said Rositer in like manner, andsoforth. And for further plea in this behalf as to the supposed promise in the said first count of the said declaration mentioned the said Walter by leave of the court here first had and obtained, according to the form of the statute in such case made and provided, says, that the said Rositer his action aforesaid against him to have and maintain ought not, because he says that the cause of action in the said first count in the said declaration mentioned did not accrue to the said Rositer at any time within three years next before the day of suing out the original writ in this cause; and this he is ready to verify: wherefore he prays judgment if the said Rositer his action against him the said Walter to have or maintain ought, andsoforth. And for further plea in this behalf as to the supposed promises in the second and third counts of the said declaration mentioned, the said Walter by like leave of the court here for this purpose first had and obtained according to the form of the statute in such case made and provided, says that the said Rositer his action aforesaid against him the said Walter to have or maintain ought not, because he the said Walter says that the said George in his life time did not undertake and promise in manner and form as he the said Rositer hath above thereof complained against him the said Walter, at any time within three years next before the day of suing out the original writ in this cause; and this he the said Walter is ready to verify: Wherefore he prays judgment if the said Rositer his action aforesaid against him the said Walter to have and maintain ought, andsoforth.

And thereupon the said Rositer by his attorney aforesaid prays leave of the court here to imparle till the first monday in February next, and then to reply to the answer of the said Walter in the plea aforesaid; and he hath it: the same day is given to the said Walter then, andsoforth.

At which said first monday in February in the year of our Lord one thousand eight hundred and two, come again into court here the said parties by their attornies aforesaid; thereupon the said Rositer Scott by his said attorney files in court here his replication to the answer of the said Walter in form following, to wit: And the said Rositer replies that he ought not to be precluded from having his action against the said Walter by any thing above alledged by him in his said second and third pleas, because he saith that the pleas aforesaid in the manner and form as the same are

above pleaded by the said Walter, and the matters therein contained are not sufficient in law to preclude the said Rositer from having and maintaining his said action against the said Walter; to which pleas the said Rositer is under no necessity, nor any wise bound by the law of the land to answer in any other manner; and this he is ready to verify: wherefore for want of a sufficient answer in this case the said Rositer prays judgment, and his damages by reason of the premises to be adjudged to him, &c.

And for causes of demurrer to be set forth according to the form of the statute in that case made and provided, he the said Rositer sets down and shews here to this court these causes following, to wit: 1st The said Walter in his said second and third pleas above by him pleaded in bar, hath altogether omitted the words, "comes and defends the force and injury when, andsoforth," and the same are entirely left out.

2nd The said Walter in his said second and third pleas above by him pleaded in bar, hath pleaded the same and the matters therein contained in bar without beginning the same with a defence, and in the same pleas hath made no defence. Th. Stell for Pltff.

And the said Walter by his attorney aforesaid says that the said second and third pleas by him the said Walter in manner and form aforesaid above by way of answer pleaded, and the matters therein contained are good and sufficient in Law to preclude the said Rositer from having and maintaining his action aforesaid against him the said Walter: wherefore for want of a sufficient replication in this behalf the same Walter, as before, prays judgment, and that the said Rositer may be precluded from his action aforesaid thereof against him had &c.

But because the court here are not advised to give their judgment of and upon the premises, whereof the parties aforesaid have put themselves on the judgment of the court, day therefore is given to the parties aforesaid before the court here on the first monday in June next, to hear their judgment of, and upon those premises, because the court now here thereof are not yet advised &c.; and as well to try the issue aforesaid between the parties aforesaid above joined to be tried by the country, as to inquire what damages the said Rositer hath sustained by reason of the premises aforesaid, whereof the parties aforesaid have put themselves on the judgment of the court, if judgment shall happen to be given thereon for the said Rositer against the said Walter, let a jury thereon come before the court here on the said first