

Whereas you, A B, are chosen constable within the town of C for one year now following, and until other be chosen and sworn in your place, you do swear, that you will carefully intend the preservation of the peace, the discovery and preventing all attempts against the same, that you will duly execute all warrants which shall be sent unto you from lawful authority and faithfully attend all such directions in the laws and orders of court as are or shall be committed to your care, that you will faithfully and with what speed you can collect and levy all such fines, distresses, rates, assessments and sums of money for which you shall have sufficient warrants according to law, rendring an accompt thereof and paying in the same according to the direction in your warrant. And with like faithfulness, speed and diligence will serve all writs, executions and distresses in private causes betwixt party and party, and make returns thereof duly into the same court where they are returnable. And in all these things you shall deal seriously and faithfully whilst you shall be in office without any sinister respects of favour or displeasure. So help you God.

Constable's
oath.

You as foreman of this inquest for the body of this county of S., you shall diligently enquire and a true presentment make of all such matters and things as shall be given you in charge, the king and queen's majesties' counsel, your fellows' and your own you shall keep secret; you shall present no man for envy, hatred or malice, neither shall you leave any man unrepresented for love, fear, favour or affection, or hope of reward, but you shall present things truly as they come to your knowledge, according to the best of your understanding. So help you God.

Grand juror's
oath

The same oath which your foreman hath taken on his part, you and every of you on your behalf shall well and truly observe and keep. So help you God.

You shall well and truly try and true deliverance make between our sovereign lord and lady, the king and queen, and the prisoners at the bar, whom you shall have in charge according to your evidence. So help you God.

Petit juror's
oath, 5 Gray,
275.

You swear, that in all causes between party and party that shall be committed unto you, you will give a true verdict therein according to law and the evidence given you. So help you God.

Juror's oath in
civil cases.

You swear, that in the office of town clerk within the town of B, whereto you are chosen, you will diligently and faithfully attend and discharge the duty of your place and duly observe the directions of the law in all things whereto your office hath relation and thereby committed to your care and trust. So help you God.

Town clerk's
oath.

You swear, that you will from time to time diligently and faithfully discharge and execute the office of — within the limits whereto you are appointed for the ensuing year, and until another be chosen in your place, and that in and by all the particulars mentioned in the laws whereto your office hath relation, and that you will do therein impartially according to law without fear or favour. So help you God. [*Passed November 25; published December 9.*]

Oath of leather
scaler, clerk of
the market, cul-
ler of fish,
packer, gager,
*mutatis mutan-
dis.*

CHAPTER 36.

AN ACT FOR THE ESTABLISHING OF PRESIDENTS AND FORMS OF WRITTS,
AND PROCESSES.

Be it enacted and declared by the Governour, Council and Representatives in General Court assembled, and by the authority of the same,

That the several forms of writts and processes here underwritten be and hereby are established to be the forms to be observed by the respective officers that are or shall be appointed and impowred to grant the same: —

Disallowed by
the privy coun-
cil, Aug. 22,
1695.

William and Mary, by the grace of God, of England, Scotland, France and Ireland, king and queen, defenders of the faith, &c.

Writ for calling an assembly.

To our sheriff or marshal of our county of _____ greeting: Wee command that upon receipt hereof you forthwith make out your precepts, directed unto the selectmen of each respective town within your precinct, requiring them to cause the freeholders and other inhabitants of their several towns, duly qualified as in and by our royal charter is directed, to assemble at such time and place as they shall appoint, to elect and depute one or more persons (being freeholders within our said province), according to the number set and limited by an act of our general assembly within the same, to serve for and represent them respectively, in a great and general court or assembly by us appointed to be convened, held and kept for our service at the town-house in Boston, upon the _____ day of _____ next ensuing the date of these presents. And to cause the person or persons so elected, and deputed by the major part of the electors present at such elections, to be timely notified and summoned by the constable or constables of such town to attend our service in the said great and general court or assembly on the day above prefixed by nine in the morning; and so *de die in diem* during their session and sessions, and to return the said precepts with the names of the persons so elected and deputed unto yourself. Whereof you are to make return, together with this writ, and of your doings therein, under your hand, into our secretary's office at Boston, one day at the least before the said court's sitting. Hereof you may not fail at your peril. Witness Sir W. P., Knight, our captain general and governour in chief in and over our province of the Massachusetts Bay in New England. Given at Boston, under the publick seal of our province aforesaid, the _____ day of _____ 169 _____ in the _____ year of our reign.

By his excellencie's command.

SUFFOLK, SS.

In observance of their majesties' writ to me directed.

These are in their majesties' names to will and require you forthwith to cause the freeholders and other inhabitants of your town, that have an estate of freehold in land within this province or territory of forty shillings per annum at the least, or other estate to the value of forty pounds sterling, to assemble and meet at such time and place as you shall appoint; then and there to elect and depute one or more persons (being freeholders within the province), according to the number set and limited by an act of the general assembly, to serve for and represent them in a great and general court or assembly appointed to be convened, held and kept for their majesties' service at the town-house in Boston upon the _____ day of _____ next ensuing the date hereof; and to cause the person or persons so elected and deputed by the major part of the electors present at such election to be timely notified and summoned by one or more of the constables of the town, to attend their majesties' service in the said great and general court or assembly, on the day above prefixed, by nine in the morning, and so *de die in diem* during their session and sessions. Hereof fail not, and make return of this precept, with the names of the person or persons so elected and deputed, with their being summoned, unto myself on or before the _____ day of _____ above said. Given under my hand and seal at _____ the _____ day of _____ 169 _____ in the _____ year of their majesties' reign. A. B. _____ of the county of _____

To the selectmen of the town of _____ greeting.

Return.

Pursuant to the precept within written, the freeholders and other inhabitants of this town qualified as is therein directed, upon due warning given, assembled and met together the _____ day of _____ and then did elect and depute A. B. and C. D. to serve for and represent them in the session and sessions of the great and general court or assembly appointed to be begun and held at Boston on _____ the _____ day of _____ the said persons being chosen by the major part of the electors present at said meeting. Dated in _____ the _____ day of _____

..... } Selectmen.
..... }

The persons chosen are notified thereof, and summoned to attend accordingly. By me, A. B. constable of C.

ESSEX, SS.

To the sheriff or marshal of the said county, or either of their deputies or constables of the town of S., or to any or either of them. In their majesties' names you are required to summon and give notice unto T. P. of (if he may be found in your precincts), that he appear before me, J. H., Esq., one of their majesties' justices of the peace, for the county aforesaid, at my dwelling house in S. on being the day of at of the clock in the forenoon, then and there to answer E. L., in a plea of to the value of as shall then and there appear, with all due damages, making true return as the law directeth. You are also hereby further required to signifie unto the said T. P. that he may not fail in the premises, as he will answer the contempt at the peril of the law in this case made and provided. Dated in the year of their majesties' reign.

Summons for appearance before a justice.

ESSEX, SS.

To the sheriff or marshal of the said county, or constables of the town of S., or to any or either of them, greeting: Whereas T. P., of cooper, was served with summons, granted by me, J. H., Esq., one of the justices of the said county, for his appearance before me on the day of past, to answer E. L., of merchant, in a plea of to the value of with due damages, the said T. P. making default in appearance. These are in their majesties' names, to will and require you therefore to take the body of the said T. P. (if he may be found in your precinct), and him safely keep, so that he may be had before me on being the day of at of the clock in the forenoon, as well to answer the said E. L., of his plea aforesaid, as for his contempt, making true return of this writ, as the law directeth. Dated at the day of in the year of their majesties' reign.

Warrant for contempt.

SUFFOLK, SS.

To the sheriff or marshal of the said county, or either of their deputies or constables of the town of B., or to any or either of them. In their majesties' names you are required to attach the goods or estate of J. N. of B., to the value of and for want thereof, you are to take the body of the said J. N. (if he may be found in your precincts), and him safely keep, so that he may be had before J. E., Esq., one of the justices of the said county on being the day of at of the clock in the forenoon, to answer L. M. of in a plea of to the value of as shall then and there appear, with all due damages, making true return of this writ as the law directeth. Dated at B., the day of in the year of their majesties' reign.

Attachment before a justice of the peace.

SUFFOLK, SS.

William and Mary, &c. To the sheriff or marshal of our said county, his deputy or deputies, or constables of the town of or to any or either of them. We command you that without any delay you levy of the money or estate of J. N. of B. (if it may be found in your precincts), the sum of with shillings more for this writ, and deliver the same unto L. M., of to satisfie a judgement obtained against the aforesaid J. M., for with his costs and damages occasioned and accruing by a suit commenced against him before J. E., Esq., one of our justices assigned to keep our peace in our said county, the day of and in want of the said money or other estate to the said L. M., his satisfaction, we command you to take the person of the said J. N., and him commit to the custody of the keeper of our prison in B., where he is to continue until the said debt is satisfied, or that he be discharged by the creditor, or otherwise by order of law. Hereof fail not at your peril, making true return of this our writ as the law directeth. Witness our said justice at this day of in the year of our reign.

Execution granted by a justice of peace.

SUFFOLK, SS.

Attachment to
the superior or
inferior court.

William and Mary, &c. To the sheriff or marshal of our said county, or either of their deputies, greeting: We command you to attach the goods or estate of D. T., of _____ to the value of _____ and for want thereof to take the body of the said D. T. (if he may be found in your precinct), and safely keep, so that you have _____ before our justices at our next court of _____ to be holden at B., within or for our said county on the _____ day of _____ next, then and there to answer to C. L., _____ in an action of _____ as shall then and there appear with damages; and have you there this writ. Witness W. S., Esq., at B., this _____ day of _____ in the _____ year of our reign. J. W.

Summons* ap-
pearance upon
goods attached.

William and Mary, &c. To A. B. of C., _____ greeting: We command you that you appear at our _____ court of _____, to be held at B., for or within the county of S., on the _____ Tuesday in _____ next, to answer unto C. D. of _____, in an action of _____, to the value of _____, which the said C. D. hath commenced, to be then and there heard and determined, to respond which action your goods or estate are attached to the value of _____ Hereof fail not at your peril. Witness, W. S., Esq., at B., the _____ day of _____, in the _____ year of our reign. J. W.

SUFFOLK, SS.

Summons to
give evidences.

To A. B. of C. In their majesties' names you are required to make your appearance before their majesties' justices of the next _____ court of _____, to be holden for or within the county aforesaid, at B., upon the _____ Tuesday of _____ instant, to give evidence of what you know relating to a plea or action of _____, then and there to be heard and tried betwixt R. S., plaintiff, and S. T., defendant. Hereof fail not, as you will answer your default under the pains and penalt[y][ies] of the law in that behalf made and provided. Dated in D. the _____ day of _____, in the _____ year of their majesties' reign.

Writ of *facias*
habere possessionem
and
writ of *feri*
facias for dam-
ages and costs.

William and Mary, &c. To our sheriff or marshal of our county of E., or either of their deputies, greeting: Whereas A. B., of C., yeoman, before our justices of our _____ court of _____, held for or within our said county of E., at S., upon the _____ Tuesday in N. past, by the consideration of our said court, recovered his term yet to come of and in _____ messuage or tenement, with the appurtenances, or _____ acres of land, pasture or meadow, lying in the _____ of D., within your precincts, against E. F., of G., carpenter, who had unjustly put out and amoved the said A. B. from his possession thereof, and also there recovered _____ pounds _____ shillings and _____ pence for costs and damages which he has sustained by reason of the said offence and ejection, and expended for the removal thereof, as to us has been made to appear of record: we command you, therefore, that without delay you cause the said A. B. of and in the aforesaid tenement, with the appurtenances or land, to have possession of his term yet to come. We also command you, that of the goods, chattels or lands of the said E. F. within your precinct at the value thereof in money, you cause the said A. B. to be paid and satisfied the aforesaid sum of _____ pounds _____ shillings and _____ pence, which to the said A. B., in the said court, was adjudged for his costs and damages, with _____ shillings more for this writ, and thereof also to satisfie your self for your own fees. And for want of such goods, chattels or land of the said E. F.'s to be by him shewn unto you, or found within your precinct to satisfie the aforesaid sums, we then command you to take the body of the said E. F. and him commit unto the keeper of [y]our goal in S., within our said prison, whom we likewise command to receive him the said E. F., and him safely to keep, until he pay unto the said A. B. the full sum above mentioned, and be by him released, and also satisfie your fees. And this writ, with your doings therein, you are to return unto our said _____ court of _____, to be holden at S. upon the _____ Tuesday in N. next. Witness, W. S., Esq., in S., the _____ day of _____, in the _____ year of our reign. T. H.

Execution.

William and Mary, &c. To our sheriff or marshal of our county of S., or either of their deputies, greeting: Whereas A. B., of C., yeoman, recovered judgment

* *Sic*, "for" omitted?

against D. E, of F., carpenter, before our justices of our court of , holden for or within our said county of S. on the last Tuesday in month past, for the sum of pounds shillings and pence, in money, debt or damage, and pounds shillings and pence for costs of suit, as to us appears of record, whereof execution remains to be done. We command you, therefore, that of the goods, chattels or lands of the said D. E. within your precinct, you cause to be paid and satisfied, at the value thereof in money, the aforesaid sum of pounds shillings and pence, with shillings more for this writ, and thereof also to satisfie your self for your own fees ; and for want of such goods, chattels or lands of the said D. E's to be by him shewn unto you, or found within your precinct, to satisfie the aforesaid sums, we command you to take the body of the said D. E. and him commit unto the keeper of our goal in B, within the said prison, whom we likewise command to receive the said D. E. and him safely to keep, until he pay unto the said A. B. the full sum above mentioned, and be by him released, and also satisfie your fees. And this writ, with your doings therein, you are to return unto our said court of , to be holden at B. upon the last Tuesday in month next. Witness, J. R., Esq., in B., the day of , 169 , in the year of our reign.

[J. W.]

William and Mary, &c. To our sheriff or marshal of our county of S., &c., *Scire facias*. greeting: Whereas C. D., before our justices of our court of , holden for or within our said county of S., at B, on the last Tuesday of , in the year of our reign, by consideration of our said justices, recovered against A. B., of B., yeoman, pounds, debt or damage, and also shillings for costs and charges by him about his suit in that behalf expended, whereof the said C. D. is convict, as to us appears of record, and although the judgement be thereof rendred, yet the execution of the said debt and costs doth yet remain to be made, whereof the said C. D. hath supplicated us to provide remedy for him in that behalf: Now, to the end that justice be done, we command you, that by honest and lawful men of your precinct, you make known to the said C. D. that he be before our justices of our court of , to be holden in or for our said county of S., at B., on the last Tuesday of next, to show cause (if any he have), wherefore the said C. D. ought not to have his execution against him of the debt and cost[s] aforesaid. And further, to do and receive that which our said court shall then consider, and have there then the names of them by whom to him you make known the same, and this writ. Witness, J. R., Esq., at B., the day of , in the year of our reign.

[J. W.]

SUFFOLK, ss.

To the sheriff or marshal of the said county, or constables of the town of M., *Replevin*. or to any or either of them: In their majesties' names, you are required to replevin [one] , of T. P., now distrained or impounded by J. G., and deliver the said unto the said T. P., provided he give bond to the value of , with sufficient suretie or sureties, to prosecute his replevin at the next inferiour court of pleas to be holden for the said county at B., on the last Tuesday of , and so from court to court until the cause be ended ; and to pay such costs and damages as the said J. G. shall by law recover against him. Hereof fail not, and make true return of this writ, with your doings therein, as the law directs. Dated in B. the day of , in the year of their majesties' reign.

William and Mary, &c. To A. B.,

greeting: Writ of error.

Whereas in the record and process, and also in giving judgement and issuing execution of a suit which was before our justices of our inferiour court of pleas, holden at B., within the county of S., on the Tuesday of last past, between C. D., plaintiff, and F. G., defendant, of a plea , error manifest doth appear to have intervned, to the grievous damage of the said F. G., as [of] [by] his complaint we have received, we willing that error, if any there be in this behalf, in due manner be corrected, and speedy justice according to the law, to the party aforesaid, therein be done as it becometh us, command you, that if judgement be thereon given, and execution issued, that the record and process of the suit aforesaid, and also the execution thereon issued, and all things touching the same in any manner, you have before our justices of our superiour court of

judicature, at _____, in our said province, the _____ next, under your seal; so that our said justices of our said superiour court may then and there have them, and the process and record aforesaid, and also the said execution being inspected, may further therein do what of right ought to be done. Have with you then this writ. Witness, _____, at _____, [this] [the] _____ day of _____, in the _____ year of our reign.

Supersedeas.

William and Mary, &c. To the sheriff of our county of [S.] greeting:
Whereas C. D., lately in our _____ court of _____, hath recovered against F. G., as well _____ pounds debt as his damages, which by occasion of the detaining of the said debt to him in our said court were adjudged, whereof he is convict[ed] as by the record and process of the suit aforesaid, before our justices of the said _____ court fully appears, as from the grievous complaint of the said F. G. we have received, and that in the record and process, and in rendring of judgement of the suit aforesaid, error manifest hath intervened to the grievous damage of the said F. G., and we willing that error therein, if any be, in due manner be corrected, and to the said F. G. full and speedy justice in this behalf to be done, have commanded the aforesaid _____ by our writ, that if judgement therein be given, he distinctly and aptly send the record and process of the suit aforesaid, with all things touching the same, unto _____, under his seal, and that writ, so that _____ may have _____ the _____ day of _____ next ensuing, where _____ that the record and process being inspected, we may cause further therein to be done as of right and according to law ought to be done. Nevertheless, the record and process aforesaid, with all things touching the same, before the aforesaid _____ day of _____ into our said _____ [court of] _____ cannot conveniently be sent, and so error therein, if any be, in the mean time, cannot be discussed, and therefore we command you that if before the receiving of that writ you have not made execution of this judgement aforesaid, then as well from further taking, arresting, imprisoning, exacting, outlawing, or in any thing molesting the aforesaid F. G. on the occasion aforesaid, as of taking in execution any goods or chattels, lands or tenements whatsoever of the said F. G. by occasion of the judgement aforesaid, until the plea upon our writ of error to be corrected depending undiscussed be fully determined, you altogether supersede; and have with you then and there this writ. Witness, W. S. Esq., at B., the _____ day of _____, in the _____ year of our reign. [Passed Nov. 30; published Dec. 9.]

“ — inasmuch * * * by the Act &c., the precept to the Sheriff for election of Representatives directs y^e freehold^{rs} of 40^s p^r aⁿn. and other inhabitants worth £40 to elect, Altho' the Charter app^{ts} Inhabitants worth £50 to elect, It hath been thought fit to repeal the said Act by reason of the variation of y^e Charter in this particular.”—*Letter from the Privy Council, ut supra.*

[NOTE.—The singular discrepancy, in relation to the qualification of electors, between the charter as originally engrossed and the duplicate or exemplification thereof sent to the Province, is fully pointed out in the note to chapter 4 of the acts of 1698, p. 363, *post*. The property qualification of an elector in the charter as first published here, was, clearly, the possession of £50; but it may be that this was either printed in London, or copied from one printed there, and that in framing the above act only the parchment was consulted.]

CHAPTER 37.

AN ACT FOR REGULATING FEES.

Be it enacted and ordained by the Governour, Council and Representatives convened in General Court or Assembly, and it is hereby enacted and ordained by the authority of the same,

[SECT. 1.] That the establishment of the fees belonging to the several offices in this province be as followeth :

JUSTICE'S FEES.

For every attachment or summons for actions not exceeding forty shillings, sixpence,	£0	0s.	6d.
Subpœna, each witness, twopence,	0	0	2
Entering the action, three shillings,	0	3	0