

Anderson  
vs.  
Walker.

the company endorsed his approval on the information of such clerk ; and this provision is wholly omitted in the statute of 1820, which is a revision of all the statutes on the subject.

*Costs allowed.*



COOS, NOVEMBER TERM, 1825.



THE STATE vs. SAMUEL G. BISHOP.

Writs of *certiorari* are not limited by the 7th section of the statute of June 30, 1825, entitled "an act for the limitation of actions and preventing vexatious suits," that section being intended to limit writs of error only.

This was a writ of *certiorari*, issued on motion of the respondent, commanding two justices of the peace for this county to certify their doings upon a certain process of forcible entry and detainer, had before them on the complaint of one *Willard* against the respondent, in the year 1817.

And now the court was moved to quash the writ of *certiorari*, as having issued improvidentially, after it was barred by the statute of June 16, 1791. 1 *N. H. Laws*, 165.

*By the court.* That statute is now repealed by the act of June 30, 1825, ( 3 *N. H. Laws*, 65,) and whether the seventh section of the latter act was intended to embrace writs, which had issued before its passage, it is unnecessary to inquire ; because we are of opinion, that writs of *certiorari* are not limited by that section, which applies only to writs of error. A writ of error issues as a matter of course, without any application to the court, and is therefore properly limited ; but a writ of *certiorari* is never suffered to issue, without an order of the court, and may always be denied, when the application is made after an unreasonable time.— There is not the same necessity, therefore, for limiting a

writ of *certiorari*, as there is for limiting a writ of error. And we think the language of the statute is not broad enough to comprehend a writ of *certiorari*.

State  
vs.  
Bishop.

*Motion overruled.*



WILLIAM DENNISON vs. PERKINS *et al.*

In actions of trespass *quare clausum fregit* commenced in this court previously to the statute of June 30, 1825, if the title to real estate was not in question, and the plaintiff recover less than forty shillings damages, he will be limited in his costs to the amount of his damages.

THIS was an action of trespass *quare clausum fregit*, commenced in this court and tried here, upon the general issue, at this term, and a verdict returned for the plaintiff, with \$2 33 damages; and the title of real estate was not in question.

The defendants moved the court to limit the costs, because the damages assessed by the jury did not amount to forty shillings;

To which the plaintiff answered, that this suit was commenced before the passing of the statute of June 30, 1825, and was not therefore within the provisions of that act; and that the statute of June 16, 1791, was repealed by that of June 30, 1825; so that there was no act in force, authorizing the court to limit the costs. 1 *N. H. Laws*, 166.—3 *N. H. Laws*, 65.

*Stuart*, for the plaintiff.

*Williams*, for the defendant.

*By the court.* We shall not stop to inquire, whether the costs, in suits pending when the statute of June 30, 1825, was passed, can be limited under that statute; because the statute of June 29, 1819, (2 *N. H. Laws* 99,) gives us, in all actions, “ authority to limit and allow such bills of costs, as law and justice shall require;” and having no doubt, that the statute of June 16, 1791, was inadvertently repealed,