face of the declaration, that he sues for fees, are to be paid for; and no privilege where he is defendant, either as to appearance or pleading.

4. No declaration to be allowed if the plaintiff be summoned the day before the return; but if served upon the return-day, then declaration and entry to be allowed if declaration produced.

5. No maps to be allowed on trials *inter parties*.

6. No wrong or under-charge to be supplied in any manner, except in fee for passing record when only charged 3*s.* 4*d.* instead of 6*s.* 8*d.*

7. Nothing extraordinary to be allowed for arresting defendant, or serving him with process than the usual fee of 10*s.* 6*d.* and 5*s.* for extraordinary expence and trouble, even between attorney and client, unless by the latter's express orders.

Plaintiff's

Plaintiff's BILL of DISBURSEMENTS and  
FEES, on Defendant's being arrested.

Easter Term, 1778.

	Out of pocket			Agent			Attorney		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Instructions, &c.	0	0	0	0	2	2	0	4	4
Affidavit of debt	0	2	7	0	4	1	0	5	7
<i>Test. Cap.</i> out of <i>Mid.</i> into <i>London</i>	0	8	9	0	14	10	1	1	0
Warrant and messenger	0	0	6	0	1	0	0	1	6
Paid officer	0	10	6	0	10	6	0	10	6

Trinity Term following.

Searching whether bail filed	0	0	0	0	1	8	0	3	4
Entring exception there- to, and notice there- of, copy and service	0	0	0	0	1	3	0	2	6
Motion in Treasury for sheriff to return <i>ca-</i> <i>pias</i>	0	0	0	0	1	8	0	3	4
Rule	0	4	6	0	4	6	0	4	6
Copy and service	0	0	0	0	1	0	0	2	0
Attending court when other bail added and justified	0	0	0	0	1	8	0	3	4
Declaration 1 s. per fol.									

Entring



	Out of Pocket			Agent			Attorney		
	l.	s.	d.	l.	s.	d.	l.	s.	d.
Entering on roll and paid prothonotary	0	6	0	0	8	0	0	10	0
Copy on stamp delivered folio 10, warrant and duty	0	0	3	0	2	3	0	4	3

*If Defendant was served with Copy of Writ only, and not arrested, the Items will be as follow:*

<i>Instructions, &amp;c.</i>	0	0	0	0	2	2	0	4	4
<i>Capias</i>	0	4	10	0	7	11	0	11	0
<i>Cap. per cont.</i>	0	3	6	0	6	7	0	9	8
<i>Two copies and service</i>	0	0	0	0	5	0	0	10	0
<i>Searching for appearance</i>	0	0	0	0	1	8	0	3	4
<i>Affidavit of service of process</i>	0	2	7	0	4	1	0	5	7
<i>Appearance pursuant to the statute</i>	0	2	6	0	4	2	0	5	10
<i>Declaration and copy 1 s. per folio</i>	0	0	0	0	6	0	0	12	0
<i>Entry on roll, and paid prothonotary</i>	0	6	8	0	9	4	0	12	0
<i>Copy on stamp left in office, warrant and duty</i>	0	0	3	0	2	7	0	4	11
<i>Notice of declaration filed, copy and service</i>	0	0	0	0	1	0	0	2	0
<i>Rule to plead</i>	0	1	10	0	2	2	0	2	6
<i>Searching for, and demanding plea</i>	0	0	0	0	2	8	0	5	4
<i>General issue</i>	0	0	0	0	0	6	0	1	0

	Out of Pocket			Agent			Attorney		
	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>	<i>l.</i>	<i>s.</i>	<i>d.</i>
Drawing part of issue, at 2 <i>d.</i> per folio									
Copy of whole issue, at rate of 4 <i>d.</i> per folio									
Entry of issue on roll, and paid prothonota- ries	0	6	0	0	9	0	0	12	0
Warrants of attorney	0	0	8	0	1	8	0	2	8
Entering cause for trial	0	13	0	0	13	4	0	13	4
Attending for that pur- pose	0	0	0	0	1	8	0	3	4
Notice of trial, copy and service	0	0	0	0	1	0	0	2	0
Stamp and parchment for record	0	6	6	0	6	6	0	6	6
Ingrossing, at 4 <i>d.</i> per folio									
Paid prothonotary mark- ing same	0	1	0	0	1	0	0	1	0
Sealing record, jurata, and seal	0	11	2	0	11	2	0	11	2
For ingrossing same	0	0	0	0	3	4	0	6	8
Venire	0	4	0	0	6	2	0	8	4
Return thereof	0	2	6	0	2	6	0	2	6
<i>Hab. Corp. jur.</i>	0	4	5	0	6	8	0	9	0
<i>Subpœna</i>	0	3	8	0	5	4	0	7	0
Four tickets	0	0	0	0	1	0	0	2	0
Service	0	0	0	0	5	0	0	10	0
Conduct money	0	4	0	0	4	0	0	4	0
Instructions for brier	0	0	0	0	3	4	0	6	8
Drawing same, two sheets	0	0	0	0	6	8	0	13	4