

Lamb. 48
Br. Force
23.
2. Also the Indictment ought to express the quality of the thing entered upon, &c. *sc.* Whether it be a Messuage, Cottage, Meadow, Pasture, Wood or Land Arable: For if the Indictment be, that by strong hand they did enter the Tenement, &c. It is void for the incertainty, because the word *Tenement* may extend to either of them.

14 H. 6. 16.
Br. Force
13.
3. Also the Indictment must have these words, to wit; yet hold out, otherwise the party shall have no Restitution; and yet these words be not in the Statute: But without these words in the Indictment, it may be supposed and thought, that he which put me out, hath let the possession again, or that I have gotten it again; and then the Restitution is needless.

So as in every such Indictment, these words are material, *sc.* *Expulerunt, & adhuc extra tenent.* And for lack of either of these words, no Restitution shall be made or awarded.

Lamb. 145
4. Also one of these two words, with strong hand, or with multitude, seem to be material, in the Indictment; unless they be implied by reciting the Statute of 8 H. 6. and concluding, against the form of the Statute, or by some other words in the Indictment. See the Precedents herein.

For the form to be used in these Indictments. See more after *tit. Indictments.*

Crom. 162
If a Man shall be restored upon an insufficient Indictment taken before the Justices of Peace; and this be removed in the *Kings Bench*, the Court there will cause the party to be restored; that before was put out by the Justices of Peace.

Cromp.
165 & 166
5. Also if Error or Insufficiency be in the Indictment, taken before the Justices of Peace, and yet a Precept or Writ of Restitution is awarded by them, any two of those Justices of Peace, which were present at the taking of the said Indictment, upon the Prayer of the party, may (at another Sessions, or out of the Sessions) grant and award a *Superfedeas* to the Sheriff, to stay the same Restitution, if the Sheriff had not made Restitution before the *Superfedeas* came to his hands.

Dyer 187.
But no other Justice of Peace (besides those which were present at the taking and finding of the said Indictment) can grant a *Superfedeas*, if the Indictment were found at a special Sessions. And if it were found at the Quarter Sessions, yet the *Superfedeas* shall be granted under the *Teste* of one of those Justices only which were present at the finding of the Force. *Ibidem.*

Cromp.
165.
A Man is indicted that he entred with Force, and held with Force and upon the Traverse, it is found that he entred with force but not that he held with Force; yet this Indictment seemeth good enough, and the party shall be restored.

Ibid.
So two are indicted of a Forcible Entry and Detainer, and upon the Traverse, it is found, That the one entred with force, and the other held or detained with force, yet the party shall be restored. *Br. Force* 15.

Crom. 166
If it be found by one Inquest, that *A.* put me out by force, and by another Inquest, that I did put out *A.* by force, either of us may pray to have Restitution against the other: But he that is first restored is in the worst case; for the other may have Restitution afterwards, and then he that had Restitution first, is without remedy, by the hands of the Justices of Peace; saving that he may re-enter, if he can peaceably, or have his Action. *Br. Force* 6.

Br. Force
36.
If it be found by one Inquest, that *A.* put me out by Force, and by another Inquest taken at the same Sessions, that *B.* did put me out by force, I may chuse upon whether of these Indictments I will be restored: And if I have Restitution against *A.* and this be returned, I cannot have Restitution

§. 3.
Several Indictments.