summoning him in the last stage of the proceeding to defend his property, than in the first when he may be deprived of his liberty and fined, but see R. v. Oakley *supra*. The duty of the justices is to impose a fine upon each offender separately, the Court in R. v. Elwell, 2 Str. 794, S. C. 2 Ld. Raym. 1515, saying, that Lambert held that the justices could not fine, but upon what ground they could not imagine; and if the justices commit without the imposition *of a fine, and the proceedings are removed by *certiorari*, **188** the conviction will be quashed; they need not, however, set the fine at once, but may adjourn for a little while to consider it, though then they cannot commit while they are considering it, R. v. Elwell *supra*. And, on the other hand, the conviction will be quashed, if there be no adjudication that the person, upon whom the fine is imposed, shall be committed till it is paid, R. v. Lord, Say. 176. On payment of the fine to the sheriff, or security given by recognizance for its payment, (though this latter mode of satisfaction of fines, in general, has with us been abolished,) the justices may let the offenders out of prison.

The record made by the justices upon view of a forcible entry, under the Statutes of Ric. 2, which is returnable into the County Court, is said not to be traversable, the justices acting as judges, Dr. Bonham's case, 8 Rep. 121 a. However, it is said in R. v. Layton, 1 Salk. 353, see R. v. Winter, 2 Salk. 587, that though the conviction be only of a forcible detainer upon view, it is traversable upon the Stat. of H. 6,[8] by him that had been three years in quiet possession, as well as upon a finding by inquisition, and that because the party is to be imprisoned, and so is R. v. Harland, 8 A. & E. 826. And it is clear, especially as it is now held that the justices can know nothing of a forcible detainer simply from their own view, that where complaint is made to the justices, the party charged may traverse any fact stated in the information, R. v. Oakley *supra*, and see R. v. Wilson, 3 A. & E. 817, where the subject is discussed in argument. There, at the time of the conviction by the magistrates, the defendant tendered them a traverse of the force in writing, as it is required to be. A few days after an inquisition was held before them, for the purpose of trying the alleged force by a jury, who after evidence by both parties found the defendant guilty, and the justices awarded restitution. The conviction and inquisition having been returned, it was held that the conviction was void for the reasons above stated, and the inquisition being founded on it could not be sustained; but that the latter, not showing any complaint made by the prosecutors, nor by what authority the jury was summoned, was itself bad. A good deal of the learning connected with the summoning and swearing of the jury may be found in Lord Proprietary v. Brown *supra*, where an inquisition of forcible entry and detainer was quashed as to the latter, for, as it seems, amongst other reasons, that the jury were sworn only to try the entry and found the detainer also; and see also Latrobe's Justice, *hoc tit.*

In indictments under the Statutes, it is necessary to set out the nature of the party's estate, because there must be restitution, R. v. Wilson, 8 T. R. 357; and in R. v. Bowser, 8 Dowl. P. C. 128, an inquisition was quashed,

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