

Two Joynt-tenants be put out by Force and one of them only sueth to have Restitution, Restitution shall be made unto him.

Whether a Copiholder, Lessee for Years, or Tenant at Will, shall have Restitution. See before.

And the Lessee for years, or a Copiholder, &c. may pray, and shall have Restitution, as well as he in the Reversion, or the Lord.

If Lessee for years be put out of his Term by Force, and die, though after his death this Force be found by Inquisition, taken by a Justice of Peace; yet his Executors shall not be restored to that Land (by the Justice) for that they are not the same person that was put out. P. R. 38.

The particular Tenant, as Tenant for years, or a Copiholder, shall be restored notwithstanding the Lord or Lessor (who have the Freehold) will wave it, or disagree to it as to themselves; and thereupon this case hapned. The Lord of a Manor commanded A. B. and C. to enter with Force upon his Copiholder, which they did do, and an Indictment is preferred *quod expulerunt* the Copiholder, and disseised the Lord which forced, and the Lord laboured that no Restitution should be made; for that, as was alledged, Restitution was to be made out of respect to the Freehold: Yet the Court granted Restitution to the Copiholder. For the Court ought to reform the wrongs in their several degrees; and that is, to restore the Copiholder first who is expelled. And so was done, as was said by Justice *Williams* in the case of the Lord *Norris* who withstood a Restitution to his Lessee. *Sir Audley Novels Case, Telver. p. 81.*

The words of the Statute of 21 Jac. 15. are too strictly taken, and shall not be extended by Equity, and to that purpose this case hapned; an Indictment of Forcible Entry, was *Ad tunc exist. liber. ten. B. ad voluntatem Domini secundum consuetudinem manerii.* The party in this case, could not be restored, because it is not said *per Copiam rotulorum cur.* And it may be she was Tenant by the Verge, and not by Copy. But it was holden, that a Copiholders Widow that held *per bancum* should be restored. *Lach, p. 182.*

What Causes there may be for staying the Justice of Peace from granting Restitution. C H A P. CXXXIII. V. 84.

§. 1.

Although the party thus being indicted for a Force shall not be heard nor suffered to give his Title in evidence, to excuse himself of his Forcible Entry or Detainer, to save his Fine due to the King for such Force (which Fine he shall make, though his Right be never so good;) yet to the Restitution (which the Complainant shall demand, if the Force be found) the Defendant shall be heard to disprove the Title of the Complainant, or what we can say otherwise for the stay of Restitution. *Quere,* and see before in the other Title of *Forcible Entry.* Lamb. 154
Cromp. 162.
Br. Forc 11.
Dyer 125

Now the Defendant (or party indicted) for the stay of Restitution, may at the time of the Restitution to be made, plead or alledge any of these things following.

1. His quiet possession by three years together.
2. He may deliver to the Justices of Peace or Court, a *Certiorari.* And this is a *Superfedeas* to them. See the Statute 21 Jac. 8. hereafter.
3. He may tender his Traverse; but Mr. *Lambert* seemeth to doubt whether the party may be admitted to his Traverse before the same Justices of Peace. And he thinks it safer for the Justices to make Restitution, notwithstanding the offer of Traverse, or rather wisheth the Justices to deliver, Lamb. 164
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