

been for heriot service, for that cattle are distrainable. *Barnes* 148.

Nonfuit in replevin; avowant executed a writ of inquiry, after a writ of second deliverance, and good. *Wils. Rep. C. B.* 116, *Barnes* 426.

GEORGE the third, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. To the sheriff of *Essex*, greeting. We command you, that in your full county you cause the plaint to be recorded, which is the same county, without our writ, between *Richard Knightsbridge*, and *John White*, and *William Sell*, of the cattle, goods and chattels of the said *Richard*, taken and unjustly detained as it is said, and that you have the said record before our justices at *Westminster*, from *Easter* day in fifteen days under your seal, and the seals of four lawful knights of the same county, of such as shall be present at the said record, and that you prefix the same day to the parties, that then they may be there ready to proceed in the said plaint as shall be just; and have you there the names of the said four knights, and this writ. Witness ourself at *Westminster* the sixth day of *March* in the seventh year of our reign. Let execution be done of this writ, if the said *Richard* desire it, otherwise not.

<i>s. d.</i>	
<i>Duty</i>	2 0
<i>Cursitor</i>	2 6
	4 6

*Browne;*

By

*The return.*

By virtue of this writ to me directed in my full county court, held for the county of *Essex* or *Chelmsford* in the county aforesaid, the one and thirtieth day of *March* in the year within mentioned, I caused the plaint between the parties within named to be recorded, and have that record ready before the justices of our lord the king at *Westminster* at the day within mentioned, under my seal, and the seals of *Richard Cox*, *Charles Tabor*, *Henry Burdock*, and *Samuel Barwick*, four lawful knights of the same county, who were present at the recording the said plaint; and I have prefixed the same day to the said parties, that they be then before the said justices of our sovereign lord the king at *Westminster*, to proceed therein according to justice as by the same writ I am commanded.

The rest of the execution of this writ appears in a certain schedule to the said writ annexed.

The answer of

*James Hannol*, esq; Sheriff.

*Essex*, *to wit.* **A**T my county court held at *Chelmsford* in the county aforesaid, the fifth day of *February* in the year of our Lord 1739, (among other things) it is thus recorded.

*Richard Knightsbridge* complains of *John White*, and *William Sell*, of a plea of taking and unjustly detaining of his cattle, goods and chattels, &c.

Pledges

Pleges to prosecute, { *John Mansfield of Ho-*  
                                  { *sier Lane, London,*  
                                  { *watch-spring maker.*  
                                  { *John Besuth of Strat-*  
                                  { *ford Langthorne in*  
                                  { *the county of Essex,*  
                                  { *gardener.*

*Thomas Bowes, esq; sheriff.*

*GEORGE* the third, by the grace of *Pone in re-*  
God, of *Great Britain, France, and Ireland,* <sup>*plevin.*</sup>  
king, defender of the faith, &c. To the  
sheriff of *Essex*, greeting. Put by sureties  
and safe pledges, *John White* and *William*  
*Sell*, that they be before our justices at *West-*  
*minster*, from the day of the holy *Trinity* in  
three weeks, to answer to *Richard Knight-*  
*bridge* of a plea wherefore they took the  
cattle, goods and chattels of the said *Ri-*  
*chard*, and them unjustly detained against  
gages and pledges, as he saith, and to shew,  
wherefore they have not appeared in our  
court before our justices at *Westminster*, from  
*Easter* day in fifteen days last past, as the  
day prefixed to them; and have you there  
the names of the pledges and this writ.  
Witness Sir *William De Grey*, knt. at *West-*  
*minster*, the 29th day of *May* in the 7th  
year of our reign.

6 June 1777.

*Boycott.*  
R. by R.

**COSTS**

COSTS for PLAINTIFF in RE-  
PLEVIN.

Hilary Vacation, 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 and war- rant to sue	0	0	0	0	2	2	0	4	4
Attending execution of the replevin bond	0	0	0	0	1	8	0	3	4
Paid sheriff for same	1	1	0	1	1	0	1	1	0

Easter Term following.

Paid entering plaint	0	3	8	0	3	8	0	3	8
Attending county court	0	0	0	0	1	8	0	3	4
Searching for <i>Recordari</i>	0	0	0	0	1	8	0	3	4
Declaration fo. 3	0	0	0	0	1	6	0	3	0
Engrossing duty, war- rant, &c.	0	0	3	0	1	1	0	1	11
Entry on Roll	0	0	0	0	0	6	0	1	0
Rule to avow	0	1	10	0	2	2	0	2	6
Searching for and draw- ing avowry	0	0	0	0	2	8	0	5	4
Copy avowry fo. 10	0	0	0	0	1	8	0	3	4
Paid advising with council thereon, and on plea in bar	0	10	6	0	10	6	0	10	6
Attending him	0	0	0	0	1	8	0	3	4

Search

*in the Court of Common Pleas.* 447

	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>
Searching for rule to plead in bar	0	0	0	0	1	8	0	3	4
Summons to amend declaration	0	2	0	0	2	0	0	2	0
Copy and service	0	0	0	0	1	0	0	2	0
Attending thereon	0	0	0	0	1	8	0	3	4
Order, copy and service	0	2	0	0	3	0	0	4	0
Appointment to tax costs, copy, and service	0	2	0	0	3	0	0	4	0
Taxing same	0	0	0	0	1	8	0	3	4
Paid costs of amendment	0	18	0	0	18	0	0	18	0
Attending to amend declaration and to pay costs taxed	0	0	0	0	1	8	0	3	4
Term, fee, letters, &c.	0	0	0	0	3	6	0	7	0

Trinity Term, 1778.

New rule to avow	0	1	10	0	2	2	0	2	6
Searching for and demanding avowry	0	0	0	0	2	8	0	5	4
Copy avowry, fo. 10	0	0	0	0	1	8	0	3	4
Searching for rule to plead in bar	0	0	0	0	1	8	0	3	4
Plea in bar, fo. 6	0	0	0	0	3	0	0	6	0
Fee to council for signing same	0	10	6	0	10	6	0	10	6

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 him for that purpose	0	0	0	0	1	8	0	3	4
Engrossing and duty	0	0	3	0	1	3	0	2	3
Paid for entry	0	4	0	0	4	0	0	4	0
Paid for rule to reply	0	1	10	0	2	2	0	2	6
Searching for and demanding replication	0	0	0	0	2	8	0	5	4
Copy replication	0	0	0	0	0	6	0	1	0
Searching for rule to rejoin	0	0	0	0	1	8	0	3	4
Demurrer to replication, fo. 3	0	0	0	0	1	6	0	3	0
Fee to council for signing	0	10	6	0	10	6	0	10	6
Attending him thereon	0	0	0	0	1	8	0	3	4
Engrossing and duty	0	0	3	0	0	9	0	1	3
Paid entering demurrer	0	2	0	0	2	0	0	2	0
Rule to rejoin in demurrer	0	1	10	0	2	2	0	2	6
Searching for and demanding joinder	0	0	0	0	1	8	0	3	4
Term fee, letters, &c.	0	0	0	0	3	6	0	7	0

COSTS

COSTS FOR DEFENDANT in Replevin, on stat. 11 Geo. II. chap. 19. sect. 21. which orders double costs to be paid by PLAINTIFF, on his being non-suited, &c.

	Out of Packet			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 in <i>Bell Lane, Paddington</i> , and making a distress on the goods of <i>James Agate</i> the tenant, notice thereof with inventory	0	0	0	0	10	6	1	1	0
Two fair copies of inventory, to serve and keep	0	0	0	0	3	4	0	6	8
Searching at sheriff's office whether replevin brought, when found there was	0	0	0	0	1	8	0	3	4
Paid man for four days possession and board 3 <i>s.</i> 6 <i>d.</i> a day*	0	14	0	0	14	0	0	14	0
<i>In sheriff's court.</i>									

\* If man does not find himself in board, he is intitled to only 2*s.* 6*d.* a day.

Trinity Vacation, 177<sup>o</sup>.

	Cut of Pocket			Ag nt			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 and warrant to defend	0	0	0	0	2	2	0	4	4
Entering appearance	0	2	0	0	3	8	0	5	4
Searching for bail	0	0	0	0	1	8	0	3	4
Letters, &c.	0	0	0	0	0	6	0	1	0
<i>In this court</i>									

## Michaelmas Term, following.

Precipe for <i>Re. Fa. Lo.</i> to remove plaintiff and copy	0	0	0	0	0	6	0	1	0
Paid curfitor for same	0	4	6	0	4	6	0	4	6
Fee thereon	0	0	0	0	1	8	0	3	4
Attending sheriff therewith, and for return	0	0	0	0	1	8	0	3	4
Paid sheriff for return, and for summoning defendant	0	14	6	0	14	6	0	14	6
Returning and filing <i>Re. Fa. Lo.</i> with filacer	0	2	0	0	2	6	0	3	6
Entering appearance	0	2	4	0	4	0	0	5	10
Rule to declare	0	1	10	0	2	2	0	2	6
Letters, &c.	0	0	0	0	0	6	0	1	0

Hilary



Hilary Term, 1779.

	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>
Searching for and demanding declaration	0	0	0	0	2	8	0	5	4
Judgment of <i>Non-pros.</i>	0	0	0	0	1	6	0	3	0
Paid for stamp	0	5	1	0	5	1	0	5	1
Entry on roll	0	0	0	0	0	6	0	1	0
Paid prothonotary signing judgment	0	6	0	0	6	0	0	6	0
Writ of <i>retorn. habend.</i>	0	3	2	0	5	10	0	8	6
Attending sheriff therewith, and for return	0	0	0	0	1	8	0	3	4
Paid for return, " <i>elongata</i> "	0	3	4	0	3	4	0	3	4
Paid filing same	0	1	0	0	1	0	0	1	0
Term fee ( <i>Non-pros</i> signed)	0	0	0	0	3	4	0	6	8
Letters, &c.	0	0	0	0	1	0	0	2	0

Proceedings on Replevin Bond.

Easter Term, 1778.

Instructions and warrant to proceed on recognizance of bail	0	0	0	0	2	2	0	4	4
Attending sheriff for licence to proceed,									
	G g 2						and		

	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>
and signing, his indemnity	0	0	0	0	1	8	0	3	4
Paid for same	0	6	8	0	6	8	0	6	8
Copy replevin bond, folio 8.	0	0	0	0	0	8	0	1	4
<i>Capias</i>	0	4	2	0	7	7	0	11	0
Many journies in order to serve same	0	0	0	0	2	6	0	5	0
<i>Cap.</i> by contin.	0	3	5	0	6	7	0	9	8
Endeavoring to serve same	0	0	0	0	2	6	0	5	0

*Fines.*

*Fines.*

**F**INES are used as common assurances for the conveyance of lands, and are of several sorts, *viz.*

1. *Sur cognizance de droit, come ceo que il ad de son done.*
2. *Sur done, grant et render.*
3. *Sur cognizance de droit tantum.*
4. *Sur concessit.*
5. *Sur release.*

These are for several purposes, but the first is the most usual, and of that only we shall treat here, the rest being but seldom made use of.

Fines are taken either with or without a *Dedimus potestatem.* *Methods of taking a fine.*

*Without a Dedimus.*

1. In court, or
2. By the chief justice out of court.

*By Dedimus.*

1. By any of the judges, or by a serjeant at law (and in this case a *Dedimus* may be taken out after the caption, but before the judge or serjeant will return the caption;) or
2. By commissioners named in the *Dedimus*, and therefore in this case the *Dedimus* must be taken out before the caption.

*Of passing a fine in court.*

In this case you get the writ of covenant before the caption, and for that purpose you make out a *Præcipe* to the curfitor in the following form, according to the nature of the case.

*Præcipe for writ of covenant.*

Middlesex, *to wit*, Command *A. B.* gentleman and *E.* his wife, that justly, &c. they perform to *C. D.* the covenant made between them, of one messuage and one garden, with appurtenances in *B.* and unless, &c. *Returnable, &c.*

After you have got the writ of covenant, for which you pay *7 s. 6 d.* you ingross the *Præcipe* and concord in parchment in the following form.

*Præcipe and concord.*

Middlesex, *to wit*, Command *A. B.* gentleman, and *E.* his wife, that justly, &c. they perform to *C. D.* the covenant made between them, of one messuage and one garden, with the appurtenances in *B.* and unless, &c.

And the agreement is such, *to wit*, that the aforesaid *A.* and *E.* have acknowledged the aforesaid tenements, with the appurtenances, to be the right of him the said *C.* as those which the said *C.* hath of the gift of the aforesaid *A.* and *E.* and these they have remised and quit-claimed from them

the

the said *A.* and *E.* and the heirs of the said *A.* to the aforesaid *C.* and his heirs for ever: And moreover the said *A.* and *E.* have granted for them and the heirs of the said *A.* that they will warrant to the aforesaid *C.* and his heirs, the aforesaid tenements, with the appurtenances, against them the said *A.* and *E.* and the heirs of the said *A.* for ever: And for this, &c.

You then go with the conufors to *Westminster*, and give the writ, *Præcipe* and concord; to a serjeant's clerk, and he will get it passed for you; the wife must be examined by one of the judges, as to her free consent, without coercion of her husband.

If the fine be to be acknowledged before Before the chief the chief justice, a judge, or serjeant at law, justice, a judge, you ingross the *Præcipe* and concord on or serjeant. parchment, as before, and make another copy of them on paper, and write under each of them on the left hand side thus:

Taken and acknowledged the  
day of                    in the  
eighth year of the reign of  
our sovereign lord *George* the  
third, now king of *Great*  
*Britain*, &c. Before me.

The concord ingrossed on parchment, and the paper copy thereof, must be signed by the cognizers; you then go with the cognizers before the chief justice, judge, or serjeant, who will take the caption, examining the wife as before; the paper copy is kept by

the clerk of the chief justice, judge, or serjeant; you pay for the caption 12 s. 6 d.

If the fine be taken by a judge (not being the chief justice,) or by a serjeant, you sue out a *Dedimus potestatem*, and for that purpose you make out a *Præcipe* for the curfitor as followeth:

Middlesex, *to wit*, Command *A. B.* gentleman, and *E.* his wife, that justly, &c. they perform to *C. D.* the covenant made between them of one messuage, and one garden, with the appurtenances, in *B.* And unless, &c.

*De. po.* To [naming the judge or serjeant:] You pay for this *Dedimus* 10 s. 8 d. And deliver it to the judge, or serjeant's clerk, who will get it returned for you.

If the fine be to be taken by special commissioners, you make a *Præcipe* for the curfitor in the following form, according to the nature of your case.

Essex, *to wit*, Command *C. K.* and *L.* his wife, that justly, &c. they perform to *D. B.* gentleman, the covenant, &c. of twenty acres of land with the appurtenances in *C.* And unless, &c.

*De. Po.* directed to

}	<i>J. B.</i> knight.
	<i>R. R.</i>
	<i>C. M.</i>
	<i>S. W.</i>
	<i>J. W.</i>

You

You pay for this *Dedimus* 1 l. 5s. 8d.

Then you ingross the *Præcipe* and concord in parchment; in this form :

Essex, *to wit*, Command C. K. and L. his wife, that justly, &c. they perform to D. B. the covenant made between them of twenty acres of land, with the appurtenances in C. And unless, &c.

And the agreement is such, that is to say, that the aforefaid C. and L. have acknowledged the aforefaid tenements, with the appurtenances, to be the right of him the said D. as those which the said D. hath of the gift of the aforefaid C. and L. and those they have remised and quit-claimed from them the said C. and L. and the heirs of the said C. to the aforefaid D. and his heirs, for ever. And moreover the said C. and L. have granted for them and the heirs of the said C. that they will warrant to the aforefaid D. and his heirs, the aforefaid tenements, with the appurtenances, against them the said C. and L. and the heirs of the said C. for ever. And for this, &c.

Taken and acknowledged the  
day of                    in the  
eighth year of the reign of  
our sovereign lord George the  
third, now king of *Great  
Britain, &c.* Before

Any two of the commissioners may take the fine, examining the wife separate and apart from the husband, as to her free consent,

sent, without coercion from her husband, to pass the fine, and part with her interest in the lands, telling her the consequence of her acknowledging the fine; the *Præcipe* and concord should be read to the cognizors, and then signed by them, and the commissioners sign the caption and then annex the *Præcipe* and concord to the *Dedimus*, and the commissioners subscribe their names to the return, which is to be indorsed on the back of the *Dedimus* in the following words, *viz.*

*The execution of this writ appears in a certain schedule hereunto annexed.*

*Vide postea* the rule; as the affidavit necessary of the due taking of a fine by *Dedimus*, and a judge's *Allocatur* thereon.

As to passing the fine through the offices; you carry the writ of covenant to the *Alienation-Office* in the *King's Bench Walks* in the *Temple*, to compound for the fine, for which the commissioners have fixed rules, according to the parcels in the writ; if a commissioner be present, you compound for the fine immediately, and pay the fine and the fees, the latter generally about 2s. The clerk keeps the writ generally two days to enter it in the office-books; having got the writ from the *Alienation-Office*, you ingross a warrant of attorney on parchment in the following form, according as your case requires.



Michaelmas term in the seventh year of  
king George the third.

Essex, *D.* B. putteth in his place *A. B.* his  
*to wit.* attorney, to prosecute a writ of  
covenant against *C. K.* and *L.* his wife of  
lands in *C.*

This warrant you file with the clerk of  
the warrants in *Clifford's Inn*, for which you  
pay *4d.* and *4d.* for every *Post terminum* ;  
for the warrant of attorney must be of that  
term in which the writ of covenant was re-  
turnable.

By *stat. 32 Geo. 2. c. 14. sect. 1.* On eve-  
ry writ of covenant which shall be sued out  
for the passing of fines in the Common Pleas  
at *Westminster*, the officer whose duty it is to  
set and indorse the pre-fine payable thereon,  
shall at the same time set the usual post-fine,  
and indorse the same on the back of the said  
writ, together with his name or mark of of-  
fice, in like manner as the same are now in-  
dorsed at the king's silver office, which post-  
fine shall be forthwith paid to the receiver of  
pre-fines at the alienation office, with *4d.*  
as his fee for receiving the same, instead of  
the fee of *4d.* charged on lands and heredi-  
taments, and payable to sheriffs, bailiffs,  
and others, on discharging the same, by *3*  
*Geo. 1. cap. 15.* which fee of *4d.* by the said  
act granted, after the first day of *Trinity*  
term 1759, shall cease; and such receiver  
shall indorse, upon the back of every such  
writ

writ of covenant, one mark of office, as is now used by him on the receipt of pre-fines at the alienation office, with the name of such receiver, and the sum received as the post-fine, which mark of such receiver shall discharge the manors, lands and hereditaments comprised in the said writ of covenant, and the cognizees named therein.

By *stat. 2.* The officer or clerk of the king's silver office, or his deputy, shall continue to enter every fine upon record in the way hitherto used, and make the same entries, and put thereon the same indorsements with the same mark, and in like manner as has hitherto been the practice of the said office in passing of fines; and no fine, until the same be marked with the sum to which the post fine amounts in the king's silver office, shall be effectual in law.

By *stat. 3.* Where no pre-fine is payable on any writ of covenant, (*viz. where the lands are under the yearly value of five marks*) the officer at the alienation office, whose duty it is to set the pre-fines, shall set on every writ of covenant brought to the said alienation office, on which no pre-fine is payable, a post-fine of 6s. 8d. and shall indorse such post-fine of 6s. 8d. on every such writ of covenant with his name and mark of office, as it hath been usual; and every such post-fine of 6s. 8d. shall be paid to the receiver of the alienation office, before the writ of covenant on which no pre-fine is payable, be passed at the alienation office; and the receiver, on payment of the said 6s. 8d. shall indorse

indorse and mark every such writ of covenant, as other writs of covenant are by this act directed to be indorsed.

By *sect.* 4. The officer or clerk of the king's silver office, or his deputy, after the first day of *Trinity* term 1759, shall not receive any writ of covenant, unless it appear by the mark and indorsement of such receiver, that the post-fine has been paid.

By *sect.* 5. If after the payment of such post-fine, the writ of covenant by the death of any of the parties, or other cause, be prevented from passing through the several other offices, so as the said fine is not completed; then the said receiver shall repay to the cognizees, or their attorney, on producing and filing with him the said writ of covenant, every such sum as has been before by him received for the post fine; and such writ of covenant so remaining filed with such receiver shall be a discharge to such receiver.

By *sect.* 11. This act shall not alter the operation of any fine, which after the first day of *Trinity* term 1759 shall be levied in the Common Pleas at *Westminster*, or the course of passing fines in that court, otherwise than by this act directed.

You then carry the writ of covenant to the office of the *Custos Brevium*, in *Brick Court* in the *Temple*, to be entered, and three days after you fetch it away, carry then with you the concord and *Dedimus* (if any) to have the proclamations indorsed; you  
pay

pay here 3 s. 8 d. and 1 s. 8 d. for every *Post terminum*, if any.

Then annex to the writ of covenant the concord and *Dedimus* (if any), and leave them at the king's silver office in *Old Crown-Office Row* in the *Temple*; you pay here 1 s. 8 d. for the caption, and 4 d. for every other caption, if more than one, and fetch the writ, &c. from this office the third day after you left it.

Then you carry the writ, concord, &c. to the chirographer's office, to make the indentures; which you have in about a week's time.

**W**HEREAS by a rule of this court, made in the thirteenth year of the reign of his late majesty king *George*, it was ordered, that no fine whatsoever taken and acknowledged before any commissioners, by virtue of a writ of *Dedimus potestatem* to them directed, be allowed to pass, unless some person present when such fine was taken and acknowledged did personally appear before the lord chief justice, or some other justice of this court, and was examined upon oath touching the due execution thereof, and particularly whether such person knew the parties acknowledging such fine; which rule has been found by experience to be attended with inconveniencies, and has not answered all the good purposes for which it was intended; for remedy thereof, and the better to ascertain the practice for the future,

*What affidavit necessary of the due execution of a fine.*

It is ordered, that, instead of an oath made *viva voce* of the due acknowledgment of such

such fines, an affidavit or affidavits in writing on parchment shall be made and annexed to every fine so taken as aforesaid, in which affidavit or affidavits the person or persons making the same shall swear, that he or they knew the party or parties acknowledging such fine; that the same was duly signed and acknowledged; that the party or parties acknowledging, and also the commissioners taking the same, were all of full age and competent understanding; that the femmes covert (if any) were solely and separately examined apart from their husbands, and freely and voluntarily consented to and acknowledged the same, and that the conusor or conusors, and every of them, knew the same to be a fine to pass his, her, or their estate or estates; which fine, together with such affidavit or affidavits annexed, shall be transmitted to the said lord chief justice, or some other justice of this court for his *Allocatur* thereon, and such affidavit or affidavits shall remain annexed to such fine, and be left with the same in the proper office. And it is ordered, that all and every such affidavit and affidavits as aforesaid, except where the person or persons at the time of their acknowledging the fine are in *Ireland*, or some other parts beyond the seas, shall be made by some attorney or attorneys of the courts at *Westminster Hall*, or of the great sessions in *Wales*, or of the county palatine of *Chester, Lancaster and Durham*, and shall be sworn before a person duly authorised to take affidavits in this court. *Hil.*  
*17 Geo. 2. The*

*The form of an affidavit of the due caption of a fine.*

In the Common Pleas.

*A. B.* of ——— in the county of ——— one of the attornies of his majesty's court of ——— and one of the commiffioners named in the writ of *Dedimus potestatem*, for taking the acknowledgment of the fine hereunto annexed, maketh oath and faith, that he knows *C. D.* and *E.* his wife, and *F. G.* and *H.* his wife, the conufors named in the faid fine, and that the fame was duly figned and acknowledged by them before this deponent and *J. K.* gentleman, the other commiffioner named in the faid writ; and that the faid *C. D.* and *E.* his wife, and *F. G.* and *H.* his wife, and alfo this deponent and the faid *J. K.* were at the time of taking and acknowledging the faid fine all of full age and competent understanding. That the faid *E.* and *H.* we folety and feperately examined apart from their husbands, and freely and voluntarily confented to and acknowledged the faid fine, and that the faid conufors, and every of them, knew the fame to be a fine to pafs his, her, or their eftate and eftates.

*A. B.*

Sworn at ——— in the county  
of ——— the ——— day of  
——— in the year of our  
Lord ——— before me

L. M. one of, (&c.)

Or

Or thus, if the affidavit is not made by a commissioner.

In the Common Pleas.

*A.* *B.* of — in the county of — one of the attornies of the court of — maketh oath and faith, that he knows *C. D.* and *E.* his wife, and *F. G.* and *H.* his wife, the conufors named in the fine hereunto annexed, and that the faid fine was duly figned and acknowledged by them in this deponent's prefence, and that they the faid *C. D.* and *E.* his wife, and *F. G.* and *H.* his wife, and alfo *J. K.* and *L. M.* gentlemen, the commissioners taking the fame fine, were at the time of taking thereof all of full age, &c. as in the former.

If there be only one conufor and his wife, fay — and each of them —.

By a rule made *Trin.* 26 & 27 *Geo.* 2. reciting the laft rule of *Hil.* 17 *Geo.* 2. and that the fame had been found by experience to have answered many, but not all the good purpofes for which it was intended: To make therefore the fame more effectual and complete, and the better to ascertain the practice for the future;

It is ordered that in the affidavit, or affidavit, made in purfuance of fuch rule, the person or persons, fo making the fame, fhall not only fwear as they are directed by the faid rule, but alfo that the fine was duly

*Further rule thereon.*

signed and acknowledged, upon the day and year, or days and years, mentioned in the caption; and if there be any rasure or interlineation in the body or caption of such fine, that such rasure or interlineation was made before the party or parties signed the said fine, and before the caption was signed by the commissioners: Which affidavit, or affidavits, shall be annexed to the fine, and shall be transmitted to the said lord chief justice, or some other justice of this court, for his *Allocatur* thereon, and shall remain annexed to such fine, and be left with the same in the proper office, as is directed by the said rule.

*An addition to be made to the former affidavit.*

**A**ND this deponent further saith, that the said fine was duly signed and acknowledged, upon the day and year mentioned in the caption, (or upon the several days and year, or years, respectively mentioned in the captions, if there happens to be more captions than one;) and that the rasure or interlineation (razures, or interlineations) in the body (or in the caption, or captions) of such fine (*as the case shall happen*) was (or were) made before the party (or parties) signed the said fine, and before the caption (or captions) was (or were) signed by the commissioners.

A fine



A fine was taken before *Prentice* an attorney, and *Prentice* a tradesman as commissioners; *Prentice* the attorney died without having made an affidavit of the acknowledgment of the fine. One of the cognizors became bankrupt, absconded, and did not surrender within the time limited by the statute. Ordered that the fine should pass on affidavit of the due acknowledgment thereof by *Prentice* the tradesman. *Trin.* 27, 28 *Geo.* 2. *Barnes* 217. *Say* against *Smith* and others.

*Fine passed on affidavit by a tradesman.*

Writ of covenant tested first day of *Easter* term, viz. 1 *May* 1754.

*Death of one of the cognizors before king's silver entered, but no*

Fine taken by *De. po.* 13 *May*.

Writ of covenant returnable 19 *May*.

*entered, but no Caveat till after.*

Compounded and pre-fine paid between 17 & 20 *May*.

*Mary Nunn* one of the cognizors died 27 *May*.

After passing the return, warrant of attorney and *Custos brevium* offices, the writ was brought to the king's silver office on 11 *June*, and the clerk there then entered the king's silver or post-fine in his book, and on the writ of covenant.

A *Caveat* to prevent the completing this fine was brought to the king's silver office on 13 *June* (before the record was made up in form).

The court utterly exploded the notion, which had prevailed, undoubtedly by mistake, that the king's silver is the pre-fine or fine for licence to alienate; certainly it is not; the king's silver is the post-fine or fine

for licence to accord. 2 *Inst.* 411. *Dyer* 246. The return of the writ of covenant is agreed to be in the life-time of *Mary* the cognisor; and from that time the crown has a right to the post-fine, which was entered at the king's silver office before any *Caveat* against it; the making up the record in form is certainly a ministerial act, not necessary to be done previous to the *Caveat*; the entry by the clerk of the king's silver as aforesaid is sufficient. (2 *Ro. Ab.* 19. 2. p. 1. *in point.*) . *Pas.* 28 *Geo.* 2. *Barber* plaintiff against *Henry Nunn* and *Mary* his wife and others deforcients. *Barnes* 218.

*Fine taken beyond sea not signed by the parties, ordered to pass,*

A fine taken at *Naples* ordered to pass, though not signed by the parties, on affidavit that it was duly acknowledged; that the parties were of full age and good understanding; that the feme covert was examined apart from her husband and freely consented. The fine being taken beyond sea is not within the late rule requiring an affidavit, and the signing a fine by the cognisors is not an essential part. By *Willes*, ch. just. and *Clive* just. 27 *February* 1756. *Fleetwood* plaintiff, *Calender* and wife and others deforcients. *Barnes* 219, 220.

A fine amended in the name of a parish, which was levied in the reign of queen *Anne*. 3 *Wils. Rep.* 58.

Fine amended by deed of uses, adding a will. *Barnes* 24.

Proceedings to perfect a fine stayed, and former proceedings vacated, wife of one of the cognizers, dying before return of writ of

of covenant, on motion, without putting parties to bring writ of error; the concord is to be made at return of writ of covenant, if party die before that day, there can be no agreement, all is void. *Barnes* 220, 221.

*A fine from three conufors and the wives of two of them, to two conufees, upon two writs of covenant. 1. Of messuages, cottages, barns, stables, gardens, orchards, land, meadow, pasture, wood, common of pasture, and free fishery. 2. Of messuages, cottages, barns, stables, gardens, orchards, land, meadow, pasture, wood, furze and heath.*

Norfolk, **C**ommand *A. B.* gent. and *C.* to wit, **C** his wife, *D. E.* gent. and *F.* his wife, and *G. H.* gent. that they justly, &c. perform to *J. K.* esq; and *L. M.* gent. the covenant made between them of four messuages, six cottages, four barns, six stables, six gardens, six orchards, four hundred acres of land, four hundred acres of meadow, four hundred acres of pasture, forty acres of wood, common of pasture for all cattle, and free fishery with the appurtenances in *N. O.* and *P.* And unless, &c.

Suffolk, to wit, *Command* the same that they justly, &c. perform to the same the covenant made between them of six messuages, four cottages, five barns, six stables, six gardens, six orchards, four hundred acres of land, two hundred acres of meadow, two

hundred acres of pasture, thirty acres of wood, and forty acres of furze and heath, with the appurtenances in Q. R. &c. and unless, &c.

*And the agreement is such, to wit,* that the aforesaid *A.* and *C. D.* and *F.* and *G.* have acknowledged the aforesaid tenements, common of pasture and fishery, with the appurtenances to be the right of the said *J.* as those which the said *J.* and *L.* have of the gift of the said *A.* and *C. D.* and *F.* and *G.* and those they have remised and quit-claimed from themselves the said *A.* and *C. D.* and *F.* and *G.* and their heirs, to the said *J.* and *L.* and the heirs of the said *J.* for ever. *And moreover,* the said *A.* and *C.* have granted for themselves and the heirs of the said *C.* that they will warrant to the said *J.* and *L.* and the heirs of the said *J.* the aforesaid tenements, common of pasture and fishery, with the appurtenances, against them the said *A.* and *C.* and the heirs of the said *C.* for ever. *And further* the said *D.* and *F.* have granted for themselves and the heirs of the said *F.* that they will warrant to the aforesaid *J.* and *L.* and the heirs of the said *J.* the aforesaid tenements, common of pasture and fishery, with the appurtenances against them the said *D.* and *F.* and the heirs of the said *F.* for ever. *And also* the said *G.* hath granted for himself and his heirs, that he will warrant to the aforesaid *J.* and *L.* and the heirs of the said *J.* the aforesaid tenements, common of pasture and fishery, with the appur-

appurtenances against him the said G. and his heirs for ever, and for this, &c.

Taken and acknowledged, &c. {  
A. B.  
C. B.  
D. E.  
F. E.  
G. H.

# BILL of Disbursements and Fees on Fine passed by De. Po.

Trinity Vacation, 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>
Perusing writings, attending for that purpose, and to settle parcels for fine	0	0	0	0	3	4	0	6	8
<i>Precipe</i> for <i>De. Po.</i> and copy for curfitor	0	0	0	0	1	6	0	3	0
<i>De. Po.</i> and fee	1	6	8	1	10	0	1	13	4
<i>Precipe</i> and concord with fair copy, fo. 4	0	0	0	0	2	8	0	5	4
Engrossing and parchment	0	0	5	0	1	9	0	3	1
Affidavit of caption, parchment duty, engrossing, and oath	0	3	9	0	5	3	0	6	9
Allowance	0	4	0	0	4	0	0	4	0
Attending judge for same	0	0	0	0	1	8	0	3	4
Writ of covenant and fee	0	7	6	0	10	10	0	14	2
Private seal	0	8	6	0	8	6	0	8	6
King's fine	4	13	4	4	13	4	4	13	4
Attending to compound	0	0	0	0	3	4	0	6	8
Alienation fees	0	4	0	0	4	0	0	4	0
Pre-fine and post-fine	7	0	0	7	0	0	7	0	0
Letters, &c.	0	0	0	0	1	0	0	2	0

Michaelmas Term following.

	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>
Returning and inrolling covenant	0	1	6	0	1	9	0	2	0
Warrant of attorney, and filing	0	0	4	0	0	10	0	1	4
Keeper of writs	0	3	8	0	3	8	0	3	8
King's silver	0	2	8	0	2	8	0	2	8
Chirographer	0	6	2	0	6	2	0	6	2
Indentures	0	6	6	0	6	6	0	6	6
Passing fine	0	0	0	0	6	8	0	13	4
Letters, &c.	0	0	0	0	1	0	0	2	0

Bill of Disbursements and Fees on Fine passed at Bar, consists of the same Items as the last, except as hereunder exprest.

Precipe for covenant, and copy for cursitor	0	0	0	0	1	3	0	2	6
Serjeants for counting fine at bar	0	2	0	0	2	8	0	3	4
Attending court	0	0	0	0	3	4	0	6	8
Paid secondary and cryer	0	2	6	0	2	6	0	2	6
Paid king's fine	1	0	0	1	0	0	1	0	0

*N. B.* The rest of this bill same as last.

*Reco-*

*Recoveries.*

*Where the parties appear in proper person.*

**O**F suffering a recovery where the tenant and vouchees appear in person.

You prepare a *Præcipe* on paper, according to the nature of your case, in this manner :

Cooke.

*Easter term in the seventh year of the reign of king George the third.*

Effex, **C**ommand R. R. gentleman, that to wit. **C**he justly, &c. render to S. R. three messuages, and twenty-four acres of land (*specifying the parcels*) with the appurtenances in D. which he claimeth, &c.

Tenant in person voucheth to warrant S. F. who in person voucheth to warrant *Edmund Wilson.*

If there be more vouchees, name them in order, naming *Edmund Wilson*, who is the common vouchee, last.

Then you go with the tenant and vouchee or vouchees (except the common vouchee) to *Westminster*, and give the *Præcipe* to a serjeant's clerk, who will get it passed at bar, and deliver it back to you.

If



If the recovery be with single voucher, you pay the serjeant's clerk 6s. with double voucher 8s. with treble voucher 10s. with quadruple voucher 12s. and if by warrant of attorney 4s. more. There are other fees in court amounting to about 5s. more, if by warrant of attorney, to 6s. but you may give those fees to the serjeant's clerk who will pay them for you.

You then make a copy of the *Præcipe* for the cursitor to make out the writ of entry in the following form.

Essex, *to wit*, Command R. R. gentleman, that he justly, &c. render to S. R. three messuages and twenty-four acres of land, with the appurtenances in D. which he claimeth, &c.

*Returnable from Easter day  
in 15 days.*

You pay for the writ of entry 7s. 6d. and then get the attorney general's hand to it, for which you pay 10s. (this is frequently done last of all); you then go to the alienation office in the *Temple*, and compound for the fine, which for such small parcels as above is generally 6s. 8d. which you pay with the clerk's fee, generally about 2s. or 2s. 6d.

You then make out a writ of seisin, for the form of which *vide postea*, and having got it signed by the prothonotary and sealed, you carry that and the writ of entry to the return office, N<sup>o</sup>. 3 in the Inner *Temple*, to be

be returned ; for the return of each you pay  
1 s. 6 d.

You then prepare a draught of your recovery in the form after mentioned, and getting a roll from the prothonotary's office enter it thereon in an ingrossing hand.

Then the exemplification is to be ingrossed in an exemplifying hand in the form hereafter mentioned, on a skin of parchment, with a double five shillings stamp. Then go to the prothonotary's office, taking with you the roll, exemplification, writs, and *Præcipe* passed at bar, docket the roll, enter the *Præcipe* on the remembrance roll, according to the form you'll see there, and one of the prothonotary's clerks will examine the writs, entries and exemplification; you pay him the fees, which are different according to the nature of the case; he then signs the exemplification, which you then get sealed.

*The form of the recovery as entered on the roll.*

*Entry returnable from Easter  
day in 15 days.*

Essex, S. R. gentleman, in his proper person demandeth against R. R. gentleman, three messuages and twenty-four acres of land with the appurtenances in D. as his right and inheritance, and into which the same R. hath not entry but after the disseisin which *Hugh Hunt* thereof unjustly, and without judgment hath made to the said S. within thirty years, &c. And whereupon  
he

he saith, that he was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right, in time of peace, in the time of our lord the king that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof he bringeth suit, &c.

And the aforesaid *R.* in his proper person cometh and defendeth his right, when, &c. and thereupon voucheth to warrant *S. F.* who is present here in court in her proper person, and freely warranteth the tenements aforesaid, with the appurtenances, to the said *R.*, &c. and hereupon the said *S.* demandeth against the said *S.* tenant by her own warranty the tenements aforesaid, with the appurtenances in manner aforesaid, &c. and whereupon he saith, that he was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right, in time of peace, in the time of our lord the king that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof he bringeth suit, &c.

And the said *S.* tenant by her own warranty defendeth her right, when, &c. and thereupon she further voucheth to warrant *Edmund Wilson*, who is present here in court in his proper person, and freely warranteth to her the tenements aforesaid with the appurtenances, &c. and hereupon the said *S.* demandeth against him the said *Edmund* tenant by his own warranty the tenements aforesaid, with the appurtenances in manner aforesaid, &c. and whereupon he saith, that  
he

he was seised of the tenements aforesaid, with the appurtenances, in his demesne as of fee and right, in time of peace, in the time of our lord the king that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof he bringeth suit, &c.

And the said *Edmund*, tenant by his own warranty defendeth his right, when, &c. and saith, that the said *Hugh* did not disseise the said *S.* of the tenements aforesaid with the appurtenances, as the said *S.* by his writ and declaration above doth suppose; and of this he putteth himself upon the country, &c.

And the said *S.* thereupon craveth leave to imparle, and he hath it, &c. and afterwards the said *S.* cometh again here into court in this same term in his proper person, and the said *Edmund* although solemnly called cometh not again, but departed in contempt of the court, and maketh default; therefore it is considered, that the said *S.* recover his seisin against the said *R.* of the tenements aforesaid with the appurtenances, and that the said *R.* have of the land of the said *S.* to the value, &c. and furthermore that the said *S.* have the land of the said *Edmund* to the value, &c. and the said *Edmund* in mercy, &c. and hereupon the said *S.* prayeth a writ of the lord the king to be directed to the sheriff of the county aforesaid, to cause full seisin of the tenements aforesaid with the appurtenances to be delivered to him, and is granted to him returnable here on the mor-

row

row of the Ascension of our Lord; at which day the said S. cometh here into court in his proper person, and the sheriff namely *E. E.* esq; now returneth, that he by virtue of the aforesaid writ to him directed on the twenty-second day of *May* in this same term did cause full seisin of the tenements aforesaid with the appurtenances, to be delivered to the aforesaid S. as by the said writ he was commanded, &c.

*Exemplification of the above recovery.*

**G**EORGE the third, by the grace of God, of *Great Britain, France, and Ireland*, king, defender of the faith, &c. To all to whom these our present letters shall come, greeting. Know ye that amongst the pleas of land inrolled at *Westminster*, before Sir *John Eardley Wilmot*, knight, and his brethren our justices of the bench of the term of *Easter* in the seventh year of our reign, upon the seventh roll it is thus contained: Entry returnable [*the whole of the above entry to the words*] Comanded, &c. All and singular which premisses at the request of the said S. by the tenor of these presents we have commanded to be exemplified; in testimony whereof, we have caused our seal appointed for sealing of writs in the bench aforesaid to be affixed to these presents. Witness Sir *John Eardley Wilmot*, knight, at *Westminster*, the twenty-first day of *May* in the seventh year of our reign.

Cooke.

To



The warrant of attorney is to be ingrossed on parchment thus :

Shropshire, *to wit*, R. W. esquire, and W. W. gentleman, whom A. B. gentleman, hath vouched to warrant, put in their place J. S. and E. C. their attornies, jointly and severally against R. R. gentleman, of a plea of land, &c.

Taken and acknowledged the  
day of                    in the  
seventh year of the reign of  
king *George* the third, be-  
fore.

The vouchees are to sign and acknowledge the warrant of attorney, in the presence of any two of the commissioners who are to sign the caption, and also an indorsement on the back of the *Dedimus* in these words, *viz.*

*The execution of this commission appeareth in a certain schedule to this commission annexed.*

Hilary Term, *in the fourteenth year of the reign of king George the third.*

In the common pleas.

**F**OR the more effectual and certain proof of the due acknowledgment of warrants of attorney, taken from the tenants or vouchees in common recoveries, by virtue of any writ of *Dedimus Potestatem*, It is ordered by the court, That from and after

the first day of *Michaelmas* term next, no common recovery, wherein the tenant or tenants, vouchee or vouches, or any of them, shall appear and defend by attorney, shall be arraigned at the bar, unless an affidavit or affidavits in writing on parchment shall be made and annexed to a copy of the precipe and warrant or warrants of attorney, acknowledged by such tenant or tenants, vouchee or vouches, by virtue of any writ or writs of *Dedimus Potestatem*; in which affidavit or affidavits the person or persons making the same shall swear, That he or they knew the party or parties acknowledging such warrant or warrants of attorney; that the same was or were duly signed and acknowledged, upon the day and year or several days and years mentioned in the caption or several captions thereof; that the party or parties acknowledging, and also the commissioners taking the same, were all of full age and competent understanding; that the femmes covert (if any) were solely and separately examined apart from their husbands, and freely and voluntarily consented to and acknowledged the same; that all the said parties knew the same warrant or warrants of attorney was or were intended for suffering a common recovery to pass his, her, or their estate or estates. And further, that the rasure or razures, interlineation or interlineations, (if any) in the body or caption of such original warrant or warrants of attorney was or were made before the said parties or any of them signed the said warrant or warrants,

and



and before the commissioners signed the said caption or captions, which affidavit or affidavits (together with the said copy of the precipe and warrant or warrants of attorney, whereunto the same shall be annexed) shall be filed in the office of inrolment of writs for fines and recoveries. And it is ordered, That all and every such affidavit or affidavits, as aforesaid, shall be made by some attorney or attorneys, of the courts of *Westminster-Hall*, or of the great sessions in *Wales*, or of the counties palatine of *Chester*, *Lancaster* or *Durham*, and shall be sworn before a person duly authorized to take affidavits in this court; except where the party or parties respectively, at the time of their acknowledging such warrant or warrants of attorney, shall be in that part of *Great-Britain* called *Scotland*, or in *Ireland*, or in some other parts beyond the seas: and in case the said party or parties shall be in *Scotland*, then the said affidavit or affidavits shall be made by one of the clerks of his majesty's signet, and sworn before one of the judges or other person duly authorized to take affidavits or depositions in the court of session or court of exchequer in that part of the united kingdom: But if the said party or parties shall be in *Ireland*, or in any other parts beyond the seas, then the said affidavit or affidavits shall be made by one of the commissioners who hath taken the acknowledgment of such warrant or warrants of attorney; and shall be sworn either before some person duly authorized to take

affidavits in this court, or before some magistrate of the place where such acknowledgement shall be taken, having authority to administer an oath, and in the presence of a public notary, which notary shall also certify in writing under his hand and seal, as well the due administering of the said oath, as also the name, signature, and office of the magistrate administering the same.

By the COURT.

### The FORM of the AFFIDAVIT.

In the Common Pleas.

A. B. of *in the county of*  
*gentleman, one of the attor-*  
*nies of his majesty's court of*  
*and one of the commissioners named in the writ*  
*of Dedimus Potestatem, for receiving the at-*  
*torney or attornies of C. D. and E. his wife (Et c.)*  
*maketh oath, and saith, That he knows the*  
*said C. D. and E. his wife (Et c.) and that*  
*they, and each (or every) of them, did duly*  
*sign and acknowledge, in the presence of this*  
*deponent, and of F. G. another commissioner*  
*named in the said writ, the warrant (or war-*  
*rants) of attorney, a copy whereof is hereunto*  
*annexed, on the day and year (or several days*  
*and years) mentioned in the caption (or several*  
*captions) thereof. And that the said C. D.*  
*and E. his wife (Et c.) and also this deponent,*  
*and the said F. G. were, at the time of ac-*  
*knowledging and taking the said warrant (or*  
*warrants)*

warrants) of attorney, all of full age and competent understanding. And that the said E. was solely and separately examined apart from her said husband, and freely and voluntarily consented to and acknowledged her warrant of attorney aforesaid. And that the said C. D. and E. his wife (&c.) respectively knew that the said warrant (or warrants) of attorney was (or were) intended for the suffering of a common recovery to pass his, her, or their estate or estates. “ And this deponent further saith, To be added in That the razure (or razures) interlineation (or part or in the interlineations) appearing in the said original whole, if any warrant (or warrants) of attorney, was (or razure, &c. in were) made before any of the parties signed the the warrant said warrant (or warrants;) and the razure or or caption, as razures) interlineation (or interlineations) ap- require. pearing in the said original caption (or captions) was (or were) made before the said commissioners signed the same.

Or thus, if the affidavit is not made by a commissioner.

In the Common Pleas.

A. B. of \_\_\_\_\_ in the county of \_\_\_\_\_ gentleman, one of the attornies of his majesty's court of \_\_\_\_\_ maketh oath, and saith, That he knows C. D. and E. his wife (&c.) and that they, and each (or every) of them, did duly sign and acknowledge, in the presence of this deponent, the warrant (or warrants) of attorney, a copy whereof is hereunto annexed, on the day and year (or several \_\_\_\_\_ days

days and years) mentioned in the caption (or several captions) thereof; and that they the said C. D. and E. his wife (Ec.) and F. G. and J. K. gentlemen, the commissioners taking the said acknowledgment (or acknowledgments) were, at the time of acknowledging and taking the said warrant (or warrants) of attorney, all of full age, Ec. as in the former affidavit.

When the *Dedimus* is returned, you carry it to the curfitor, who will make out a *Mittimus* and transcript, and also the writ of entry.

In the mean time you make out the writs of summons and seisin in the manner herein after directed, which are to be signed by the prothonotary, and then sealed.

You also get the recovery passed at bar (which may regularly be done any day after the return of the writ of summons, as to which *videa postea*) and for that purpose you write the *Præcipe* on paper in the same manner as before directed for the *Dedimus*, only adding the term, and prothonotary's name at the top; you attend with the tenant at *Westminster*, and deliver the *Præcipe* to a serjeant's clerk, who will get it passed for you, as before is mentioned.

You get the writ of entry signed by the attorney general, (though that is often done last of all,) compound for the fine at the alienation office, and get the writs of entry, summons and seisin, returned in manner before directed.

You

You then prepare your entries, which in this case are two, the forms of which follow; the first of which is called the summons roll, and is to be wrote in an ingrossing; the second, called the recovery roll, begins with the *Mittimus*, and transcript, which is to be wrote in a smaller hand, and the rest of that roll in an ingrossing hand; these rolls you have from the prothonotary.

You then prepare and ingross the exemplification, the form of which you will find among the following precedents; and then pass the whole at the prothonotary's office, in manner before directed.

*The first, or summons roll.*

Shropshire, *R.* *R.* gentleman, in his proper *To be wrote*  
*to wit.* *R.* person, demandeth against *in an ingrossing*  
*A. B.* gentleman, twenty messuages [*the par-* *band,*  
*cels as before*] with the appurtenances in *B. L.*  
*B. C.* and *L.* as his right and inheritance,  
and into which the same *A.* hath not entry,  
but after the disseisin, which *Hugh Hunt*  
thereof unjustly, and without judgment,  
hath made to the said *R.* within thirty years,  
&c. And whereupon he saith, that he was  
seised of the tenements, common, fairs, mar-  
kets, toll, stallage and pickage aforesaid,  
with the appurtenances, in his demesne as  
of fee and right, in time of peace, in the time  
of our lord the king that now is, by taking  
the profits thereof, to the value, &c. And  
I i 4 into

into which, &c. And thereof he bringeth suit, &c.

And the said *A.* in his proper person, cometh and defendeth his right when, &c. And thereupon voucheth to warrant *R. W.* esquire, and *W. W.* gentleman, summoned in the county aforesaid, and let him have them here, from the day of Saint *Martin* in fifteen days, by the aid of the court, &c. The same day is given here to the parties aforesaid, &c. And upon this the said *A.* putteth in his place *J. W.* and *T. B.* his attorney, jointly and severally, against the said *R. R.* to gain or lose in the plea aforesaid, &c.

*The second roll.*

*To be wrote  
in a smaller  
band:*

**O**UR lord the king sent to his justices of the bench here this writ of *Mittimus* closed, together with the tenor of a certain writ of our said lord the king of *Dedimus potestatem*, for the receiving a warrant of attorney, and the return of the same; and also the warrant of attorney thereupon received, in these words:

*GEORGE* the third, by the grace of God, of *Great Britain, France, and Ireland*, king, defender of the faith, &c. To his justices of the bench, greeting. We send you, inclosed in these presents, the tenors of our certain writ of *Dedimus potestatem*, directed to our trusty and well-beloved Sir  
*J. B.*

Ʒ. B. knight, and to our beloved G. M. and T. M. gentlemen, for and concerning the receiving the attorney or attornies, jointly or severally, whom or who R. W. esquire, and W. W. gentleman, will appoint or constitute in their stead, before the aforesaid Sir Ʒ. G. and T. or two of them, against R. R. gentleman, to gain or lose in a plea of land upon our writ of entry upon disseisin *in le poss'*, depending before you, between the aforesaid R. R. and A. B. gentlemen, concerning twenty messuages, &c. [*naming all the parcels as before,*] with the appurtenances, in B. L. B. C. and L. in *Shropshire*; which same A. hath vouched the same R. W. and W. to warrant to him the messuages aforesaid, and other the premisses with the appurtenances; also the return of the same writ of *Dedimus potestatem*; and likewise a warrant of attorney received in that behalf sent into our *Chancery*, and remaining on the files of the same *Chancery*, commanding you, that, inspecting the said tenors, you cause farther to be done therein at the prosecution of the said R. R. what of right, and according to the law and custom of *England*, shall be meet to be done. Witness ourself at *Westminster* the twenty-first day of *November* in the seventh year of our reign. Sykes. George the third, by the grace of God, of *Great Britain, France, and Ireland*, king, defender of the faith, &c. To his trusty and well-beloved Sir Ʒ. B. knight, and to his beloved G. M. and T. M. gentlemen, greeting. Whereas our writ of entry upon disseisin

seisin *in le post* is depending before our justices of the bench, between *R. R.* gentleman, and *A. B.* gentleman, concerning twenty messuages, &c. [*all the parcels as before,*] with the appurtenances, in *B. L. B. C.* and *L.* in *Shropshire*; and the said *A.* appearing in our full court before our justices aforesaid, hath vouched *R. W.* esquire, and *W. W.* gentleman, to warrant to him the messuages aforesaid, and other the premisses, with the appurtenances: Whereupon our writ of summons to warrant hath issued forth against the said *R. W.* and *W.* returnable before our justices aforesaid, from the day of *Saint Martin* in fifteen days. And forasmuch as the said *R. W.* and *W.* are so infirm, that they cannot, without the greatest bodily danger, travel to *Westminster* at the day in our said writ of summons to warrant contained, to do and act those things which then and there shall be expedient to be done in the same, as we are informed; we, tendering the condition of the said *R. W.* and *W.* in this behalf, have given to you, or two of you, power and authority to receive the attorney or attornies jointly or severally, whom or who the said *R. W.* and *W.* before you, or two of you, will appoint or constitute in their stead, to gain or lose in the said plea before our said justices: And therefore we command you, or two of you, that you go in person unto the said *R. W.* and *W.* if they cannot conveniently travel to you, and receive their attorney or attornies, jointly or severally, in form aforesaid; and when you shall



shall have received the said attorney or attorneys, you distinctly and plainly, without delay, certify us in our *Chancery* under your seals, or the seals of two of you, of the name or names of such attorney or attorneys, sending back unto us this writ. Witness ourself at *Westminster*, the fourth day of *November* in the seventh year of our reign. *Sykes*. By the lord chancellor of *Great Britain*, at the instance of the demandant *H. C. J. Wilmot*. The execution of this commission appears in a certain schedule to this commission annexed. *G. M. T. M.* Received 6s. 8d. *R. Salkeld*. Shropshire, *to wit*, *R. W.* esquire, and *W. W.* gentleman, whom *A. B.* gentleman, vouched to warrant, put in their place *J. Sharpe* and *E. C.* their attorneys, jointly and severally against *R. R.* gentleman, of a plea of land, &c. *R. W. W. W.* Taken and acknowledged the 13th day of *November* in the seventh year of the reign of king *George* the third, before *G. M. T. M.*

Elsewhere, as it appeareth of this same *Ingrossing* term upon the 421st roll, it is thus contained: Shropshire, *to wit*, *R. R.* gentleman, in his proper person, demandeth against *A. B.* gentleman, twenty messuages, &c. [*naming the parcels as before,*] with the appurtenances, in *B. L. B. C.* and *L.* as his right and inheritance; and into which the same *A.* hath not entry, but after the disseisin which *Hugh Hunt* thereof unjustly, and without judgment, hath made to the said *R.* within thirty years, &c. And whereupon he saith, that he

he was seised of the tenements, common, fairs, markets, toll, stallage and pickage aforefaid, with the appurtenances in his demesne as of fee and right, in time of peace, in the time of our lord the king that now is, by taking the profits thereof to the value, &c. and into which, &c. and thereof he bringeth suit, &c.

And the said *A.* in his proper person, cometh and defendeth his right when, &c. and thereupon voucheth to warrant *R. W.* esquire, and *W. W.* gentleman, summoned in the county aforefaid; let him have them here from the day of Saint *Martin* in fifteen days, by the aid of the court, &c. The same day is given here to the parties aforefaid, &c. And upon this the said *A.* putteth in his place *J. W.* and *T. B.* his attornies jointly and severally, against the said *R. R.* to gain or lose in the plea aforefaid, &c. At which day here cometh as well the said *R. R.* in his proper person, as the said *A.* by the said *J. W.* his attorney. And the said *R. W.* and *W.* being summoned, &c. likewise come by *J. S.* their attorney, and freely warrant the tenements, common, fairs, markets, toll, stallage and pickage aforefaid, with the appurtenances, to the said *A.* &c. And hereupon the said *R. R.* demandeth against the said *R. W.* and *W.* tenants by their own warranty, the tenements, common, fairs, markets, toll, stallage and pickage aforefaid, with the appurtenances, in manner aforefaid, &c. And whereupon he saith, that he was seised of the tenements, common, fairs, mar-

kets,