the entry though peaceable must have been unlawful, or the forcible detainer at all events shown to be unlawful, and consequently a conviction by justices on the latter Act, merely stating *an entry* and forcible detainer, was insufficient, for the entry might have been both peaceable and lawful. And in R. v. Wilson, 3 A. & E. 817, a conviction of forcible detainer was held bad, which only stated that the prosecutor complained to the justices of an entry and unlawful expulsion and forcible detainer, and that they personally came, and found the defendant forcibly detaining the premises, whereupon, &c.; for the justices could not know by their view, without evidence, that the detainer was unlawful, or that there had been an unlawful entry; and it seems in addition to have been thought, that the conviction ought to have set out the facts from which the unlawfulness of the detainer was inferred, though it was held in the same case in 1 A. & E. 627, that where the magistrates proceed on their own view, a conviction for a forcible detainer need not set out the facts presented to their view; see, therefore, the precedents in 2 Harr. Ent. 59 *et seq.* and Burns' Just.

Upon the Statutes of Richard, also, the justices cannot proceed in case of a forcible entry, unless they have an actual view of the continuing force, nor can they award restitution; but where there is no continuing force, they have authority under the Statute of H. 6, to inquire into the offence by a jury, and if force be found, to award restitution.[7]

In these proceedings, at least upon the Statute of H. 6, the conviction, it seems from R. v. Wilson, 3 A. & E. 817, ought to show that the party was summoned, or had an opportunity of defending himself against the *ex parte* charge, the Court observing, that there was no stronger reason for

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which could only issue after the finding of an inquisition by a jury summoned for the purpose. Clark v. Vannort, 78 Md. 216.

Practice in Maryland.—Until the passage of the Act of 1882 ch. 355, amended by the Act of 1886 ch. 470, (Code 1911, Art. 53, sec. 6), proceedings in forcible entry and detainer, or forcible detainer alone, were exclusively controlled by these British Statutes. But the Maryland acts, *supra*, providing for the dispossession of a tenant holding over by proceedings before a magistrate without the aid of a jury, contain a brief declaration that such proceedings "shall apply, so far as may be, to cases of forcible entry and detainer."

It follows therefore that in lieu of the method prescribed by 8 Hen. 6 c. 9, a magistrate may now, under Code 1911, Art. 53, secs. 1-6, proceed, after summons and upon due proof, to enter a judgment for restitution without inquisition of a jury first found, and may issue his warrant to the sheriff commanding him to enforce the same. Clark v. Vannort, 78 Md. 216; Roth v. State, 89 Md. 524.

A notice to quit must always precede the summons for a tenant holding over but one who holds possession by force is entitled to no preliminary notice at all. Since therefore a termor is guilty of a forcible detainer if he holds over with force after the expiration of his term, it seems he may be proceeded against for this offense without any preliminary notice to quit. Clark v. Vannort, 78 Md. 219, 221.

[7] Roth v. State, 89 Md. 527.