

I have inserted this former Precedent, for that it discovereth much matter worthy the Justices observation.

Indictment. C H A P. CLXXXIV. V. 131.

FOR the Form of Indictments in cases of Forcible Entry and Riots, I have here before set you down certain Precedents; nevertheless for that these Indictments be the chief foundation whereupon the whole business and Trial is after to be grounded and built, I thought it not amiss to observe here these few general rules, as well concerning the matter as the form of these and all other Indictments or Presentments to be taken before the Justices of Peace.

First, in these Indictments of Forcibly Entry and Riots (as also in all other Indictments of Felony or Trespass) it is good to say, *Against the Peace*, or other words to that effect.

Lamb. 484
18 H. 8.
c. 8. Also these words, *With Force and Arms, to wit, with Swords, &c.* are not of necessity, yet it is good to use them, especially if the circumstances of the Fact do require them; for these circumstances do either aggravate or diminish the Offence, *Stamf. 94.*

But these words [with Force and Arms] are needless in an Indictment of Forcible Entry, because they are implied in the word Force.

Yet note, that in all the Indictments of Treason, Murder, Felony or Trespasses, these words [with Force and Arms] are necessary to be put in: (Otherwise it seemeth of Offences which are against the Peace only, as Conspiracies, Deceits, Slanders, Escapes for Debt, and the like.) *Finch.*

Co. 4. 48.
Br. Parl. 87. Also in Indictments found upon Statutes it is not needful, nay it is not safe to recite the Statute at all: for as the recital is not necessary, so the mis-recital thereof in the matter, or in the year, day or place, is fatal to the Indictment, and maketh it void. But it is safe and sure to draw the Indictment with this Conclusion, *sc.*

Co 4. 84.
Dyer 363. Against the form of the Statute in such case made and provided, (if the Indictment be founded upon the Statute:) or against the form of several Statutes in such case made and provided, (without naming any special Statute, where many Statutes do concern one Offence,) *Crompt. 104.*

Plo. 1. &
79. Yet the Offence against the Statute must be certainly described in the Indictment, and the substance and material words in such Statute must be fully set down therein. *Plo. 1. & 79. Lamb. 485. Co. L. 98. b.*

Lamb. 463, &c.
Br. Indictments 6.
24. 34. 46.
& 47.
Stamf. 96. Also all Indictments and Presentments (being in the nature of Declarations for the King against the Offenders) ought to contain certainty, and shall not be supplied or maintained by implication, intendment or argument, *Co. 5. 120. Plo. 84. 122.* and therefore six principal things be most commonly requisite in all Presentments before the Justices of Peace. *viz.*

f. The Names and Surnames, as well of the parties indicted, as of the parties offended; with the addition of the Degree, Mystery, and the Dwelling place of the party indicted, (*sc.* both the Town, and County.)

Yet in some cases an Indictment, that he did procure unknown persons, or that he did take the Goods of an unknown person, &c. or the like, may be good. See *plus Lamb. 470, 476. Br. Indictment 6, 10, 11. Dyer 99. & Plo. fol. 85. b.*