

cannot grant a *Capias*, nor other Process; but two Justices of peace at the least must do it, and that sitting the Court, and in their Sessions; and yet nevertheless in these former cases the Statutes (expressly, or by necessary implication) giving such Authority to the Justices of peace, or to one Justice alone, and that out of the Sessions, are sufficient. Warrant and Commission to the Justices of peace therein, as it seemeth.

Traverse. C H A P. CXCIV. V. 133.

**A**fter that such Process (or other Process *ad respond'*) is awarded against the party, it seems he may come in and yield himself to pay his Fine: or else he may offer his Traverse to the Indictment found against him before the Justices of peace, and the Justices ought to allow him his Traverse against it; which Traverse is to take issue upon the chief matters of the Indictment, or to deny the point of the Indictment. The formal words of the Traverse are in Latin, *Absque hoc*, &c. Lamb. 325

But although the Justices of peace have power in divers cases as aforesaid, (out of their general Sessions,) to take Indictments, and after such Indictments found to award a Process *ad respondendum* against Offenders, and to hear and determine thereof; and the Offenders also have liberty to come in and to speak, and may answer for themselves, and may offer their Traverse, and that the Justices of peace are to allow of, and to receive them. Yet *quare* whether the Justices of peace (out of their general Sessions) may try such Traverse being tendred to them, ('except in cases of Riots and Forcible Entries) without which trial all the rest may seem idle. (*Vide hic.*) Or upon the Traverse tendred they must certify or send the Inquisition of the Indictment so found before them in the Kings Bench, or unto their Quarter or General Sessions of the peace, there to be tried and determined. Howsoever it is safest in all cases, (after such Traverse tendred) to certify or deliver such Inquisition or Indictment into the Kings Bench, or to their next Quarter-Sessions, and so to refer the trial to the Traverse, and farther proceedings therein, to them. See hereof *tit. Riot & Forcible Entry*. See Lamb. 522, 523. & hic cap.

Certiorari. C H A P. CXCIV. V. 134.

**T**HE Return of a *Certiorari* sent to remove an Indictment may be thus: First, upon the backside of the Writ of *Certiorari* indorse these or the like words:

*Executio istius Brevis patet in quadam Scheda eidem Brevis annexata.*

And that Schedule may be thus:

Can. Fab. **E**GO Michael Dalton, *unus Custod' Pacis ac Just' Dom' Regis ad Pacem in dict' Com' Cantabr' conservand' necnon ad diversas Felon' Transgr' & alia malefacta in eodem Com' perpetrata audiend' & terminand' assign' virtute istius Brevis mihi deliberati, indictament' illud (unde in dicto Brevis fit mentio) una cum omnibus indictament' tangentibus, in Cancellar' dicti Dom' Regis distincte & aperte sub sigillo meo certifico. In cujus rei testimonium ego pres. M.D. his presentibus sigillum meum apposui. Datum apud W. 2. die mensis Aug. anno Regni, &c.*

Then