ments, as of Goods and Chattels, to delay, hinder or defraud Creditors, and others of their juſt and lawful Actions, Suits, Debts, Damages, Penalties, Forfeitures, Heriots, Mortuaries, and Releaſes; for the Expoſition of which and other Statutes, ſee the Authorities quoted in the Margent.

And it is to be obſerved, that the Words of the ſaid Act of 13 Eliz. are, Be it therefore declared, ordained, and enacted: And therefore like Caſes in ſemblable Miſchief ſhall be taken within the Remedy of this Act, by reaſon of this Word (declared) whereby it appeareth, what the Law was before the making of this Act. But let us now return to Littleton.

❡ *Fieri facias.* This is a Writ mentioned in the ſaid Statute, but is a Writ of Execution at the Common Law. And is called a Fieri facias, becauſe the Words of the Writ directed to the Sheriff be, Quod fieri facias de Bonis & Catallis, &c. and of thoſe Words the Writ taketh its Denomination.

But note, That a Capias ad ſatisfaciendum is not mentioned in the ſaid Statute, becauſe no Capias ad ſatisfaciendum did lie at the Common Law upon a Judgment for Debt, &c. or Damages, but only when the original Action was, Quare vi & armis, &c. But later Statutes have given a Capias ad ſatisfaciendum where Debt, &c. or Damages are recovered; as it appeareth at large in Sir William Herbert's Caſe, whereunto I refer the Reader.

And it is to be obſerved, that theſe three Writs of Execution ought to be ſued out within the Year and the Day after Judgment; but if the Plaintiff ſueth out any of them within the Year, he may continue the ſame after the Year until he hath Execution. And to none of theſe Writs of Execution the Defendant can plead; but if he hath any Matter ſince the Judgment to diſcharge him of Execution, he may have an Audita querela, and relieve himſelf that Way, but plead he cannot. As if the Plaintiff after releaſe unto the Defendant all Executions; yet in none of theſe three Writs he ſhall plead it, but is driven to his Audita querela, as hath been ſaid.

Sect. 505.

❡ *Scire facias.* This is a judicial Writ, and properly lieth after the Year and Day after Judgment given, and is ſo called, becauſe the Words of the Writ to the Sheriff be, Quod Scire facias præfat' T. (being the Defendant) quod ſit coram, &c. oſtenſurus ſi quid pro ſe habeat aut dicere ſciat, quare, &c. So as by the Writ it appeareth, that the Defendant is to be warned to plead any Matter in Bar of Execution; and therefore albeit it be a judicial Writ, yet becauſe the Defendant may thereupon plead, this Scire facias is accounted in Law to be in Nature of an Action;

and therefore [a] a Releaſe of all Actions is a good Bar of the ſame, and likewiſe a Releaſe of Executions is a good Bar in a Scire facias; this Writ was given in this Caſe by the

❡ MES ſi apres l'an e jour le Plaintiff voit ſuer un Scire facias, a ſacher ſi le Defendant poit rien dire pur que le Plaintiff navera execution, donques il ſemble que tiel releas de touts actions ſerra bon plee en barr: Mes aſcuns ont ſemble contrary, entant que le brief de Scire facias eſt un briefe d'execution, e eſt d'aver execution, &c. Mes uncore entant q̃ ſur m̃ le briefe le defendant poit pleader divers matters puis le Judgment rendue de luy ouſter d'execution, come utlagary, &c. e divers auters

BUT if after the Year and Day the Plaintiff will ſue a *Scire facias,* to know if the Defendant can ſay any Thing why the Plaintiff ſhould not have Execution, then it ſeemeth that ſuch Releaſe of all Actions ſhall be a good Plea in Bar. But to ſome ſeems the contrary, inaſmuch as the Writ of *Scire facias* is a Writ of Execution, and is to have Execution, &c. But yet inaſmuch as upon the ſame Writ the Defendant may plead divers Matters after Judgment given to ouſt him of Execution, as Outlawry, &c. and divers other Matters, this matters,

2