

321. No relief shall be given under the last rule if the Court or Judge shall be of opinion that the person applying might reasonably have ascertained before the trial the facts which he alleges have become known to him since the trial.

322. When a witness who gave material evidence at the trial of an action has since been indicted for perjury in respect of that evidence, the Court may stay execution until the indictment has been tried, or may order the proceeds of the execution to be paid into Court, there to remain until further order.

323. If execution be sued out contrary to any order of the Court or a Judge, or to the agreement of the party suing it out, or otherwise contrary to good faith, it may be set aside by the Court or a Judge.

324. A writ of execution must strictly pursue the judgment or order in pursuance of which it has been issued, or show on the face of it why it does not.

325. Two or more writs of execution of the same kind may be issued into one or more districts, and if necessary addressed to different officers, provided that the costs of more than one concurrent writ shall not be allowed, unless by order of a Judge.

326. Writs of execution shall be prepared by the proper officer and sealed with the seal of the Court, and when sealed shall be delivered by such officer to the officer for the time being appointed to execute writs of execution, and when so delivered shall be deemed to be issued.

327. The officer of the Court to whom a writ has been delivered for execution, immediately after execution, if he succeed in executing the writ, or after reasonable attempts to execute the writ have been made but without success, shall return the same into the office of the Court out of which it has been issued, with a memorandum indorsed thereon, stating the mode in which the writ has been executed, or the reason for not executing the writ.

328. If any writ be returned unexecuted, such writ may, on the application of the party issuing the writ, be again issued to the proper officer for execution, if it be made to appear that there are grounds for believing that the writ can be successfully executed.

329. Writs of execution shall be in the form given in the Schedule hereto.

WRIT OF SALE.

330. A writ of sale shall authorize the officer to whom it is directed to seize all the chattels, including moneys, cheques, bills of exchange, promissory notes, bonds, or other securities for money, of the person against whom it is issued, except wearing apparel, bedding, tools and implements of trade, not exceeding £25 in value.

331. Such officer shall pay or deliver to the party suing out such writ of sale any money or bank notes which shall be so seized, or a sufficient part thereof, and shall hold any such cheques, bills of exchange, promissory notes, bonds, or other securities for money as a security or securities for the amount by such writ of sale directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may sue in his own name for the sum or sums secured thereby if and when the time of payment thereof shall have arrived.

332. The payment to such officer by the party liable on any such cheque, bill, promissory note, bond, or other security, with or without action, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment, or of such recovery and levy in execution, as the case may be, from his liability on any such cheque, bill of exchange, promissory note, bond, or other security; and such officer may, and shall, pay over to the party issuing the writ of sale the money so to be recovered, or such part thereof as shall be sufficient to discharge the amount by such writ directed to be levied, and if, after satisfaction of the amount so to be levied, together with the fees and expenses of such execution, any surplus shall remain in the hands of such officer, the same shall be paid to the party against whom such writ shall be so issued: Provided that no such officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, or other security, unless the party suing out the writ of sale shall enter into a bond, with two sufficient sureties for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof; the expense of such bond to be deducted out of any money to be recovered in such action.

333. A writ of sale shall also authorize the officer to whom it is directed to sell the chattels so seized, not being money, cheques, bills of exchange, promissory notes, bonds, or other securities for money, and all the estate, right, title, or interest, whether in possession, remainder, reversion, or expectancy of the person against whom the writ has been issued, in any lands.

334. Except when otherwise provided by statute, a writ of sale shall bind the chattels of the person against whom it has been issued from the time the writ has been delivered to the proper officer for execution, and shall bind the estate, right, title, or interest of such person in lands immediately after a memorial of the judgment in pursuance of which such writ has been issued, certified by the proper officer, has been registered against such lands in the manner hereinafter mentioned, that is to say:—

- (1.) When the title to the land is under "The Land Transfer Act, 1870," or any Act amending the same, such memorial shall be lodged with the District Land Registrar for the district in which such land is situated, and shall be entered as a charge against the land intended to be affected.
- (2.) When the title to the land has been brought under the operation of "The Land Registry Act, 1860," such memorial shall be registered in the form and manner prescribed by the rules in force for the time being regulating the procedure under the said Act, with the District Registrar of Land for the land registry district in which such land shall be situated, as a charge against the land intended to be affected.
- (3.) When the title to the land shall not have been brought under "The Land Transfer Act, 1870," or any Act amending the same, or "The Land Registry Act, 1860," a memorial shall be registered with the Registrar of Deeds for the district in which such lands shall be situate, according to the law in force for the time being for the registration of deeds.