

Allsoe it is Erronious in this in th^t after the Issue was Joyned it is not mencōned When the Venire facias went out or when Retornable nor to what Sherrife directed nor is it entered upon record more then Wherefore order is given &c.

U. H.
Journal
original

Allsoe It is Erronious in this in th^t in the Record it is said The Defend^t in Open C^t Confessed the Bond to be his deed Whereupon Judgm^t Passed for the Plaintife Whereas there is noe mencōn of the appearance of both Parties & the time when to heare Judgm^t nor is there any mencōn made Whether the s^d Jurors were Retorned or appeared or not w^{ch} since by the Record is signified th^t a Venire or Ord^t was given out for a Jury there ought to have been some mencōn made of the Retorne thereof & since non ē factum by the Rules of the C^t is a Proper Plea to a Bond though the s^d Balley did not denye but Owne the s^d Bond to be his hand yet the s^d Cause should have come to tryall & by the Rule of the Court the s^d Balley ought & was bound to plead th^t Plea & might give the speciall matter in Evidence w^{ch} he was not Allowed to doe but as soone as he had Owned the s^d bond to be his hand Judgm^t was given for the s^d Stapleford without ever hearing w^t the s^d Balley had to Offer as Speciall matter in Evidence, w^{ch} was this, The s^d Bond was for 2000^{ls} Sterl from the s^d Balley to Stapleford wth a Condicōn for to Stand to Arbitracōn & Award & in Case of not meeting of the s^d Balley & Attending the Arbitrat^{rs} when they should Appoint to meete the s^d Balley to forfeit a 100^{ls} Wherefore since noe Award was made by the s^d Arbitrat^{rs} the s^d Balley could not forfeit the s^d 2000^{ls} & since It was never made appeare that Balley had anie notice of the meeting of the s^d Arbitrat^{rs} Judgm^t could not goe against the s^d Balley for 100^{ls} Sterl.

p. 22

Allsoe It is Erronious in this in th^t the Record doth not Ascertaine what Bond when dated or for what Summe the s^d Bond was th^t the s^d Balley Confessed to be his deed soe th^t if the s^d Stapleford should Comence his Action anew ag^t the s^d Balley upon the very bond w^{ch} he then & there Confessed the s^d Balley by Reason of the uncertainties afores^d Cannot Plead the s^d Judgm^t in barre thereof

Allsoe It is Erronious in this In th^t the s^d Judgm^t is for noe Certaine Sumē but wholly uncertaine & dubious & altogether void in lawe by reason of the Uncertainty thereof as in the Record it is said Whereupon Judgm^t past for the Plaintife whereas it ought to have been mencōned in this manner Wherefore it is Considered by the Co^{rt} here th^t the s^d Reymond Recover ag^t the s^d John as well the s^d Sumē of his debt afores^d as allsoe the Sumē of for his Costs &c.

Allsoe the s^d Writ of Scire facias was manifestly erronious