

the Plaintiff made without droit a ceux; queux pleindre Writ, and upon the same Pain. se voudront.

(7) And this is to be intended in all Places where the King's Writ lieth. (8) And if that be done in the Marches of Wales, or in any other Place, where the King's Writs be not current, the King, which is Sovereign Lord over all, shall do Right there unto such as will complain.

53 H. 3, c. 3. 13 Ed. 1, Stat. 1, c. 39. Regist. 85. 2 Inst. 192. A *Non Omitas* to the Sheriff if the Bailiff do not execute the Writ. 52 H. 3, c. 21.

It is under this Statute that the sheriff has power on request and refusal to break open a house to execute a replevin; which he cannot ordinarily do on other civil process, see Semayne's case and notes, 1 Smith Lead. Cas. 39; and he is to do his office without delay and forthwith replevy the beasts. And if he returns that the beasts are enclosed in a park, among savages, or in a castle, he shall be amerced, and another writ awarded, for he ought to have taken the *poss. com.* this being a denial, Bac. Abr. Replevin, E. F.; 2 Inst. 193 *et seq.* It is to be observed, however, that the prostration or demolition of the house cannot be done upon the return of the sheriff, but in a suit in behalf of the State, wherein the parties interested may be called to answer, and on judgment given against them process will be made to the sheriff to prostrate the building, 2 Inst. 194.

By the Act of 1861, Ex. Sess. ch. 69,<sup>1</sup> provision is made for the service of any kind of civil process upon persons resisting the same by threats, intimidation, violence or superior force, or being within any fortress, fortified place or building, to which entrance is denied to the officer, or service cannot be made by him without force or personal risk, by leaving a copy of the process with such person as may present himself when it is sought to be served, or where the party to be served with it may be, or by setting the copy upon the fortress, &c. or as near as practicable thereto, and return of the facts is to be made accordingly, which return shall be equivalent to a return of actual personal service on the party.

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<sup>1</sup> Code 1911, Art. 75, sec. 172.