

Justice of Peace, he may thereupon grant a *Superfedeas* to the Sheriff. And if Restitution were made by the Sheriff before the said *Superfedeas* came to his hands, then the other party shall have Restitution back again in the *Kings Bench*, upon the Indictment removed thither.

But for that Bills of Indictment of Forcible Entry or Riots, being found before the Justices of Peace are oftentimes removed by Writs of *Certiorari* out of the *Chancery* or *Kings Bench*, by the means of the person indicted, by means whereof such offenders for the most part escape unprosecuted and unpunished; (for that the party grieved will not undergo the travel or charge, &c.) It is therefore Enacted (by the Statute made 21 *Jac.* cap. 8.) That all such Writs of *Certiorari*, shall now be delivered at some Quarter Sessions of the Peace, in open Court; and that the parties indicted, before the allowance of such *Certiorari*, shall become bound unto such person which shall prosecute such Bill of Indictment against them, in the Sum of 10*l.* with such sufficient Sureties, as the Justices of Peace, at their said Quarter Sessions of the Peace, shall think fit, with Condition, to pay unto the said Prosecutors of such Bill of Indictment (within one month after the conviction of such parties indicted) such Costs and Damages, as the said Justices of Peace in the said Sessions of the Peace shall assess or allow. And in default thereof, it shall be lawful for the said Justices to proceed to tryal of such Indictments, any such Writ of *Certiorari* to remove the same Indictment notwithstanding.

“ A Bill of Forcible Entry was found before Justices of Peace, and Restitution awarded, but not executed; a *Certiorari* was delivered to one of the Justices, who refused to open it without consulting with his Companions, and Restitution is made. This was moved in the *Kings Bench*; and the Restitution awarded; and the Justice of Peace child, in the case of *Fitz-Williams, Telterton*, p. 32.

§. 4. *Traverse.* The tender of a Traverse (to an Indictment of Forcible Entry, upon the Statute of 8 *H.6.*) is no *Superfedeas*, but in discretion; so as the Justices of Peace or Court (notwithstanding the Traverse tendered) may grant or may stay the Restitution at their discretion, according as the truth of the right or title shall appear to them; And so is the use of the *Kings Bench*, *Dyer* 122. pl. 34.

Or else the Justices of Peace (before whom the Indictment was found) may after Traverse tendered, carry or deliver the Indictment into the *Kings Bench*, or to the Quarter Sessions, and so refer the further proceedings therein to them.

But if the party indicted shall tender a Traverse presently, whereupon Restitution is stayed, and after he shall not pursue his Traverse with effect (but discontinueth it) And after he shall tender another Traverse upon Restitution prayed at another time, the Justices of Peace or Court, shall do well to proceed to grant Restitution, notwithstanding such Traverse tendered.

And it is the Course of the *Kings Bench*, that he that tendereth the Traverse there (upon such an Indictment) shall bear all the charges of the Tryal, and not the King, nor he at whose Suit the Indictment was found: And the same reason seemeth upon an Indictment traversed before Justices of Peace.

But upon a Forcible Entry found, and a Traverse tendered, if the Justices of Peace will try the Traverse, it seemeth they ought to cause a new Jury to be returned (by the Sheriff, before them) to try the same Traverse. The which may be done the next day; but not the same day.

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