

The form of a Precept to the Sheriff to return a Jury; *vide hic*.
The form of the Enquiry, Presentment or Verdict. See *hic*.

7. And if upon such Enquiry such Forcible Entry (or Forcible holding, or Detainer) shall be found by the Oaths of the Enquirers, then the said Justice of Peace shall reseize the Lands and Tenements so entred upon or holden, and thereof put the party in possession again, who in such sort was put out or holden out. See the other Title of *Forcible Entry*. §. c. Restitution.

But the putting out, as also the holding out, must of necessity be found and that by expreis words in the Indictment. See as before.

And so note, that the Justice or Justices of Peace, recording only the Force by his or their view, may not put the party put out, into his possession again, but the Justice must first make Enquiry thereof by Twelve men of the County at a special Sessions by the said Justices to be holden; and then the Force being found by the said Jury, the said Justice or Justices may put the party so put out into his former possession.

And this Restitution the Justice of Peace may make himself; or he may make his Warrant to the Sheriff to do it: or else he may certifie such Presentment or Indictment taken before him, into the King's Bench, and so leave the Restitution to be awarded out of that Court. See as before.

Co. 9. 118. Co. 11. 65. 7 E. 4. 18. But the Justices of Assize and Gaol-delivery, nor the Justices of Peace at their General Sessions, cannot (as it seemeth) make or award Restitution, except the Indictment were found before them; but the Justices of Peace only, or some of them, that were present at the Enquiry, and when the Indictment was found, they only have power to make Restitution; except notwithstanding the Justices of the King's Bench, who have a supreme Authority in all cases of the Crown.

-And therefore if the Record, *sc.* the Presentment of such Force, shall be delivered by the Justices of Peace into the King's Bench, or that the same Presentment or Indictment shall be removed and certified thither by *Certiorari*, there the Justices of the King's Bench may award a Writ of Restitution to the Sheriff of the same County, to restore possession to the party so expelled.

P. R. 41. b. After it is found by such Enquiry, that such Forcible Entry or Detainer is made, the Justices of Peace may break open the house by force, to reseize the same, and to put the party, so put out, in possession again. And so may the Sheriff do, having the Justices Warrant.

The form of such Warrant from the Justice of Peace to the Sheriff to make Restitution. See in the other Title, *Forcible Entry*.

But the Justice of Peace may not (in any case) make a Restitution without such Enquiry first had, and such Force thereby found: and if the Justice shall make Restitution without Enquiry, it seemeth to be punishable.

Also this Restitution ought to be made to none, but to him only that was put out; so that if the Father be put out by Force, and dieth (after Enquiry, and before Restitution,) his Heir shall not have Restitution.

To whom Restitution shall be made. See the other Title, *Forcible Entry*.

Also such Restitution must be made only, where a man is put out, or holden out, &c. Of House or Land, and is not to be understood of a Rent, Common, Advowson, or such like. See the other Title, *Forcible Entry*.

Also the Justice may make Restitution, notwithstanding any offer of Traverse; but yet upon Traverse tendered, the safest way (for the Justice of Peace) seemeth to be for him to deliver or certifie the Presentment into the

m. b.

8. 4. 1. 2. n. 19.

11. 43.

m. 162.

5. Imp.

omp.

1.

m. Edit.

82.

am. 163.

r. Forcib.

7.