

of judgment aforesaid and Granting Scire facias thereupon it is Manifest  
 erroneous in this that the Writ of Capias issuing out of his Lordships Provincial  
 Court upon which the said De Bailey was arrested doth not appear upon Record  
 nor any Memorandum or Notice thereof taken but only mentioned in the Petition  
 of the said Bailey to his Lordships Justices of the Provincial Court the 8th of  
 December 1688 Whereas the said Writ of Capias ought to have been Duly Entered  
 upon Record that the said Bailey or his Attorney might have had recourse  
 thereto and if to them it should have seemed convenient they might have Pleaded  
 in Abatement of the said Writ

Also it is erroneous in this in that it is said the Defendant still  
 pretending that his Papers are out of his Possession & It is Ordered the Defend.  
 bee here untill next Court to put in his Plea & further that he do remaine  
 in the Sheriff Custody & Whereas it doth not appear in the Record whether the  
 said Bailey appeared upon his Bail or whether he was by the Sheriff brought to  
 the Court and in case he did not give a special Bayle or other which in the Record  
 is not mentioned then a special return in due form ought to have been Entered nor doth  
 there appear upon the Record any appearance of the said Bailey to the next Court  
 which in case he filed not his Plea he ought to have been Caved by him & taken  
 Prisoner of upon Record

Also it is erroneous in this in that it is said this Cause Respite  
 and then is Entered the Plea of the said John Bailey whereas after the Imparlance  
 and Declaration before specified the Declaration of the said Stapleford against the  
 said Bailey should have been Entered upon the Record which said Declaration  
 as also the return aforesaid is wholly omitted whereby it is impossible to know  
 upon what ground or for what cause the said Bailey was sued by the said Staple  
 and as to the said Bailey Pleaded the said Plea of non est factum

Also it is erroneous in this in that after the issue was joined it is not  
 mentioned when the Scire facias went out or when returnable nor to what Sheriff  
 Directed nor is it Entered upon Record more than wherefore Order is given &

Also it is erroneous in this in that in the Record it is said the Defend.  
 in open Court assigned the Record to be his Debt where upon Judgment Paper  
 for the Plaintiff Whereas there is no mention of the appearance of both Parties  
 and the time when to hear Judgment nor is there any mention made whether  
 the said Parties were returned or appeared or not which being by the Record  
 is signified that a Return or Order was given out for a Party there ought to  
 have been some mention made of the Return thereof & since the appearance  
 by the Justice of the Court is a proper Plea to a Record though the said Bailey  
 did not deny but own the said Record to be his hand yet the said Court should  
 have some returned and by the Justice of the Court the said Bailey might and was  
 bound to plead that the said Court might give the special Matter in Evidence which  
 he was not allowed to do but as soon as he had owned the said Record to be his  
 said Judgment was given for the said Stapleford without ever hearing what  
 the said Bailey said to offer a special Matter in Evidence which he should