



THE RIGHT

HONORABLE, SIR HENRY MONTAGVE, Knight, Lord chiefe Fustice of the Pleas, holden before the Kings Maiestie.



Honourable good Lord, After I had spent many yeares in the fludie of the Lawes of this Realme, and was called to the ministration of Iustice in my Countrey, I thought it not sufficient to apply my selfe on-

ly to the precepts and directions of former times; But withall, to observe such newe accidents, as daily happened within mine experience, thereby the better to performe the duties of my place: Whilest I thus endeauoured my selfe, I observed that Iustices of Peace in their places, grew in neglect, and many times were ouerswayed by superiour solicitations, yea, and sometimes disgraced, in such fort, as I could have been content rather to have fit down in private quiet, then with care, studie, and paines to incurre such hazards and discontentments. But againe, whilest I stood thus doubtfull, it pleafed the Fountaine of Iustice, (I meane his Royall Maiestie) to countenance and grace, yea to thew his Maiesties high esteeme of this Authoritie of Justices of Peace, not onely (in his Maiesties late 26 Junij. anno Speech in the Starre chamber,) prizing and valuing them with the neerest employed about him;

But (to the great honour of this Realme, and of the gouernment thereof) fithence also establishing this countrey gouernement by Iustices of Peace, in his Maiesties native Countrey of Scotland: fo as me thought, I faw the current of Iustice to runne cleare and comfortably through the land, and my selfe to receive new vigour and encouragement; whereupon I began to recollect my confused Notes and Observations, willing for my private helpe and better readinesse, to digest them into some order and method, such as my vnderstanding could best contriue. Thus prepared, I yet made question with my felfe, whether it were better to adventure the publishing of these my labours, or to keepe them by me onely for my owne private vie. In this vnsetled consultation, being brought vnto your Lordsh, by my good friend, (who also discovered to your Lordship this my labour) and finding your Lordship fauourably to respect me, and it, I tooke heart and encouragement to put the same to Print, after that I had obtained (according to my humble (uit) your Lordships fauour for allowance and patronage thereof.

Now it remaineth further to craue of your Lordsh. not onely for my felfe, but for all that shall vprightly labour in this Iusticiarie course, that wee may receive from your Lordship such incouragement and countenance, as that we may couragiously and constantly vndergoe the charge imposed vpon vs, without feare of oppositions, or other vncomfortable disturbances. So by your Lordships fauour and meanes, shall Iustice bee the more duely administred, & his Maiesties peace the more firmely maintained, to the honour and safetie of the Kings Maiestie, and the good and peaceable gouernment of all his subiects. And so his Maiestie will no doubt proceede (as hee hath begunne) to increase your Honour, for your care in honouring him, and his Royall Throne thereby; And the people, who shall feele the goodnesse and benefite of your zeale of Iustice, will heartily and joyfully pray for your happinesse; And God, beholding how you make lustice and Peace to goe together, will according to his aboundant Mercies, and vnfallable Trueth, giue you the euerlasting reward of Justice and Peace: For all which I will continually pray, and besides rest,

Your Lordships

in all humilitie, and

duetie, euer to be commaunded.

MICHAEL DALTON.

A 4



To the Right Worshipfull,
Sir I A M B S L E B, Knight, the Kings

Maiesties Atturney of his Court of
Wards and Liveries, And to the Right Worshipfull, and my every good concle, Thomas
Spencer, Esquire, and to theresidue of my Masters of
Lincolnes Inne.

MES T may peraduenture seeme strange, that after so many learned Writers in this kinde, I (a man of so weake parts,) (bould presume to offer to the view of the world, a worke of this nature; Tet My reasons being considered with indifferent fauour, I hope to bee excused not onely with you, but with all others, that be lovers of their Countrey, and feeke the peace thereof. I confessemy selfe a long, yet an onprofitable member of your bonourable Societie; But seeing that my calling is to a Countrey life, and confidering that he which is of the meanest condition, and that hash the smallest tallent, may not (without iust reprebension) retire himselfe so to his private pleasure, or profite, as that hee should neglect to shew some fruite and token of his love to his Countrey, (least therein the Heathen Philosopher might iustly condenne demne him, who said, Non solum nobis nati sumus, sed partim Patrix, &c.) I have beene the bolder, according to my place, small power, and capacitie, to offer this my small mite into the Treasurie of my Country; This worke (whatsoever it bee) beeing written, sirast, as private Notes for my particular helpes in this businesse, wherewith my selfe and many others are daily imployed, and set on worke, without yeelding any pleasure or prosite at all to cos, otherwise then for the publique good.

The sweete of like labours, you my Great Masters, (which I doe most gladly beholde) doe from time to time reape more fully, rising daily to great honour and wealth, through your Wisdomes, Deserts, and great paines; That which remainesh to os Countrey Iusticers (for the most part) is the wearying of our selves, the spending of our time, wits, and estates, Vtalij inche pace sruantur, and requited many times not onely with much evill will, from or by meanes of such as wee have in Iustice to deale withall; but oftentimes also rather disgraced, then countenanced or incouraged by some in higher place.

I speake not this without acknowledging it to bee both iust and meete, that the actions and proceedings of the Iustices of the Peace, should bee well and duely looked into, and themselves worthie to bee punished, when through malice, or other corruption they shall doe university: But if through unwilling ignorance they happen to erre and doe amisse, they are rather to be better informed, then ill intreated; Nemo nascitur sapiens, & humanum est errare.

I am bolde to write conto you, my worthy Masters, and worshipful Friends, and the residue of this honorable sellows ship, knowing that there be many among st you, daily rising to

great places, whose honour it will bee to maintaine the Life of the Lawe, and Justice of the Realme, with the excellencie thereof; in causing due execution thereof to bee had and done; redressing the abuses and defects thereof; and incouraging such as shall carrie themselves, instee, fideliter, & sincere: Againe, that there be many among you, of great learning and indgement, by whome this my imperfect worke may, yea and I hope shall bee more polished and perfected: And seeing some others amongst you, whose fortunes provue (as mine doeth) to withdraw themselves into their Countreys, I would gladly encourage them to employ their better talents to the com-

mon good.

7 acknowledge there bee divers other Bookes in this kinde, more learned and methodicall; but withall I obserue the businesse of the Iustices of Peace, to confist partly in things to bee done by them out of their Sessions (and sometimes privately, and peraduenture wpon the sudden, without the advice or association of any other) and partly at their sefhons of the Peace: Of things of this last kinde, I purpose not in this Treasife to meddle, for that at such publike meetings and affemblies, they are farre more able to direct themselves; But for the private and sudden helpe of such Iustices of Peace, who peraduenture have not read ouer the former Writers; And if they have, yet the multiplicitie of Statutes (where upon the Office and private practife of Iustices of Peace doeth principally confist) being such, and at every Parliament so altered, by expiration, discontinuance, and other wife, as that it is a worke very bard and laborious, for Gentlemen not conversant in the studie of the Lawes (although other wife verie industrious) to proceede as by the Commission they ought and are prescribed, scz. Secundum Leges, & Statuta Regni: wpon which considerations, and

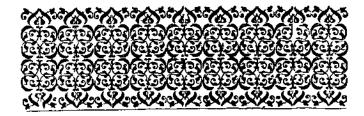
for their ease principally, I baue published this worke; knowing that there bee divers both Honourable and worthie persons in the Countrey, of whome some for want of knowledge of the many and particular Statutes in force, and tediousnesse of the studie of them, doe seeke to bee exempt out of the Commission of the Peace; Others beeing in, doe forbeare to meddle, or meddling, doe not that good Service, therein, which they are defirous to doe. I have therein endeauoured to let downe things so plainely, and briefely as I could, with Reference to the Statutes abridged, whereby the Reader may the better resolve, and satisfie himselfe, what hee ought to doe in every particular almost, that shall come before him, or them, out of their Generall Sessions of the Peace; And yet for that in cases of Ambiguitie, Satius est Fontes petere, Contents. quam Sectari rivulos, I could wish all Instices of the Peace to have readie by them, the Statutes at large, as well as the Abridgements; and to rule this Booke, or the Abridgements of the Statutes, as Tables, and briefe Memorials, but to trust, and ground themselves chiefly wpon the Bookes at large.

It resteth now onely to intreate your fauours; And although I might rest consident by the honourable Patronage I have obtained of him, whose high place, and Presidencie for matters of Iustice, and iudicious conderstanding, drewe mee to couet the same, (and not a little besides induced, yea, obliged thereto in regard of the neere alliance by Marriage, into the Honourable House of the Spencers,) Yet withall I could not out of that duetie and love which I owe to this Honourable Societie, (my sirst Breeder in the Studies of the Lawe) and hope of your tender respect, to supholde the credit

credite of an affectionate member of your Societie, but bee bold also to crave your further countenance in these my Labours; and that you would be pleased to accept this louing remembrance, as a thankefull gratuitie to you, to whom I must ever acknowledge my selfe deepely obliged, and ever to rest at all your commands.

MICHAEL DALTON.

To

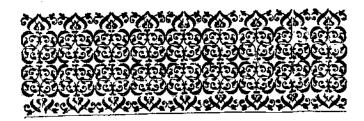


To the Reader.

Was not purposed so some againe to have offered this worke to the Presse. But after that I had pervsed the first Edition, and had found therein many faults which had escaped the Printers, through their overhastinesse in the publishing therof, besides some others. And hearing the first Edition to be

neere fold, and that the Printers purposed a second Impression; I was enforced to make the greater hafte for the amending of fuch defaults. And belides, understanding of the good acceptance that workereceiueth with many; I have bene the more encouraged to enlarge it with fuch further additions, as in this short space I have collected. As for the defaults that shall bee found in this fecond Edition, fuch as shall be materiall, I must hope of the judicious Readers courteous amendment: The other which shalbe lesse materiall, be they either verball, litteral, or punctuall, (whether they shall escape mee, or the Printer) I must likewise leauethem to thy diligence in the reading, whereby thou mayst more easily observe and amend them. And for that my purpose was and is hereby to doe some seruice to my Countrey, my hope is that what focuer shall bee found amisse, yet with the friendly Reader, my paines and labor shal still receaue a friendly acceptance. And so I commit you to God, from my Chamber at Lincolnes Inne the fift day of February, anno Dom. 1618.

MICHAEL DALTON.



For the better vie of this Booke, and finding out of the Authors berein alledged, you must observe these short directions becreving following.

F. or Fitz, Fitzherbert. Hee was sometimes one of the ludges of the Common Plees.

Br. Brooke, sometimes Lord chiefe Iustice of the Common Plees.

Dyer, late also Lord chiefe Iustice of the Court of Common Plees.

Co. Sir Edw. Coke, Knight, late Lord chiefe Iustice of the Kings

Bench.

Plow. Master Plowdens Commentaries.

Rast. Rastals Abridgement of the Statutes, imprinted Anno Domini, 1583. Hee was sometimes one of the Iudges of the Common Place.

Lib. Intr. The Booke of Entries, Impress. 1596.
Lbt. or Lambt. Master Lambards Iustice of P. Imprinted 1599.
Cromp. Master Cromptons Iust. of P. Imprinted 1606.
P. Master Poultons Abridgement of the Stat. Imprinted 1606.
P.R. Master Poulton de Pace Regis.

Of



AD ILLVSTREM ET ERVDITVM VIRVM,

M'um. MICHAELEM DALTON,

Armigerum, Turis nottri municipalis Confultiffime in wisher densi

Escia sunt Daltone tui monumenta laborii,
Fatocum sera posteritate premi.
Prasens laudabit, veniens laudabitur atai;
Tam facili qua sunt ordine dotta loqui.

Viuito fælici genio conferipte libelle, Triteque doctorem nobiliumque manu, Nullo non verfande die: Sic postulat vfus, Iudicij pulfant quum malefacta fores.

IOHANNES RICHARDSON,

M'.Collegij Sanctæ & Indiuiduæ Trinitatis Cantabrigiæ.

In laudem Operis, Michaelis Dalton, viri, Iuris scientissimi, vna cum exhortatione ad cundem, Carmen dicolon.

Perge iterum, bene capisti, Daltone, tuoque
Prodyt egregium nomine Iuris opus.
Perge, inquam, vestri capiunt bonapluralibelli,
Abdita qua folys, nec bene nota, latent.
Illa tuo, dispersa locis inventa labore
Collige, or aternis da nova scripta typis.
Non potes vitilus curas impendere mentis,
Nec tua quid melius scribere dotta manus.

Ignarum erudies populum, rectum g docebis,
Et Patria facies cognita Iura tua:
Pt bene vivendi rationem intelligat omnem,
Erret in Officijs or minus ille suit.
Digna tuis sunt has studijs, Daltone potes g
Hac plene è Iuris cuntta referre libris.
Perge igitur primos captus augere secundis,
Neo male difficilis sit labor iste tibi:
Maior erit tibi laus tanto quasita labore,
Et mihi sit maior, non satu esse potest.
Scilicet aternam samam, nomenque mereris,
Eterna or mihi sunt, non satis esse queunt.
Illa tibi sua scripta dabunt per secula, donec
succedunt vicibus nox g dies suis.

GYLIBLMYS BYRTON,

Professor Regins Medicinz, in Academ. Cantab.

In commendationem libri à Michaele Daltone conscripti.

Am sua Daltonus pralo dat scripta secundo,
Mille libri non sunt, dimidium a satu.

Nec, licet excudat tam multa volumina rursus,
Sufficiet numero copia tanta suo.

Non est vitior Regno liber, ille tuenda
Ostendit Pacia, sustam, atque omnia servat,
Si cum sustitia Pax, vitam, atque omnia servat,
Quaritis, vitilitas maior an esse queat?

Vos, quibus est aqui ac pacis concessa potestas,
Legibus vit stet Respublica tuta bonis,
Hunc animis librum, manibusque evolvite vestrii,
Vos bene praceptis instruct ille sui.

Autorem a libri laudate, & amate merentem,
Laus & amor tali Pramia iusta viro.

Carmen Haci Barrow, affinis.

In secundum Editionem Irenarchias DALTONIAN E.

Ym vicina tua mea fit WilbramaWratinga, Iunctior & multo fit tibi noster amor: Me quoque pauca fer as de te (Daltone) canentem, Deque Irenarcha Iura docente libro. Scripta Neustriace partim, partimg, Latine, Partim & Saxonice, quie bene iura capit? TH vero exponis communi fingula voce, Hoe by pastori convenit, hoe or oui. Sint Coci, Huberti, Bacones, Monteacuti: Rarius hoc genus est nobilin que virum: Non, quicunque domo Graiana, aut Lindistana, Vel Templo alterutro produt, ista sapit. Nec meminit quicunque sapit; benetu tamen de res, Et que que que loce est invenienda, notas. Arte facis memores, nec inanes villa figurat Per loca dispositas fingis, vt Arte memor. Singula pondus habent; & ne confusa legantur, Subijcitur titulo res quotaqueque suo. Cum numero tot fint, miror sic omnibus apte Et loca te rebus, resque dedisse locis. Hoc fofijs meret ara, auctori prorogat avum, Imperat & qua Rex, aquora tranat opus. Altera prala pares: nec enim, fi cuder is horum Ter tria librorum millia, sufficient.

GVLIELMYS DE INSVLA.

Idem.

Vis nist Grammaticus loquitur bene? quis nist Rhetor Corabit causas? bene quis rationibus instat Non Logicus; vitat á dolos fallacis Elenchi? Damihi, da qui didat agros haredibus, expers Mensura; & instis herciscat partibus assem, Nec didicit numeros : quin & qui syderanescit Causidicus, reperire nequit sua tempora causis: Catera vel secum pugnant, vbi Musica desit Pacis apex; Iu que omne iacet (Daltone) sub armis. Tam bene fecisti sungendo legibus artes; Quam male Democritus natura carmen, an arte Fit melius quarit, nunquam fine quod fit otrag. Res bene composit as aliquando separat error: Error in ambiguas rapiens iun Elisima partes. Hinc Academiacas inter, caufaf a forenfes, Ortarei nunquam communi tuta simultas: Cum tamen illarum poscant ha; cum tamen illa Harum suppetias, & consumpantur in conum. Id quod (amice) tuum poterit narare volumen; Artibus innixum, legum q examine praxi. Hacneg Lambertus, nec Fitzherbertus habebant; Aut non ve facile capiat quicung, legendo, Letta divisim poscente recolligat vsu. Quos tamen dy nobis lucem, vobif q dediffe, Ac titulos meruisse suos, concedimus vitro. Nos ita non omnes, quamvis Heliconis alumni, Ad iuga pernaßi ferrimur : licet onus en alter Summa legat, medio confiftet tertius; est et Qui pedemontana semper statione moratur: Est & apud vestros vinu qui sedibus bæret Ionari meritus nomen : faciemus vtrum q. (vt pudeat) ludos; nec derunt munera laudi. Ergo libros probat ipfatuos Academia Mater; Teg, vt filiolum teneris amplexa lacertis, Et quotcunque tui similes, in signibus ornat. Publicares flores miscendo pramia pænis. Hoc facit, hoc nobis indulget magnus Apollo, Qui (precor) aternum terris dominetur er astris.

Gulielmus de Infula.



Of the Common Law, and of fuch as had, and still have, the Conservation of the Peace by the Common Law.

0.3,8,&9, crts, Preface.

He Common Lawes of this Realme of England, receiving principally their groundes from the Lawes of God, and Nature, (which Law of Natureas it pertaineth to man, is also called the law of Reason) and being for their Antiquitie, those whereby this Realme was governed many hun-

dred yeares before the Conquest; the equitie and excellencie whereof is such as that there is no humane law within the circuit of the whole world, by infinit degrees, so apt and profitable, for the honourable, peaceable, and prosperous gouernment of this Kingdome, and so necessarie for all estates, and for all causes, concerning Life, Lands, or Goods, as these Laws been; these Lawes, Isay, even from their beginning, have continued a speciall care, for the Conservation of the peace of this land, And to that purpose, at the Common Law (long before Iustices of the Peace were made) there were fundrie persons to whose charge the maintenance of this Peace was recommended, and who with their other offices had (and yet still haue) the conservation of the peace annexed to their charges, as a thing incident to, and vnfeperable from their said offices, And yet neuerthelesse they were and are called by the names of their Offices only, the confernation of the peace being included therein.

First the Kings Maiestie (by his dignitie royall) is the principall conservator of the peace within his Dominions (and is Capitalis Institution Anglia) in whose hands at the beginning, the Administration of all Institution in was, and afterwards by and from him only was this authority derived and given to others.

The Lord Chancellor (or Lord Keeper of the great feale,) the Lord high Steward of England, the Lord Marshall,&high Conftable of England, the Lord Treasurer of England, and enery Inflice of the kings Bench, as also the master of the Rolls, haue inclosed in their said offices the conferuation of the peace oner all the Realme, and enery of these may award Precepts, and take Recognisances for the peace, by vertue of their places.

There bee others who (by vertue of their offices) have the

5.H.7.7.3. 0,11,85.

amb.12.

confernation of the peace, but yet onely within the precinct of Lambarg. their feuerall Courts, as namely, the Inflices of the Court of Br.Peace 14. Common Plees, the Barons of the Eschequer, and the Instices of

Also the Steward of the Sherifes Turne, the Steward of a Leete, and the Steward of a Court of Pypowders, enery of these Lamb. 14. are Conservators of the peace, within their severall courts; For enery of them may commit him to ward that shall make an affray in their presence, whilest they be in execution of their offices, for that these be Courts of Record: and so in all other Courts of Record.

And the Steward of the Sherifes Turne, as also the Steward of Cromp.7. a Leete (during their Courts) may by Recognisance, binde him Brileet 39. to the peace that shall make an Affray in their presence, sit- F.N.B.31. ting the Court; And may commit him to warde vntill he hath found suretie for the peace: And may also take the examination of felons, and commit them to the Gaole; and may also take and tak the presentment of any felony at the Common Law, committed within their precinct; Or of any other offence against the peace, except the death of a man. See Br. Lette 1.2.14.18.22.26.

And so, if any other contempt or disturbance to the court shal Co. 8.38. be committed in any (of the faid Courts, or in any other) Court of Record, the Iudge (or Steward) there, may impose vpon such offendors a reasonable sine.

The sherife is a conservator of the peace within his County: F.N.B.3 t.d. And (vpon request to him made) he may commaund another to finde suretie of the peace, and may take the same suretie by Recognisance, and that exofficio, and without any writ of Supplicauit to him directed : tamenquare & vide Br. Indges 11. & Recogn. 5. 14.16.6.18.

Coroners also (by the Common Law) are conservators of the peace, within the county where they be Coroners: but they have power for the keeping of the peace, only as the constables haue: Vide tit. Forcible Entrie.

The high constables of hundreds, are conservators of the peace, within their feuerall hundreds and limits.

Euery petie Constable within the limits of their seuerall towns, Br. Peace 13be conservators of the peace by vertue of their office: Videtit. Affray & Porcible Entrie.

It feemeth the name and office of a constable with vs, is the fame Lamb.14. that the Borlholder is in Kent, Thirdborow in Warwick-shire, and Tithingman and Borowhead is in other places.

If any man shall make an Affray or assault upon another in the presence of the Constable or Borsholder, Or if any man shall threaten

threaten to kill, beate, or hurte another, and that complaint shall be made thereof to the Constable or Borsholder &c. they may commit the offendors (to the Stockes or to some other safe custodie for the present, and after may carrie them before some Iuflice of Peace, or to the Gaole) vntill they shall find suretie for the peace; which furery the Constable himselfe may also take obligation, by fome opinions: But quare thereof, for a man cannot Suretie 13,26. be bound to the king, but only by matter of Record, And a Constable cannot take a Recognisance for the Peace (which is a matter of Record) nor any other person, but only a Judge or Officer of Record.

> Enery of these Conservators of the Peace(by the ancient common Law) are to imploy their owne valour, and may also command the meet help, ayde, and force of others, to arrest and pacifie all fuch who in their presence, and within their jurisdiction and limits, by word or deed, shall go about to breake the peace:

> Also enery of these Conservators of the peace, if they have committed, or bound over, any fuch offendors, it feemeth they are then to fend to, or to be present at, and attend the next sellions of the Peace, or Gaole deliuerie, there to obieft against such offendors.

> But for the high Constables, and pene Constables, although they have (by the Common Law) the charge of the Peace as incidentto their offices, yet it feemeth their offices and authority began not long before the time that Iustices of peace were ordained, (See here titule Constable.) Whereas the Sherifes, Coroners, Stewards of the Sherifes Turne, of the Leer, and of the Court of Pypowders, and the Inflices of all the higher Courts, were long time before the Conquest. See Co.9. Part, the Preface.

> There were fundricother persons, who (by the auncient Common Law) had the ordinarie keeping of the peace, and were named Custodespacis, whereof some were by election, (in ful county) and some by Tenure, as you may see in M. Lambers 16, 17. But these are now ceased.

> > The

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F.Barr. 201.

Br.Peace 2.&

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The first ordeyning of Justices of the Peace.

Their begin. Y Chronicle Law in our Annals, it is reported, that Hollingh. B. william the Conqueror ordained Iustices of the peace; about Ann. Dom 1070 anne quarto of his raigne, wher-

as Inflices of Peace had not their being almost 300. yeares after, viz. vntill Ann. Dom. 1327. At which time Iustices or Commissioners of the Peace were first created, and ordained by the Stat. 1. Ed. 3. ca. 16. By which Stat. it was ordained, that in euery shire of the realme certaine persons should be assigned (fc. by the kings commission) to keepe the peace: And their authoritie was after inlarged by the flatutes 4. Ed. 3. cap. 2. 18. Ed. 3. cap. 2. and 34.Ed.3.ca.1. And by the faid flat. of 34.Ed.3.1. were they first (generally)enabled to heare and determine(at the kings suit)all manner of felonies and trespasses; And each Countie had now it proper Commissioners for the peace, whereas before (it seemeth) the Commissions to the Instices of Peace were not alwaies made seuerally into each shire, but sometimes jointly to fundry persons ouer fundry thires.

Their name. But the stat. of 36.Edw.3.cap.12. is the first statute that nameth them lustices of the Peace: For the statutes of 2.Ed.3.cap.6. and 25.Ed.3.cap.6,7,8.fp. aking of Justices, seeme not to bee of our Iustices of Peace; but that of 2.E.3. as also the stat. of Winchester cap. 6. therein mentioned, to be meant of Iustices Itinerants, or Inflices in Eyre: and the other of 25.E.3. to be meant, of Inflices or Commissioners specially assingned for Servants and Labourers. See for this last Lamb. 24. and the statutes of 25. Ed. 3. cap. 6, 7: 8.and of 42.Ed.3.cap.6.Raftalfol.233.a.b.d.

They be called Iustices (of the Peace) because they be Iudges of Record, and withall to put them in mind (by their name) that they are to do Iustice(which is, to yeeld to every man his owne by euen portions, and according to the lawes, customes, and statutes of this realme, without respect of person.)

They are named also Commissioners (of the peace) because they have their authoritie by the Kings commission.

And here it shall not be amisse, shortly to put them in minde, how that instice may bee peruerted many waies, (if they shall not arme themselues with the seare of God, the loue of Truth and Iustice, and with the authoritie and knowledge of the Laws and Statutes of this realme.) As namely,

1 First, by Feare; when fearing the power or countenance of another

fustices of the Peace.

another, they do not inflice, Dest. 1.17. Ye shall not feare the face of man, for the judgement is Gods.

2 Fauour; when they feeke to please their friend, neighbour, or others. Deutr.ibid. Ye shall hatte no respect of person in judgement.

3 Hatred or malice, against the party or some of his. See Le-#it.10.18.

4 Couetousnesse; when they receive or expect fee, gift, or re-Eccles 20.28. ward: for as the wife man saieth, Rewards and gifts do blind the eyes of the wife, and make them dumb that they cannot reprove faults.

5 Perturbation of mind; as anger, or firch like passion : Iames 1.20. The wrath of man doth not accomplish the Righteonines

6 Ignorance, or want of true vnderstanding, what is to bee done: Ignerantia mater Erroris.

7 Prefumption; when without law (or other fufficient rule or warrant)they(prefuming of their own wits)proceed according to their owne wils and affections: There is more hope of foole, then of him that is wife in his owne conceipt. Pro. 26. 12.

8 Delay; which in effect is a denying of inflice; Negligentia Semper habet Comitem infortunium de mora mahit persculum.

9 Precipitation, or too much raffinesse; when they proceede hastily without due examination and consideration of the fact, and of all materiall circumflances, or without hearing both parties; for as another laieth (qui aliquid flatuerit, parte inaudita altera aquil licet statuerit, hand aquus est.) He that shall judge or determine of a matter, the one party being vnheard, although hee shall giue iust iudgement, yet is he not a iust Iudge.

His Maieft.

All these his Maiestie hath shortly, yet fully observed in his Speech in the charge lately given to the Judges, fez. charging them That they doe Star-Chab. instice uprightly and indifferently without delay partialitie feare or bri-An. 1616. bery, with stout and upright hearts, with cleane and uncorrupt hands, and yet not to otter their owne conceits, but the true meaning of the Law, not making Lawes, but interpreting the Law, (and that according to the true sense thereof and after deliberate consultation.) remembring that their office is lus dicere, and not lus dare.

According to this last also is the rule given in the booke of Judges, fe in all causes doubefull first to consider of the matter, to con-

Judger 19.30. Suls, and then to gine sentence.

Yea God himselfe hath given vs presidents of such deliberate Con 3. 2,9, 11. proceedings, as you may lee in Genefic cap 3. ver [8. cet cap . 18.

These are worthie directions for all Instices of Peace, that they

carry themselues in their places vprightly and indifferently, not vttering their owne conceits, nor vpon the sudden to ouer-rule things, but after deliberate consideration and consultation, then to proceed to execute the authority committed to them.

Theirdescriptionor desinition.

Inflices of peace are Indges of Record, appointed by the king to be Inflices within certaine limits, for the confernation of the peace, and for the execution of diners things comprehended within their committion, and within diners statutes committed to their charge.

Now first that the Instices of peace are Indges of Record (yea 14,11.8.16, that every Instice of peace by himselfe is a Indge of record, & one upon whose solereport and testimony, the Law reposeth it selfe very much) appeareth more plainely, if you observe these things following:

1 Heismade under the great scale of England, which is a matter of Record.

2 Enery Inflice of peace hath indicial! power given vnto him by the commission fain the first Assignation.

3 Also by some statutes they have indicial power given them; for they may make a Record of a force by them viewed, and may thereupon sine and imprison the offendors: yea one Instice of P. may also heare and determine, and punish an offendor (in some cases) as convict upon his owne view, or examination: vide tit. Forcible Entrie, and Heare and Determine.

4 His Warrant (though it bee beyond his authoritie) is not Lamb. 67.94. disputable by the Constable, or other inferiour Minister, but must 14-H.8.18. be obeyed and executed by them; But this must be evidershood, Co.10.760 when the Instice of peace hath inrission of the cause, for, or concerning which hee hath graunted his Warrant; for otherwise the Constable or other Officer executing their Warrant, seemeth to be punishable, notwithstanding the Instices Warrant: videtic. Warrants.

5 He may take a Recognilance (for the peace, &c) which is a Lamb. 67: matter of record, and which none can do but a Judge of Record. See Br. Recog. 8.67 14.

6 His Record (or Testimony) in some cases, is of as great force, and in some other cases, of greater force, then an indictment upon the oath of twelve men. See hereof itt. Force, Highwaies and Ryot.

Great cause therfore have the Iustices of peace to take heed that they abuse not this their credit and authority, either to the oppressing of the subject by making votrue Records, or defrauding of the king by suppressing the true record.

Peacer

PEACE.

Fire In of P. 12 PEAc a in effect (faith M. Fireb.) is the amitie, confidence, and quiet that is between men, And hee that breaketh this amitie

or quiet breaketh the peace.

Yet, Peace (in our Law) most commonly is taken for an abstinence from actuall and iniurious force, and offer of violence; and so is rather a restraining of hands, then an uniting of minds, And for the maintenance of this Peace chiefely, were the Iustices of Peace first made.

The breach of this Peace feemeth to be any initirious force or violence moued against the person of another, his goods, landes, or other possessions, whether it be by threatning words, or by surious gesture or force of the bodie, or any other force vsed in Ter-

rorem populi.

The office of the Inflice of peace is principally to be exercised to the suppressing of such insurious and valuatful force or violence; and yet the commission of the peace being probonopacia, as proconfernatione eiglem, to proquieto regimine is gabernatione populi) Her not why the Institutes of peace should be restrained from preventing and repressing such otherossences, misbehaulours, and deceipts, as may breake the aminie, quiet, and good government of the people, and whereof discords, and so breaches of the peace do often arise (though there appeare neither force nor violence in the offence it selfe:) as libellings, cosinages, and such other offences: vide tit. Good behaulour.

But it is no part of their office to forbid lawful fuits; albeit they shall doe well to be mediators of peace in such suits and controversies as shall arise amongst their neighbours.

The confernation of this peace (and therin the care of the luft.

of peace) confifteth in three things, viz-

In preuenting the breach of the peace (wifely foreseeing and repressing the beginnings therof) by taking sureties for the keeping of it, or for the good behaulour of the offendors, as the case shall require.

2 In pacifying fuch as are in breaking of the peace. See poster

tis_Affray.

3 In punishing (according to Law) such as haue broken the peace.

But of the three, the first, the preventing lustice, is most worthy to be commended to the care of the lustices of peace.

Inflices of peace (at this day) are of three forts, and are ap-Three forts.

pointed

pointed or created by three meanes.

1 First by Act of Parliament; as the Bishop of Ely and his Plusta. fuccessors, and their temporall Stewards of the Isle of Ely (for the time being) shall be luftices of Peace within the faid Isle, and shall vse and have within the same Isle, all such power as doth belong to any Inflice of Peace within any countie.

And so of the Archbilhop of Yorke, and the Bishop of Durham, and their successors, and their temporall Chauncellors, &c.

By Grant.

2 Secondly, by Graunt made by the King by his Letters Pa-Lamb. 26. tents, under the great Seale, (and by his Bill affigned) as Mayors, and chiefe Officers in divers corporate Townes: And fuch the King cannot discharge againeat his pleasure, but they shall continue and inioy their iurifdiction, according as their Letters Patents dothinable them; And therefore if the King graunteth to a Br. Committee Mayor, or other head Officer of a Citie, or corporate Town, and to their fuccessors, to be Instices of Peace in their Citie or Towne, and after maketh out a Commission of the Peace to others there. yet the authority and iurildiction of the Mayor &c. remaineth good, for that it was graunted to them and their fucceffors, and is not renocable at the Kings pleasure, as a Commission of the

And fuch Inflice of Peace by Grant or Patent, have thereby the same power that the Conservators of the peace had by the Common Law; And it seemeth such power also as is given to the Inflices of peace, (or to any one Inflice of peace) by expresse Lamb. 27. wordes in any flatute: but none of them have thereby the whole power which is ordinarily given to the Commissioners of the peace by their Commission: And so it seemeth of the first fort of Inflices of peace by act of parliament.

By Commis-

I

3 The third fort of Iustices of peace are by commission (made of common course) under the great seale of England: and these are appointed by the discretion of the Lo. Chancelor. And yet the Iustices of peace within the county Palantaine of Lancaster are to be made by Commission under the seale of the same Duchy, by Rastairs+4. the stat. 27. H.S. cap. 24.

But these Commissioners of the peace, their authoritie doth determine by divers meanes; yet more vivally by three meanes: First, by the death of the King, or by his Relignation of his

Secondly, at the kings pleafure; and that in two forts,

Either by the Kings pleasure expressed, (as the King in expresse words may discharge them by his Writ vnder the great Br. Comiss. 18. feale, or by Supersedens: but the Supersed doth but suspend their 13. Aff. 21.
authoauthoritie, which may be reuised by a procedendo;

Br.Commiff. 2 Or by implication; (as by making other Commissioners of the same kind, and within the same limits, leaving out the auncient Commissioners names) 10.Ed.4.7.6 3. Mar. 1.

20.34.

Br. Commission But here the auncient Commissioners must have knowledge of fuch newe commission; for this determination of the olde commission, groweth not immediatly by the making of the new commission; but either by giving special notice of the new commission vnto the old Commissioners; Or else by and after the reading (or proclaiming) of the new commission, at the Affises, Selfions of the Peace, or at the full County; Or elfe by holding of some open Selfions by vertue of the new commillion; (in which two last cases, the old Commissioners must take notice of the newe commission) And in all these cases, if the ancient Commissioners do fit by vertue of their ancient commission, and after such notice or publishing of the new commission, all whatsoever such auncient Commissioners shall so do is void: And contrariwise, vntill fuch notice or publishing of the new commission, whatsoener meaneacts such auncient Commissioners shall doe, by vertue of their auncient commission, is good in law. See 3 4. Ass. Br, Commi//.14.

11.H 6.c2 6. 5.E.6.ca.7+ P.Difcont 6.

Alfoin all cases wherean auncient commission of the peace is determined by a new, yet no proces or fuit depending before the old Commissioners shalbe discontinued thereby, neither shalany other thing done by the Iustices of the peace by force of their ancient commission, be made or become void thereby.

1.Ed,6.7. J.M.1.8. P.Difcont 4.

Thirdly, by the Accession of another office; as when a Instice of peace is chosen to bee Sherife of the same County, his authoritie of a Iustice of Peace there, is suspended during his Sherifewike; But after that another is chosen and sworne Sherife of the fame Countie, then his authoritie as a Justice of Peace remaineth as it was before.

1.E.6.ca.7. P.Difcont 4.

But if a Iustice of Peace be made a Knight, or Serieant at Law, or hath any greater name or office of honour or dignitie given him, this taketh not away his authority of a lustice of peace. Br. Commiff.4. 6 22.

Co.7.30. Br.Com 5.

Notcasso, that although by the death of the king, or by his refignation, the authoritie of all Iustices of Peace (yea and of all Coffic 15 Judges, Commissioners of Oper and Terminer, Commissioners of Gaole deliuerie, Sherifes, Escheators, and other Officers that are by Commission) doth cease, yet Mayors, and chiese Officers in Cities and corporate Townes (which have the authoritie of Inflices of peace, or of the confernation of the peace, by graunt vnderthe Kings Letters Patents to them and their successours) their

Instices of the Peace.

their authoritie still remaineth, norwithstanding the kings death

or relignation.

So also the authoritie of the high Constables and petic Conflables, seemeth to remaine not with standing the death of the king &c. for that their authoritie is by the common Law, and to their said office the conservation of the peace remaineth as a thing incident, and unseparable from the same.

4.E.4.44. Br. Offic' 25 Dyer 165. Coroners also do remaine conservators of the peace (within the County where they are Coroners) notwithstanding the kings death, &c. for they are made by the kings writ, and not by Commission; and their office and authority doth remaine vntil they be removed by the kings writ; and their office remaining, the conservation of the peace remaineth as incident thereto.

P.luft.4.

E Very Iustice of peace (before hee shall take vpon him to exercise the office of a Iustice of peace) shall take two corporals Oathes; the one concerning the Office of a Iustice of peace; the other concerning the kings Supremacie.

The Oath concerning the Office, seemeth to be by force of the statute made 13.R.2.6.7. And yet see the oath of the suffices, made anno 18.E.3. much to the like effect that now it is: in which yeare also M. Marrow taketh it, that suffices of peace were first made, having than first power given them to heare and determine felonies and trespasses against the peace.

The forme of the oath is, at this day, as followeth.

1. VEe shal sweare, that as Instice of the peace in the county of Cambridge in all Articles of the kings commission to you directed, you shall do Egall right to the poore, and to the rich, after your cunning, wit, and power, & after the lawes and customes of the realme, and statutes thereof made: And ye shall not be of counsell of any quarrell hanging before you: And that yee hold your Sessions after the forme of statutes thereof made: And the issues, fines, and amerciaments that shall happen to bee made, and all forfeitures which shalfal before you, ye shal cause to be entred without any concealement (or imbelilling)& truely fend them to the kings Eschequer; ye shall not let for gift, or other cause, but well and truely you shall do your office of Inflice of the peace in that behalfe: And that you take nothing for your office of Iuffice of the peace to be done, but of the king, & fees accustomed, and costs limitted by the statute: And ye shall not direct, nor cause to be directed, any warrant (by you to be made) to the parties, but ye shall direct them to the bailifes of the faid county, or other the

kings officers (or ministers) or other indifferent persons, to do execution thereof. So helpe you God, &c.

The parts of this Oath are shortly fixe:

1 That they shall do equal right to rich and poore, and according to the lawes and statutes of the realme.

2 That they shall not be of counsell with any person, in any

matter depending before them.

2.H.54. P.Inft.5. 3 That they ihall keep their fessions according to the statutes (which, as it seemeth, ought to be in the weeke after the feast of S. Michael, after the Epiphany, after the clause of Easter, and after the translation of S. Thomas.

4 That all issues, fines, amerciaments, and forfeitures which happen beforethem, be by them truely entred, and sent into the

Eschequer.

5 That they take nothing for doing their office, but of the

king, and the accustomed fees appointed by the statutes.

o That they shall not direct any their Warrants to the parties, but to the bailifs of the county, or to other the kings officers,

or other indifferent persons.

P.Crowne 4.

The other Oath concerning the kings Supremacy, is by force of the statute made prime Eliz.cap.1. The forme of which oath also followeth.

Michael Dalton, do vtterly teftifie and declare in my conscience, 1 That the Kings Highnesse is the onely supreame governour of this realme, and of all other his Highneffe Dominions and Countries, as well in all Spirituall and Ecclefiafticall things (or causes) as temporall: And that no forreine Prince, Person, Prelate, State, Potentate, hath or ought to haue, any jurisdiction, power, superioritie, preheminence or authoritie Ecclesiasticall or Spirituall, within this realme: And therefore I do vtterly renounce and for fake all forrein iurifdiction, powers, superiorities, and authorities, and do promise, that from henceforth I shall beare faith and true allegeance to the kingshighnesse, his heires and lawfull succeffors, and (to my power) shall affist and defend all inrisdiction, priviledge, preheminence, and authoritie graunted or belonging to the kings highnesse, his heires and successors, and vnited and annexed to the Imperiall Crowne of the Realme. So helpe me God,&c.

Cromp 11.
P.Crowne 5.

The Inflices of peace ought to take this Oath for the supremacie, in the open Court of Sessions where they shall serue, by the statute 5. Elizab. 1. (as Maister Crompton holdeth;) And it were very fitting so to be, or essent at the Affises by the Indges, leaft (by indirect practife) it be neglected.

Yet it is most vsuall that both these Oathes are taken by a spe- See LEL CALL ciall Commission, (viz.by a Writ of Dedimus potestatem, directed out of the Chauncery to some auncient Instice of peace, to take the same Oathes) which by them is to bee certified into the same court, at such day as the Writ commaundeth.

The Inflice of peace(or other person) to whom a Dedimus potestatem shall be directed, to take the Oathes of a new Justice of peace, if hee shall returne the commission and the Oathes to bee taken, when they were not taken, this is fineable in the Starre-Chamber.

So if the new luftice of peace shall exercise this office, before he hath taken both these Oathes, he is likewise finable in the Star-Chamber.

Also, if a Iullice of peace shall not perform his oath (concer- Cromp. 11. ning his office)it seemeth hee is fineable in the Starre-Chamber, &c. Yet see Co.11.98.a. That a man shall not be charged in any Co.11.98. a. Court iudiciall for the breach of a generall oath, which he taketh when he is made an officer or minister,&c.

The oath of Allegeance.

There is a third Oath, tending to the declaration of fuch duty ascuery well affected subject by bond of Allegeance, and by the Law of God ought to beare to his Soueraigne: which Oath is by force of the statute 3. Iac.cap.4. And is to be taken also by all Juslices of peace(among others) by the statute 7. Iacob.cap. 6. which oath is viually taken before the ludges of Affile of the same county, where the parties (to be sworne) reside.

The forme of this Oath is thus:

T Michael Dalton do truely and fincerely acknowledge, professe, I testifie and declare in my conscience before God & the world, That our fourrainge Lord King I A M & s, is lawfull and rightfull King of this Realme, and of all other his Maiesties Dominions and Countries: And that the Pope neither of himselfe, nor by any authoritie of the Church, or See of Rome, or by any other meanes(with any other) hath any power or authoritie to depose the King, or to dispose any of his Maiesties Kingdomes or Dominions, or to authorife any forreine prince to inuade or annoy him, or his Countries, or to discharge any of his subjects of their Allegeance and Obedience to his Maiestic, or to giue licence or leave to any of them to beare armes, raife tumult, or to offer any violence or hurt to his Maiesties royall person, State, gouernement or to any of his Maiestiessubiests within his Maiesties Dominions. Also I do sweare from my heart, that notwithstanding any declaration of fentence of excommunication or deprination made

made or grannted, or to be made or granted by the Pope or his fucceffors, or by any authoritie deriued, or pretended to bee derined from him, or his See, against the faid King, his heires or succeffors, or any absolution of the said subjects from their obedience: I will beare faith and true Allegeance to his Maieffie, his heires and fucceffors, and him and them will defend to the vttermost of my power, against all conspiracies and attempts what soener, which shalbe made against his or their persons, their crowne and dignitie, by reason or colour of any such sentence or declaration, or otherwise, and will doe my best indeauour to disclose and make knowne vnto his Maiesty, his heires and successors, all treafons and trayterous conspiracies, which I shall know or heare of to be against him or any of them. And I doe further sweare, That I do from my heartabhorre, detell, and abiture, as impious, and hereticall, this damnable doctrine & position, That Princes which be excommunicated or depriued by the Pope, may be deposed or murthered of their subjects, or any other whasoener. And I do beleeue, and in conscience am resolued, That neither the Pope nor any other person whatsoener, hath power to abfolue me of this oath or any part thereof, which I acknowledge by good and full authoritie to bee lawfully ministred vnto mee, and do renounce all Pardons and Dispensations to the contrary. And thefethings I doe plainely and fincerely acknowledge and fweare, according to these expresse words by me spoken, And according to the plaine and common sence and vnderstanding of the fame words, without any equinocation, or mentall enafion, or secret reservation whatsoever. And I doe make this recognition and acknowledgement, heartily, willingly, and truely vpon the true faith of a Christian. So helpe me God.

Now for that all the authoritie and power of these Commisfioners or Justices of the Peace, arifeth partly out of their commiffion, and partly out of the Statutes, I will first set downer the forme of the Commission it selfe, shortly considering the parts thereof.

The forme of the Commission of the Peace:

Acos v s &c. Predilecto & fideli Francisco Bacon militi, Domino Cancellario Anglia, Thoma Comiti Suff. The faurario Anglia. &c.

Sciatis, quod Assignauimus ver, consunctim & divisim et quemlibet westram, Insticiaries nestres, ad pacem nestram in Comitatu nostre consequent.

15

Capere

Procellus

Ad audiend

facero

Cantabrigia conservandam, Ac ad omnia Ordinationes & Statuta pro bono pacis nostra ac pro conseruatione eiusdem, er proquieto regimine & gubernatione populi nostri edita, in omnibus & singulis suis Articulis in dicto Comitatu nostro (tam infra libertates, quam extra) iuxta vim, formam, e effect um cor undem custodiendum, er custodiri faciendum, Et ad omnes, contra formam Ordinationum vel Statuterum illorum aut eorum aliculus, in Comitatupradicto delinquentes, cesticandu de puniendu prout secundum formam Ordinationem de Statutorum'illorum fuerit faciendum. Et ad omnes illos qui alicui, vel aliquibus de populo nostro de corporibus suis, vel de incendio domorum suarum, minas fecerint, ad sufficientem securitatem de pace vel bono gestu suo, erga nos & populum nostru inueniendam coram vobio, seu aliquo vestru venire faciendum. Et si huiusmodi securitatem inuenire recusauerint, tunceos in prisonis nostris (quous y huiusmodi securitatem invenerint) saluo custodiri faciendum.

Afgrauimus etiam vos, & quoslibet duos vel plures vestrum Ad quirendum (quorum aliquem vestru, A.B.C.D.E.F. &c. vnumesse volumus Iusticiarios nostros, ad inquirendum per Sacramentum proborum & legalin hominum de Comitatu pradicto (per quos rei verit as melius (ciripoterit) de omnibus & omnimodis felonis, veneficis, incantationibus, sortilegij, arte magica transpressionibus, forstallarijs, regratarijs. ingrossaris, o extortionihus quibuscunque : Ac de omnibus & singulis alijs malefact is & offencis (de quibus Iusticiarij pacis nostra legittime inquirere possunt, aut debent) pro quos cunque & qualiter cunque in Comitatu pradicto factis sine perpetratu, vel imposterum ibidem fieri, vel attemptari contigerit: Ac etiam de omnibus illis qui in Comitatu pradicto in conventiculis contra pacem nostram in persurbationem populi nostri, seu vi armata ierunt, vel equitauerunt, seu imposterum ire vel equitare presumpserint : Ac etiam de omnibus hijs qui ibidem ad gentem nostram maihemandum, vel interficiendum in insidijs iacuerunt vel imposterumiacere prasumpserint : Ac etiam de hostelarijs, & alijsomnibus & singulis personis, qui in abusu ponderum vel mensurarum, siue in venditione victualium, contra formam Ordinationum & Statutorum vel eorum alicuius, inde pro communi viilitate regninostri Anglia & populi nostri eius dem, editoru delinauerut, vel attemptauerunt, seu imposterum delinquere, vel attemptare prasumpserint in Comitatu pradicto: Ac etiam de quibuscung, Vicecomitibus, Balliuis, Seneschallis, Constabularys, Custodibus Gaolarum, & alys officarys, qui in executione officiorum suorum (circa premissa seu corum aliqua) indebite se habuerunt, aut imposterum indebite se habere prasumpserint aut tepedi, remissi vel negligentes fuerunt, aut imposterum fore contigerit in Comitatu pradicto: Et de omnibus & singulis articulis & circumstantijs, & alijs rebus quibuscunque per quoscunque et qualitercunque in Comitatupradicto fattis, fine perpetratis, vel qua imposte-

rum ibidem fieri, vel attemptari contigerit, qualitercung premisorum, vel eorum alicuius, concernentibus plenius veritatem. Et adindictamenta quacunque sic coram vobis seu aliquibus vestrum, capta, sine Indicamenta capienda, aut coramalijs nuper Iusticiarijs pacis in Comitatu pradi-Eto facta, fine capta (or nondum terminata) inspeciendum: Ac ad processus indeversus omnes er singulos, sic indict atos, vel quos coram vobis imposterum indictari conticerit (quousque capiantur, reddant se, vel vtlagentur) faciendum ez continuandum. Et ad omnia ez fingula felonias, veneficia incantationes, fortilegia, artes magicas, trangressiones, forstallarias, regratarias ingrossarias, extortiones, conventicula, indi-Etamenta predicta, catera g omnia & singula premissa, secundu leges & statuta regninostri Anglia (prout in huius modi casu siericonsucuit aut debuit) Audiendum & Terminandum, & ad cof dem delinquentes, of quemlibet corum, pro delict is [uis, per fines, redemptiones, amercia-& terminand. menta, forisfacturas, ac alio modo (prout secundum legem & consuetudinem Regni nostri Anglia aut formam Ordinationu vel Statutorum predictorum, fiert consueuit aut debuit) eastigandum & punien-

> Prouiso semper quod si Casus difficultatis super determinatione ali-Exception quorum pramissorum coram vobis vel aliquibus duohus vel pluribus westrum euepire contigerit: tune ad indicium inde reddendum, nist in prasentia unius Iusticarioru nostrorum, de uno vel de altero Banco, aut Iusticiariorum nostrorum ad Asseas in Comitatu pradicto capiendas astignatorum coram vobis vel aliquibus duobus, vel pluribus vestrum minime procedatur.

Et ideo vobis, & cuilibet vestrum mandamus quod circa custodiam Charge to the pacis, Ordinationum, Statutorum dy omnium dy fingulorum caterorum pramissorum diligenter intendatis. Et ad certos dies dy loca qua vos vel aliqui huiusmodi duo velplures vestrum (vt pradictum est) ad hoc provideritis superpramists faciatis Inquisitiones, & pramisa omnia & singula audiatis & terminetis, ac ea faciatis & expleatis in forma predicta, facturi inde quod ad Iusticiam pertinet, secundum legem & consuetudinem regni nostri Anglia: Saluis nobis amerciamentis de aliji ad nos inde spectantibus.

Mandamus enim tenore presentium vicecomitinostro Cantabrigia, To the sherife quod ad certos dies & loca (que vos vel aliqui huiu modi duo vel plures westrum of predictumest ei of predictumest, (cire seceritis) wentre faciat coram vobis, velhuius modi duobus velpluribus vestrum) vt dictum est) tot & tales probes & legales homines de halliua sua (taminfra libertates quam extra) per quos rei veritas inpramisis melius sciri poterit er inauiri.

Assignauimus denique te prafatum Iohannem Cotton Militem, To the Cu-Custod. Rotuloru pacis nostra in dicto Comitatu nostro. Ac propteria tu, ad dies et loca pradicta Breuia, Pracepta, Processus, et Indictamenta pradicta,

pradicta, Coram te & dict is focus tuis, venire facias, vt ea inspiciantur & debito fine terminentur, ficut predictum est. In cuius rei testimoniu erc.Datum erc.

This Commission hath two parts containing the power of the Inflices of Peace.

The first Assignauimus (or first part) of the Commission doth giue power to any one Iustice of Peace, (more, or all) to keepe and cause to be kept the peace, and all Ordinances and Statutes made for the conservation of the peace, and for the quiet government of the people: As namely, the Statutes made for Huy and Crie after Felons, And the Statuts made against Murtherers, Robbers, Felons, Nightwalkers, Affrayers, Armour worne interrorem, Ri-State Winch. 13.E.1.2.E.2.6 ots, Forcible Entries, and all other force and violence; all which 2.E.3.3. be directly against the peace, The particulars whereof you shall find more fully hereafter, and most of them under their proper

By this first Clause in the Commission, the Instices of Peace Lambers. haue as well all the auncient power touching the peace which the Conservators of the Peace had by the Common Law; as also that whole authoritie which the Statutes have fince added thereto.

The meanes which the Iustices of Peace must vse for the keeping of the Peace, and for the execution of these Statutes, is as followeth.

For to preuent the breach of the Peace, the Iu, of P, may fend his warrant for the partie, and may take sufficient sureties of him (by Recognisance) for the Peace, or for the good behaulour, (as the case shall require) And may send the party to the Gaole for not finding fuch furties.

But for these Statutes made for the Peace, they are to be executed according to fuch prescript and order, as themselves do deliuer; wherein, if no power at all be expressly given to any one Iuflice of Peace alone, then can he not otherwise compell the obseruation thereof(as it feemeth) then by admonition only, In which behalfeif he shall not be obeyed, he may preferre the cause at the Lambert 47. feshons, and to worke it to a presentment vpon the statute. And so (by the helpe of his fellow Inflices) to heare and determine thereof as Law requireth.

The second Assgnaumus in the Commission, doth give authoritie to any two luftices of the Peace, (or more) the one being of the Quorum, (in these finethings following.)

I To inquire (by a lury) of all offences mentioned within the Commission.

Iustices of the Peace.

2 To take and vieweall Indictments or Presentments of the lurie.

3 To grant out proces against the offendors, thereby to cause them to come and answere.

4 To heare and trie all fuch offences (vpon any former or future indictments taken before themselues, or before any other Iuflices of the peace) after the offendors be come in.

5 To determine thereof, by giving judgement, and inflicting punishment vpon the offendours, according to the Lawes and

But all the businesseincluded within the second Assignauimus, belongeth to the sessions of the peace, And therfore I leaue (here) to write any further thereof.

Notealfo, that there be divers Statutes which be not specified within the Commission, & yet are committed to the charge and care of the Inflices of peace; But all fuch statutes which doe give expressy any power or authority to the Justices of peace, are a sufficient Warrant and Commillion of themselues, although they be not recited in the commission: And all such statutes are also to be executed, according as the same statutes themselves do seuerally prescribe and set downe.

And for that most of the businesse and practise of the Justices of peace, doth confift and lye in the execution of such statutes as are committed to their charge (whether they bee specified in the commission, or not specified there) the numbers of which flatutes are exceedingly increased of late yeares, to the ouerburthening of all the Iuflices of peace, (And the rather) to give some little helpe to fuch luftices of peace, who (being deftitute of the affistance of such as are learned in the laws) are dayly to administer iustice, and to execute their office at home, and out of their selfions) I haue for their better ease herein, indeauoured (in this treatife) to fet downe more orderly and particularly the feuerall parts and branches of enery fuch statute by it selfe, under their proper titles, with further referments to the statutes them selues at large, or

The Power and Authoritie of the Inflices of Peace (as well given them by the faid Commission, as by the statutes) is in some Their power. cases Ministeriall or Regular and limited, as a Minister onely; and in some other cases Iudicials or Absolute, and as a Judge;

Ministeriall, when hee is thereto commanded by a higher Au-

C 3

thoritie,

to the Abridgements.

As

for the taking of Suretie for the Peace or good behauiour: See hereof in. Suretie for the Peace, As vpon & bis.)

a Writ vpon the Statute of Northampton, vpon a Forcible Entric: (See hereof titulo, Forcible En-

In the execution of which two writs, the Justice of peace may proceed no further, or otherwise, then hee is authorised by such writ; and is also to return the writ, and to certifie his doings therin, into the Court whence the writ came.

But in all other cases the power of the Iustices of peace, seemeth to be absolute (in some maner) so as they and every of them, may of their owne power proceede ex officio, and as a ludge; yet this their power is also limited, for they may neither hang a man for a trespasse, nor fine him for a sclonie, but must proceed in all things according as they are prescribed by the commission, and by the said severall statutes.

Discretion.

And yet, for that all confiderable circumstances can neither be comprehended in the commission, nor foreseen at the time of the making of the statutes, Therefore oftentimes somethings are referred to the consideration of the lustices of P. and left to be supplyed by them in their discretion.

The commission of the peace (in it selfe) doth leave little (or nothing) to the discretion of the Iustices of P. but doth limit them to proceed secundu Leges, Consuetudines, Ordinationes, & Statuta.

But by some late statutes, some things are (therein by speciall words) referred to the discretion of the lustices of peace; some out of sessions, and some at their sessions.

I will here onely fet downe some particulars of such things as are referred to their discretions out of their sessions.

Some thinges referred to the discretion of one Iustice of Peace out of the Sessions, which you may more fully see hereafter in this Booke, in the several Titles hereunder written.

Fift daies.

Flesh killed in Lent, one Iustice of Peace may give to the poore at his discretion.

One Iustice may compell any person meete (in his discretion) to be bound an Apprentice.

Laborers.

Malt.

One Inftice of peace may cause all such persons as bee meete to labour (by his discretion) to worke in Harusst, and Hay time:

Maults that be deceiptfull, may be sold &cc. at such reasonable prices,

prices, as one Iustice of peace (in his discretion) shall thinke expepedient.

One Inffice of peace(as in feemeth) may (by his difcretion) give Plague, directions to the fearchers, watchmen, and keepers &c. of persons infected with the plague.

Trespassers in Corne, Orchards, Hedges, or Woods, which (in Trespassers) the discretion of the Iustice) are not thought able to give fatisfation shall be whipped.

It seemeth that one Iustice of peace may heare and determine Tyle. by examination or otherwise, by his discretion, the offences committed in Tyle making.

Some things referred to the discretion of two Iustices of peace out of the Sessions.

Two Inflices may allow and discharge Alchouse-keepers, as Alchouse. they shall thinke meet.

Two Iustices may take Recognisance of Alehouse-keepers for keeping good orders &c. according to their discretions.

Two Iuitices may appoint ouerfeers of woollen Cloth, by the Cloth, yeare or for shorter time (by their discretions.)

Clothiers, their workefolkes imbelilling any part, shall be punished &c. by the discretion of two Justices.

Scruants &c. assaulting their Master, may bee imprisoned for Labourers, one yeare, or lesse, at the discretion of two Justices.

Two lustices may (by their discretion) compell women to serue, and for such wages, and in such sort, as they thinke meet.

Two lustices may taxe others of the county (by their discreti- Plague, ons) towards the reliefe of places infected &c.

Two lustices may taxe any in the Hundred (by their discreti-Poore, ons) towards the reliefe of the poore of any Townethat is outer-charged.

Two Iustices may dispose of all forfeitures, to grow vpon the Rognes. statutes of Rogues(artheir discretions &c.)

Two Inflices may affesse (according to their discretions) pro-Robberie: portionably, all the Parishes within the Hundred towards a contribution, for the parties charged upon a robbery &c.

Two lustices shall take order (by their discretion) to set poore Souldiers. Souldiers &c. to worke, that cannot get worke, And for want of worke, may taxe the Hundred (by their discretions) for the reliefe of such souldiers &c.

Two Iustices may fine (by their differences) the head officers in Weights, boroughes, and market townes, that doe not view &c. all weights and measures, or do not breake and burne the defective.

Two

Fustices of the Peace.

Two Inflices may fine (by their diferetions) all buyers & fellers, with vnlawfull weights and measures.

There be some other Statutes, and some other Cases, wherein the discretion of the Iustices of Peace (out of their Sessions) is tollerated, But the Councell of Cicero herein is to bee observed. Sapientis est Iudicis, cogitare tantum sibi esse permissum, quantum sit

commissum ac creditum.

Also the sayings of the right honorable, & late reuerend Judge Castoni and Sage of the Law (in his fifth part in Rookes case, and in his & 10.140. tenth part in Kigheleys case) are worthy observation, se. That discretion is a knowledge or viderstanding to discerne betweene truth and falshood, between right and wrong, between shadowes and fubstance, between equity & colourable glosses & pretences. and not to doe according to our wills and private affections, for talis discretio discretionem confundit; And therefore in both the recited Cases, it was holden, that though the words in the Commisfion of Sewers doe give authoritie to those Commissioners, to do according to their discretions, that yet their discretion and proceedings ought to be limited and bounded with the rules of Reafon, Law, and Iustice; Againe, Discretion (saieth he) is scire per legem quid su iustum, And therefore, every Judge, Justice, (or Commissioner)ought to have dues Sales, viz. Salem fapientia, ne fit in sipidus Et salem conscientia, ne fit diabolus.

And (as M'. Lambert well faid) no way better shall the discretion of a luftice of peace appeare, then if he (remembring that he is lex loquens) shal containe himselfe within the lists of law, and shall not vie his discretion but onely where both the law permitteth.

and the present case requireth.

In all cases therefore where the statutes do refer the tryal of offendors, (or hearing and determining of offences) to the discretion of the Iustice or Iustices of peace (out of selfions) it is very requifite, that vpon fuch triall or hearing, the faid Inflices take due examination (of the offendors themselves, or of credible witnesles) as well concerning the fact it felfe, as the circumstances therof, and vpon confession, or other due proofe of the offence, Then to proceed according to law and justice.

Note, that in all cases where the statute referreth the trial &c. to the discretion of the Iustices, the said statutes themselves seem also to enable the faid Iuftices of peace, to take the examinations of witnesses, and that vpon oath: vide tit. Heare and Determine.

Note further, that the Justices of peace, out of their festions, are now armed with farre more ample authoritie and power, then the auncient Confernators of the peacewere: For the Iuflices of peace have double power given them, The one of Iurifdiction.

diction, to couent the offendors before them (by their warrant) and (in divers cales) to examine, heare, and determine the cause; The other of Coercion (fe. after the cause heard) to constrain them to the obedience and observance of their order and decree, which notwithstanding must bee according to the rules of Law and Iustice, as is aforefaid: whereas the anneient Conservatours of the peace had no iurisdiction or authoritie at all, either to conuent the offendour before them, or to examine, heare, or determine the cause; but had onely coertion, prehension (or punishment of an offendour) in some few cases, as you may see before,

And here I must further put the Iustices of Peace in minde, that their authoritie and power is limited to bee by them exercifed, only within the County or Counties where they be in commission; And yet in that or those County or Counties, the luflices of Peace of the County must not intermeddle in any Citie there, which is a County of it selfe; Nor in any Citic or Corporate Towns there (though it be no Countie of it selfe, but within the Countie) which have their proper Iustices of Peace within themselves, by the Kings Charter or Commission (especially if in fuch Charter therebe any speciall words of prohibition, that the Iustices of the shire, Non feintromittant, (re.) Except such countrie Iustices, shall also be in Commission in such Citie or Towne corporate.

.amb.48 69. Cromp.8.&

Cremp.ibid.

But in other corporate towns, which have not their proper Iustices of peace; As also in all Liberties and Franchises (within the county) which have the returne of Writs, but have not their proper lustices; there the lustices of P. of the county, ought to execute their authority, and that by the words of their Commission.

Againe, if a parish shall extend into two or more counties; Or if part thereof shall lye within the liberties of any city or towne corporate (which hauetheir proper Iuflices) and part without, Then as well the lustices of peace of cuery county, as also the Justices (or officers) of such citic or towne corporate, shall intermeddle onely within their owne proper and diffinct limits and bouds (fe. within fo much of the faidparish &c. as lieth within their seneral liberties & limits) and not to inuade or deale in other nurifdictions; for it shall be against law and reason, where offices and inrisdictions are seuerall, that the one should intermeddle within the jurisdictons of the other.

Neither shall any Iustice of peace deale in, or punish any tres-vbi quis delinpasse or other like offence, committed in any other Countie (a-quir,ibi panier. gainst any penall statute) though such offendor shall be brought cide. before him (fee the Commission the first Afig. Et posteatit. Gunnes,

0.4.46

Labou-

21

(one being of the Quorum) in or next vnto the Parish where such

Labourers, and Partridges) Except the Statute shalfpecially ena- 33.H.8.ca.6. ble them thereto, As the Statutes 1 . Jac. 67 7. Jac. (fee elt. Partridger) 23. Eliz. (4.10. and the like: Or that it be for matters of the peace, or in cases of Felonie (see tit. Affraies and Felonie.)

Neither shall any Justice of Peace, for the time that hee shall make his aboade or becout of the Countie) where hee is Commission) intermedleto take any Recognisance, or any examination, or otherwise to exercise his authoritie within the Countie where hee is in Commission as it seemeth (see tit. Affray, Robberie, Warrants.) For being out of the Countie where he is in Com-

million, he is but as a private man.

Now my purpose is to set downe more particularly, what things the luftices of Peace out of their Selfions of the Peace, may doe in the execution of their Commission; or of the Statutes wherewith they are charged : And herein you must observe that somethings are permitted to bee executed by any one, two, or more luftices; And someother things are more specially appointed and appropriated (by some statutes) to some one certaine Iustice of peace, or to two, or moe Iustices, either in regard that fuch Iustice or Iustices, is or are next to the place, or are of the quorum, or the like.

And here note that what focuer any one luft of P. alone may do (either for the keeping of the peace, or in other execution of the Commission or Statutes) the same also may lawfully be done and performed, by any two, or moe Iustices.

But where the law glueth authority to two, there one alone can- Co.4-46. not execute this. For ona persona non potest supplere vicem duarum, Es plus vident oculi quam oculus.

Also when things by Statute are appropriated to some one certaine luffice, or to moe, there such luffice or lustices are to purfue fuch their authoritie accordingly: And yet if fuch luftice or Iustices shall therein ioyne with any other Iustice of the same County, it may seeme no lesse lawfull & warrantable, tamen quare & vide Co.11.92. where an authoritie is given to foure, or to one of them, if two of them shall execute this, it seemeth they have

not purfued their authority.

Besides there seemeth a generall rule to be put in Stradlings case Platos, b (in M.Plo.) that when a thing is appointed (by any flat.) to be done by, or before one person certain, that such thing cannot be done by or before any other; But that it ought to be done as the flatute hath appointed; & by fuch expresse designation of one (or power See Contros). giuen to one) certain person, all others are excluded.

And yet, wheras by the statute of 18. Eliz. the order to be taken for a Bastard child, is appropriated to two Iustices of peace child shall be borne; if two such Instices cannot agree vpon the reputed father (or in making fuch order, or in other execution of that stat.) Quere what is to be done: I have known the case lately moued to the ludges of Affile, who thought it fit that fuch difference between the two luftices of peace, should be referred to the hearing of the whole Bench, & the matter to beer examined by them, & what order should be therein fet down by the Bench, the fame to stand good. But in such things appropriate to some one or more Instices of

peace, if without such Instice or Instices, all (or any of) the residue of the Iustices of that county shall intermedle therein, Such their doings feemeth no waies warrantable, but fuch their proceedings to be Coram no Iudice, And that there is no necessity to obey them

therein, as being no lawfull Judges of the cause.

Alehouses



Alehouses.&c.

What things one Iustice of Peace alone, may doe out of the Sessions: And where the ayde or assistance of two Instices of Peace (or more) is required.



He true and principall vse of Innes, Alehouses, and victualling houses is two fold, seither for the receipt, releife and lodginge of wayfaring people trauelling from place to place; or for the necessarie supply of the wants of such poore persons as are not able by greater quantities to

make their provision of victuals; and are not meant, for intertainment or harbouring of lewd or idle people, to spend or consume their money or time there, (as appeareth by the preamble of the statute made 1. Iacobi Regis cap. 9.) And therefore to preuent the mischieses and great disorders happening dayly by the abuses of such houses, his maiestie hath gratiously beene pleased, that three good and profitable lawes should be made for the redresse thereof as followeth, in the first, fourth, and senenth yeares of his maie-

flies happie raigne.

Eucry Alehousekeeper, Innekeeper, and Victualler, which shall Likes. fuffer any townesman, or any handicraftsman, or labourer working in the faid towne, to remaine and continue drinking in their said house, (except townesmen inuited thither by a traueller, and during his necessarie aboad there; and except handicraftsmen, labourers and workemen, vpon the working day, for one houre at dinner, or follourning or lodging there; or except they be allowed by two Justices of Peace) the said offence being seene by any Inflice of Peace within his limits; or being proued before any Inflice of Peace, by two witnesses vpon, euery such Alchouse-

If any Innkeeper, Alchousekeeper or Victualler, shall viter or fell lesse than one full ale quart of the best beere or ale for j.d. And of the small two quartes for j.d. (the said offence being proued before

keeper &c. shall forfeit for every such offence, x.s.

before any luffice of Peace, by two witnesses upon Othe) Then euerie such Inne-keeper, &c. shall forfeit for euerie such offence. twentie shillings.

4.lac,5.

Euerie person that shall continue drinking in any Inne or Alehouse &c.in the Towne where he then dwelleth (contrarie to the former statute made prime Iac.) the said offence being seene by any Iust. of P. or being proued before any Iustice of P. as aforesaid, fuch person shall forfeit for euerie such offence, three shillings foure pence.

Euerie Iustice of P. (within his limits) hath authoritie to mini-

ster the (aid Othero such witnesses.

1.lac.9. P.6. 1.& 4.lac. P.7.8.

All and every the forfeitures aforefaid, shall be to the vse of the poore of the Parish where such offence shall be committed: And the said forfeitures are to be leuied by Distresse and deteyner of the offendors goods, by the Constables or Churchwarden's of the fame Parith, vpon a warrant from any one (or more) luftices of peace under his or their hand and seale.

The faid forfeitures of the Alehouse-keeper and Inne-keepers &c.being diffreyned for as aforefaid, if within fix dayes next enfuing they shall not pay the said for seiture, then may the Constables or Churchwardens by vertue of the faid Warrant, presently apprise and sell the said distresse; but they must deliuer the surplufage to the partie of whom the distresse was taken. 1. Iac. 9.P.7.

For eueric offence aforefaid, the Alehouse-keeper, and Innekeeper, xc, for want of sufficient distresse to be taken, for such forfeitures, shall by anie one fustice of Peace) be committed to the common Gaole, there to remaine, vntill the faid penaltie bee

payed.

Euerie Townesman &c. that shall continue drinking in anie Inne or Alehouse, contrarie to the Statute (for want of sufficient distresse, and not being able to pay the said for leiture of three shillings foure pence,) shall bee set in the Stockes, for enery such offence, foure houres (vpon warrant, or commandement, from any one fuch Iuft.of Peace.)

1.lac9. P.8.

1.Isc.9.

4.130.5.

P.7.

If the Constables and Chuchwardens, shall neglect (to leuie) or shall not leuie the said seuerall forfeitures; or in desault of difiresse shall neglect (by twentie daies) to certifie the same defaults of distresse to the Just of Peace; then eueric such Constable and Churchwarden shall forfeit for euery such desault fortie shillings to the vse of the poore, to be levied by distresse (of the offendors goods) by like warrant made to any other indifferent person, from any one (or moe) luft of Peace. The faid diffresse to be taken and deteyned for the faid forfeiture, for the space of six daies, within which time if payment be not made, then the same goods

to be prefently prifed and fold, and the furplufage to be deliuered to the partie &c. And for want of sufficient distresse, such Constables and Churchwardens, to be (by any fuch Inft. of P.) committed to the common Gaole, there to remain evntill they have paied the same for sciture.

If a common Inne-holder, or Alchouse keeper will not lodge ReAct Surface and a traueller, any Conflable (or Inflice of Peace) may compell him 5/2-4-3thereto; but how the officer shall compell him, quere: it seemeth that all the officer can doe, is either to cause such Alchouse-keeper to be suppressed; or else to present or preserve such offence at the Sessions of the peace, that so such offendor may be thereupon indicted. See the Commission.

Anic two luftices of Peace (the one being of the Quorum) 5.Ed.6.25. Two Inflices, may allow the keeping of anie common Alchouse, or Tipling P.2. house; and shall (from time to time) take Bond with suertie by Recognisance of such Alehouse-keepers, as well against the vfing of vnlawfull games, as also for the keeping of good rule & order in their houses, according to the discretions of the same Iustices.

> There shall be payed for such Recognisance but xij.d. And the faid Iustices shall certifie the same Recognisance at their next quarter Selfions (vpon paine of fine markes) ibidem.

Any two Iustices of Peace (the one being of the Quorum) may 1.E.6 15. remove, discharge, and put down any Alehouse, where they shall P.T. thinke meer.

The Alehouse-keeper put downe or discharged, by anie two fuch luftices of Peace, cannot be allowed againe by anie other two, or moe Iustices of Peace, except it be in open Sessions (as Sir Peter Warberton deliuered in his charge at Cambridge Assises, Anno Domini 1613.)

Anic two lustices of Peace (the one being of the Quorum) may Pia. commit to prison (for three dayes, without baile) those that keepe common Alehouses, or that vie common selling of Ale, or Beere, obstinately of their owne authoritie, without allowanceby two fuch luftices; or contrarie to the commaundement of two fuch Inflices: And the faid two fuch Inflices (before the deliuerie of such offendours) shall take Recognisance of them with two fuerties, that hee or they shall keepe no more a common Alehouse, or vie commonly felling of Ale or Becre, according to the discretion of the same Instices; and shall certifie fuch Recognisance, discharge, and offence, at their next quarter Sessions: which certificate shall be a sufficient conniction in Law of the same offence, without anie further triall thereof to behad.

And it scemeth (by the letter of the Statute) that the Alehousekeeper put downe or discharged by two such Justices, if (contrarie to their commaundement) he shall vie common selling of Beere or Aleagaine, though allowed by two other Inflices of Peace, yet the two Justices that first discharged him, may put him downe againe, and may commit him to the Gaole for felling contrarie to their commaundement.

And yet the statute alloweth common victualling, and felling of Ale or Beere, in Faires though vnlicenfed.

Anie two Inflices of Peace may give allowance to Labourers, &c. for vrgent and necessarie occasions, to remaine in an Inne, Alehouse, or Victualling house.

Common Innes are appointed for Trauellers and wayfaring Inn. 1. men, Co. 8.32. and therfore if any Inne-keeper shall suffer persons inhabiting in the same towne, or any other persons (contrarie to the statute) to be vsually tippling in his house, such an Inne-keeper may be accounted as well an Alchoule-keeper, as an Inne-keeper, and may be bound by Recognif. with fuerties, for the keeping of good order, as Alehouse-keepers are; and so Judge Warberton delivered it in his charge at Cambridge Assises, Ann. Dom. 16(3. Or else it seemeth they may be committed as Alchouse-keepers without Licence, (by two Iuflices of P. as aforefaid.)

Also it hath been agreed for Law, That such Innes as haue bin crected fince the statute of s. Ed. 6.cap. 25. and were not Innes before, ought to have Licence; & that fuch Inne-keepers are to be bound by Recognifance with fuerties for keeping of good or-

ders as Alehouse-keepers are.

His Maiestie, in his late Speech in the Starre-Chamber, bath iustly excepted against the aboundance of Alchouses, and more specially against the infamous, and blinde Alchouses, as being haunts and receipts for robbers, thecues, rogues, vagabonds, and other idle, loofe, and flurdie fellowes; and therfore here I thought good to put the Iustices of P. in minde, that in allowing of Alehouses they have a regard as well to the person, as the place; for all persons are not fit to be allowed for Alehouse-keepers; neither are all places meete for an Alchouse.

As if the partie be in Liuerie, or a Reteyner to anie man, The person, Bayliffe of a Hundred, Conflable, &c. or be one that is not of good fame, conversation, or government; such persons are not fit to be allowed to be Alehouse-keepers. See Fitzh. Nat. Br. 172. that no Victualler ought to fell victuall, so long as he is in office, &c. Stat. 12. E. 2. cap. 6.

Also there are some persons, that by Law are disabled to keepe an Alehouse, (at least for a certaine time) as,

1 The

And

AD10 1616.

r.E.s.

P.1.4

P.5

P.6.

1.I1c.g.

Co.8.324

1 The Alchouse-keeper connicted (according to the Statute 7-lacate primo Iac.9.) for fuffering townsfmen, &c. to continue drinking in his house contrarie to the said Statute (which see here pag. 24.) fuch Alchoule-keeper is disabled to keepe any Alchouse for three yeares after such conniction.

2 So the Alchouse-keeper connicted (as aforesaid) for not felling one full quart of their best Beere and Ale for one peny; and zacas. of the small two quarts for one peny (which see in this title a little before) fuch Alehouse keeper also is disabled (for three yeares af-

ter)to keepe an Alchouse.

3 The Alchouse-keeper that shall continue drinking in another alchoule or Inne, in the same towne where he dwelleth (the faid offence being feene by any Iust. of P. within his Limits, or being proued before any luft of P. by two witnesses vpon oath,) e- 7.1ac/10. uery such Alehouse-keeper also is disabled for three yeares after fuch conniction, to keepeany alchouse, as it seemeth upon conference of these two Statutes.

So the Alehouse-keeper that shalbe drunken, & therof lawfully connicted (by indictment at the afsiles, sessions of the peace, 4 lac, 5. or in a Lect) is disabled for three yeares to keepe any alehouse.

5 The Alehouse-keeper that is discharged or put downe by anie two luft. of P. the one being of the Quorum &c. is also difa-

bled &c. Seepag. 25.26.

Also in Townes which are no through-faire, the Iustices shall doc well to be sparing in allowing of any alchouses, (except it be at the suit of the chiefe inhabitants there, and to supply the wants of their poore.)

Also the alehouses to be allowed are metest to be about the middest of the towne; but not to be in anie corners, or places out of, or diffant from the towne, except vpon the rivers fide, & where there is great need.

Affray.

A Ffray, is derined of the French word Effrager, which fignifieth to terrifie, or bring feare, and which the Law understandeth to be a common wrong; and therfore I will shew you what

euery man may doe in fuch cafes.

Every private man being present before, or in and during the time of an affray, ought to flay the affrayors, and to part them, and to put them in funder, but may not hurt them, if they relift him (for that he is but a private man.)

An affray being in the street, if any other shall come with harneffeor weapon, to joine with either partie, every person present, or that seeth it, may stay them till the affray be over.

Also eucric prinate man (being present) may stay the Affrayors Lambt.134. untill their heate be over, and then may deliver them to the Constable, to imprison them till they finde sucrtie for the peace.

Affray.

If any person be dangerously hurt in an Affray (or otherwise) 31. Coron 225. enery person may arrest the offendor, and carrie him to the Gaole, or to a Justice of peace (who is either to baile him vntill the next Gaole delinery, or to commit him to the Gaole, vntill it be known whether the partie hurt, will line, or die thereon.)

> The Constable in such cases is armed with a more large autho- The Constaritie, for he may & ought in the Kings name, to command the Af- ble. frayors, or such as are about to make an Affray, to avoid or surcease, & to depart; And if the Constable (being present at an Affray) doth nothis best endeuour to part them, it being presented at the Sessions of the Peace such Constable shall be deepely fined for it.

H.7.10. ambr.135.

ambilis.

If the Affrayors will not depart, but shall draw weapon, or give any blow, the Constable may commaund assistance of others for the pacifying of the Affray, and may inflifie the hurting of them, if they make relistance.

The Constable may in the Kings name make proclamation (if the Affray be great or dangerous) that the Affrayors shall keepe the K.peace & depart, &c. Tamen quare, de vide Br. proclam' 1.10.

The Constables may commaund the Affrayors to prison for a small time, till their heate be ouer; yea they may imprison the Affrayors till they finde suerties for the peace. And if anic of the parties hath received any dangerous hurt in the affray, the Conflable ought to arrest and carrie the offendor to the Gaole (or to a Iustice of Peace) to the end he may finde sucrtie to appeare at the next Gaole deliuerie: and the Constable may instifie the beating, LE3.1. &c. of fuch an offendor, if he will not obey the arrest, but make re-

fistance, or flyeth, Vide bic pag. 2.

Note, that it is properly no Affray, vnleffe there be some weapons drawn, or some stroke ginen, or offered to be ginen, or other attempt to fuch purpose: for if men shall contend onely in hote words, this is no affray, neyther may the Constable for words only lay hands vpon them, vnleffe they shall threaten to kill, beat, or hurt one another; & then may the Constable arrest such persons (to goe before some Iustice of Peace, to finde sucrties for the kceping of the peace) and yet fuch threatning is no affray.

If the affray be in an house, and the doores thut, the Constable

may breake into the house to see the peace kept.

If the affrayors flie into another mans house, the Constable (in fresh suit) may breake into the house, and apprehend the affrayors, 7.Ed.3.19.

The place.

Enerse pri-

nate man.

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Alfo

 D_3

If

Armour.

eArmour.

2.E.3.cap.3. 20,R.z.cap.1.

Fanie person shall ride, or goe Armed offensively, before the Iu- One Inft. Africes, or anie other the Kings officers; Or in Faires, Markets, or elsewhere (by night or by day) in Affray of the kings people (the Sheriffe, and other the Kings officers, and) euerie Iustice of peace (voon his owne view, or voon complaint thereof,) may cause them to be staied and arrested, & may binde all such to the peace, or good behaviour (or, for want of fuerties, may commit them to the Gaole:) And the faid Luftice of P. (as also euerie Constable) may feize and take away their Armour, and other weapons, and shall cause them to be praised, and answered to the King as forfei-Lambert offic' ted and this the Iustice of Peace may do by the first Asignauimus of a Conflarz. in the Commission. See hereof antea.

So of fuch as shall carrie anie Gunns, Daggs, or Pistolls that be charged; or that shall goe apparelled with privile Coats or Doublets, the Inflice may cause them to finde suerues for the Peace, and may take away fuch weapons,&c.Videtit.Suertiefor the Peace.

And yet the Kings fervants in his prefence, and Sheriffes and their officers, and other the Kings Ministers, and such as be in their companie assisting them; in executing the Kings Processe, or otherwise in executing of their office; and all others in pursuing Hue and Crie, where anie felonie, or other like offences against the Peace, be done, may lawfully beare Armour or weapons.

Alfo (it feemeth) that anic Iustice of Peace may commaund that weapons be taken from such prisoners, as at one time shal be

brought before him.

Alfo if any feruant to husbandric, or to anic Artificer, or Victualler, or any Laborer, shall beare any Buckler, Sword, or Dagger, (except they be trauelling with their Master, or in their Masters message) it seemeth cucrie Iust. of P. may imprison them till they haue found fuerties for the peace, and may feize and take away their faid weapons; or may cause the Constable to seize the same, and to present the said weapons at the next Sessions of the peace.

Lambert.79.

Co,8.36,

Barrettor.

Verie Iustice of Peace (vpon his discretion) may binde to the peace, or good behaviour first Barrettors.

Now a common therettor is he, who is eyther a common mouer and stirrer vp (or mainteyner) of suits in Law, in any Court; or elfe of quarrels in the countrey: As

If the Affrayors flie into another countie, the Confiable (or In-Ploates) flice of peace) feeing this, may in fresh suite pursue, or cause them Cromp. 146.b. to be purfued, and to be taken there; but they can then meddle & 172,b. no further, but (as every private person may doe) to carry them before some Inflice of Peace of the countie where they are taken, to cause them to findesuertie for the peace.

But if the Affrayors flie into a Franchise within the same coun-Cromp. 146. tie, the Constable (or Iustice of Peace) seeing this, may in fresh fuit pursue and take them out of such Franchise.

After the Affray (it feemeth) the Constable, without a Warrant, 38,14.8.Br. cannot arrest the Affrayors, except some person be in perrill of F.Imp.6. death by some hurt there received.

Eucric Iustice of P. may doe that, which cuerie Constable or

prinate man, may doe by the Common Law herein.

Befides, euerie Iustice of Peace (within his limits) may present- 9.Ed4.3. ly after the Affray, commit the offendors, vntill they have found Cromp. 1951 fuertic for the Peace, if the Affray were in his presence. And if the Affray were not in his presence, then upon complaint, or upon his owne discretion, hee may after make his Warrant to take and commit fuch offendors, vntill they have found fuertic for the P. Videtit. Suertie for the Peace.

If an Affray be made in the presence of a Instice of Peace, hee may lay hands upon, & arrest, the offendors to finde suerties, &c.

and may take away their weapons.

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The Instice.

Euerie Iustice of Peace (in his owne discretion and ex officio) may binde all such to the Peace, as in his presence shall strike another, or shall threaten to hurt another, or shall contend onely in hote words. Vide tit. Suertie for the Peace:

If any person be dangerously hurt, in an Affray (or otherwise) F.Just.P.173. euerie Iustice of Peace within the yeare and day after such hurt, 10.H-7.20. may commit to the Gaole such offendors, there to remaine vntill Cromp. 154. the day and yeare be expired, or that the faid offendors shall finde fuerties to appeare at the next general! Gaole deliverie, to answer to the felonie, if the partie hurt happen to die within the yeare after the hurt.

If an Affray, or Affault, shall be made upon a Justice of Peace, 5.14.7.6. or Constable, they may not onely defend themselves, but may also apprehend, & commit the offendors, vntill they have found fuerties for the peace: the Iustice of Peace may fend them to the Gaole; but the Constable must commit them to the Stockes for the prefent, and after carrie them before a Iustice of Peace, or to the Gaole.

ATTHONY.

12.R.2.6. P.2.

In Courts.

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Asifin anie Court of Record, Countie Court, Hundred, or other inferiour Courts, anie person, by fraud and malice vnder colour of Law, shall themselves maintaine (or stirre vp others vnto) multiplicitie of vniust and seined suits, or informations (vpon penall Lawes,) or shall maliciously purchase a special Supplicauit of the peace, to force the other partie to yeeld him composition; all fuch are Barrettors.

In the Conn-

In the countrey; and these are of three sorts:

1 Disturbers of the P. viz. such as are either common quarrellers or fighters in their owne cause, or common mouers, or maintainers of quarrels, and affrayers betweene others.

2 Common takers, or deteyners (by force, or subtilitie) of the possession of houses, lands, or goods which beene in question.

Inuenters and fowers of falle reports, whereby discord ariseth betweene neighbours; all these are Barrettors.

But all fuch persons must be common Barrettors, fe.notin one Co.4.372 or two, but in many causes.

Bastardie.

E Very Inflice of Peace, vpon his discretion, may (as it seemeth) binde to the good behauiour, him that is charged, or suspected to have begotten a Bastard child, to the end that he may be forthcomming, when the childeshall be borne; otherwise there will be no Putatine father, when the two Inflices (after the birth of the childe) shall come to take order according to the Statute of 18. Eliz.cap. 3. The like may be done after the birth of the childe, and before fuch order taken.

Two Inflices. Two Iustices of Peace (one being of the Querum) in or next to the limits where the parish Church is, in which parish any Ba-18 Elizeap. flard childe (begotten and borne out of lawfull matrimonie) shall P.a. be borne, vpon examination of the cause and circumstances, shall and may take order by their discretion, as well for the reliefe of the parish (in part, or in all) and keeping of the childe, (by charging the mother or reputed father, with the payment of money weekely, or other reliefe,) as also for the punishment of the mother and reputed father.

> But such a Bastard childe must be one that is left to be kept at the charge of the parish, or one likely to be (or which may be) chargeable to the parish. See the Stat. of 18. Eliz. and the Stat. 7.Incobi cap.4.

> Ifthetwo Inftices cannot agree voon their order See the title Inflice of Peace before, pag. 4. Control the mother may bee examined upon Oath, concerning the reputed father, and of the time, and other circumstances; for that in this case the matter de

pendeth chiefly upon the examination and testimonie of the mother Vide tit. Heare and determine.

Bastardie.

7.Isc.4.

By the Stat. 7. Iac it appeareth that the Inflices of the Peace shall now commit such lewed women to the house of correction, there to be punished &c. And therefore quare if the Inflices of P. may punish (by corporal punishment) the mother by force of this stature of 18, Eliz. 2. & then to fend them to the house of correction: for the rule of Law is, Nemo debet bis puniri pro uno delicto; and the Divine faith, Deus non agit bis in idipfum, Co.4.43.47 8.118.

T8.Eliz.3.

After fuch order by two fuch luftices, fublcribed under their hands, if the faid mother, or reputed father, upon notice thereof thal not performe the faid order, Then fuch person so making default, shall be (by the same two Justices) committed to the Gaole, there to remaine without baile or mainprife, except fuch parties shall put in sufficient sucrees to performe the same order, or else personally to appeare at the next generall sessions of the peace, in that countie, and to abide fuch order as the Iuft. of Peace, or the more part of them, then & there shall take in that behalfe, (if they shall take any) or in default thereof, then to abide and performe the order before made.

J.lac.4.

Euery lewd woman which shall haue a Bastard, which may be chargeable to the parish, the lustices of Peace shall commit such woman vnto the house of correction, there to be punished and set on worke for one yeare: And if the thall eftloones offend again, then to be committed to the houle of correction, as afore faid, and there to remaine untill the can put in good fuerties for her good behaujour nor to offend fo againe.

Now it seemeth that such commitment to the house of correction ought to be by two Iustices at the least (by the words of this flature,) And then by the conference of these two Statutes (of 18. Eliz. and 7. Inc.) it seemeth fittest for the two next Inflices authorifed by 18. Eliz.

It feemeth also (by the words of this flatute 7. Iacobi) that fuch a woman shall not be sent to the house of correction, vntill after the childe be borne, and that it be living; for it must be such a childe as may be chargeable to the parish.

Also it seemeth that such a Bastard childe, is not to be sent with the mother to the house of correction, but rather that the childe should remaine in the towne where it was borne (or settled with the mother) and there to be relieued by the worke of the mother, or by reliefe from the * reputed father: See to this purpose the Resolution of the Judges, Refol. 6. in the title, Rogues : and yet the common opinion and practife is other wife fez. to fend the child, with the mother, to the house of correction.

* 18.Eliz.3.

Baylement.

BY the Common Law, the Sheriffe and enerie Constable, (be-Lambers).

In Confernators of the Peace might have bayled a suspect of felonie; but this authoritie feemeth to be taken from them, and giuen to the Iustices of P.by these Statutes following.

First, by the Statute 1.R.3.cap. 3. euerie Instice of Peace had authoritic (by his discretion) to let to bayle persons imprisoned for

fulpition of felonie &c.

But for as much as after the making of that Statute.diverse not being bayleable, were notwithstanding let to bayle, and so manie notable felons escaped, therefore this Statute was repealed by the Two Inflices. Statute of 3.H.7. And thereby any two Iuflices of Peace (the one 3.H.7.cap-3being of the Quorum) were enabled to let any prisoners (main-Firz.N.B.251.f pernable by the Law) to bayle, to the next generall Sessions of the peace, or Gaole deliuerie, as the cafe should require. After, for that one luftice of Peace in the name of himselfe, and of one other of his fellow Inflices (not making the other Inflice prinie vnto the cause wherefore the prisoner should be bayled) did oftentimes by finister meanes set at large great and notable offendors, such as were not bayleable; and yet to hide their affection therein, did fignifie the cause of their apprehension to be but onely for suspition of felonie, whereby the faid offendors have escaped vn punished; for reformation whereof, by the Statute 1. & 2. P. & M. it was 1. & 2. P. & M. enacted, That if it be for manflaughter, or felony, or fulpition of eap. 13. manflaughter or felony, then the same luftices must be present to-P.luft.toy. gether, at the time of the faid baylement, and that they must certifie (in writing subscribed with their owne hands) the faid baylement at the next generall Gaole deliuerie, to be holden within the Countie where the person shall be arrested or suspected, (vpon paine to be fined by the Inflices of Gaole delinerie.)

Now by the Preamble of both last recited Statutes, the mischiefe seemeth to be the escape of felons; and therefore if it be not in case of felonie, it seemeth any one Instice of Peace alone, may baylea prisoner, (see the titles, Affray, Dying, and Suertie for the Peace:) except where some particular Statute shall otherwise prescribe, as in titulo Counterfeitors. See more of Baylement, posten.

Bridges.

Herea decayed Bridge is, and that it cannot be proved 22 H.4.5. who nor what lands be chargeable to the repayring ther- P.2.334 of, foure lustices of Peace (whereof one to bee of the Querner) within the Shire, or Riding, wherein fuch decayed Bridge beene (out of cities, and townes corporate; and if it be within a citie or

Bridges.

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townecorporate, then foure such Inst. of P.there) may within the Limits of their feuerall Commissions, call before them the Constables, or two of the most honest inhabitants of euerie towns and parifh, within the Shire, Riding, Citie, or Town corporate, wherin such Bridge, or anie parcell thereof shall happen to be; and the faid Iustices (vpon the apparance of such Constables, or other inhabitants, and with their affents) may taxe everie inhabitant in anie such citie, towne, or parish (within their Limits) to such reasonable summe of money, as by their discretions they shall thinke convenient, for the repayring of such Bridge.

After such taxation made, the said Iustices of Peace shall cause the names & summes of eueric particular person, so by them tax-

ed, to be written in a Roll indented.

Also the said Iustices shall make two Collectors of euery Hundred for the collecting of all fuch fummes of money by the faid Iustices set and taxed; which Collectors receiving the one part of the faid Roll indented, under the feales of the faid Iustices, shall have power thereby to collect all the particular summes of money therein conteyned; and to distraine such as shall resuse to pay the same, and to sell such distresse, deliuering to the owner the ouerplus of the money, if there be any.

Also the said Instices shall appoint two Surneyors, which shall fee fuch decayed Bridge repaired & amended from time to time, as often as need shall require: to whose hands the said Collectors

shall pay the faid summes of money by them received. The faid Conectors and Surveyors, and their executors and administrators, and euerie of them shall from time to time make a true accompt to the faid Iustices of Peace, of the receipts, payments and expences of the faid fummes of money: And if anie of them refuse so to doe, then the said Iustices of Peace from time to rime (by their diferetions) may make out Processe against the faid Collectors, and Surveyors, their executors and administrators by Attachments under their feales, retornable at their general Sessions of the Peace.

Also the said foure Instices of Peace may allow such reasonable costs and charges to the said Surueyors & Collectors, as by their discretions they shall thinke convenient.

If anie such Bridge shal lie wholly in a citle, or other corporate towne, the inhabitants of the Shire or Riding shall not be charged therewith, but fuch Bridge shal be made and repaired by the inhabitants of fuch citie or towne corporate.

If anie such Bridge be without citie or towne corporate, the fame shall be made and repaired by the inhabitants of the Shire or Riding within which the same Bridge shall be.

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If part of anie fuch Bridge be in one Shire, Riding, Citie, or Ibon. corporate towne, and part in another, then everie of them shall be charged to make and repaire such part as shall lie and be within their limits,&c.

But otherwise no Village or Freemen shall be compelled to Mag. Chartis. make any Bridge, but such as by right they had wont to make; P. D. Weares i. and that they and their aunceftors have vsed time out of minde, to make the same, or that they hold certaine lands to make the same: for though a man of his owne accord, hath made or amended a F. Grants 94. Bridge, yet shall be not be thereto constrained at another time; 44 E.333. and yet if a man and his auncestors, or a corporation &c. haue 21.E.4.46. time out of minde vsed to doe such things, although they did it of their owne free mind and accord, and not of right, yet such continuance shall conclude them and their heires, or successors. And fo of High-wayes, 21.Ed.4.46.

He that hath his land adjoyning to fuch Bridge is not chargea- P. Bridger, 1. ble to make or repaire the Bridge, except where they have made it

by Prescription, 8.H.7.fol.5.b.

By comon right Bridges shall be amended by the whole coun- Cromp. 186, b tie, for that it is for their comon good & ease; and yet if any haue & 187.b. fillings, or other profit in that river, they in reason & * law (as it *37.Ast.pl. 16. feemeth) are chargeable; and therefore the luft of P.in good di- Per Greene. scretion may taxe such proportionably to their profit.

Where men are charged by their tenure or lands, every owner or occupier of such landes are to be charged proportionably to their faid lands. Vide tit. Sewers.

Such as are chargeable to repaire such Bridge, may enter vpon any other mans land or foile adioyning, and may lay their stone, College lyme, timber, or other things necessarie for the repayring, and amending therof; and the owner of the lands shall have no action therefore, for it is for the common profit, &c. 43. Aff. 7.

If a man maketh a Bridge for ealement to his Mill, and that de- Cromp. 187. cayeth, the partie, nor any other shall be charged to repaire this, for it is no common passage.

Cloth.

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Verie Iustice of P. may enter in and vpon any houses, 39.El.10. lands, or grounds, and make search for any teynters, 43.El.10. P.Drapery, wrinches or other engines whatfoeuer, whereby anie 118,127. deceipt may be vied in or about the stretching of anie wollen cloth; & may otterly deface the same teynters &c. and for the fecond offence may fell them away, to the best value thereof.

And if vpon information made to any Inflice of peace of any fuch Teynters, &c. hee shall not make search and execute this Law within feuen dayes, hee shall forfeit for enery such default, sine pound.

Cloth.

115,127.

Also one Iustice of Peace of the Shire, next adiopning to any Citie, Borough, or Towne Corporate within England, may ioyne with them of fuch Citie, Borough, or Towne Corporat, in appointing the yeerely Overfeers for fuch clothes, &c. ibidem.

Any two Inflices of Peace, within their Limits, may once enery Two Inflices. 39. Eliz 20. yeere appoint Ouerseers (for that whole yeere following, or for a 43. Eliz. 10. Shorter time, at their discretions) of any woollen cloth, to be made 45,115,118 or fold, in any Towne, not being Corporate, and may charge them vpon their oathes, and binde them in Recognisance of forty pound a peece, to doe their best endeauours by all lawfull wayes & means, for their time, to see the statute of 3.E.o. cap.2. and of 30.Eliz ca.20. in all pointstruely observed, and kept within their limits (/c.within the Towne, or Parish where the said Ouerseers shall be dwelling.) The particulars feeme to be thefe:

P. Dra. 14. I That the weights, lengths, and breadths of all wollen clothes, be according to the Statutes, 39. Eliz. See the Stat. 4. Iac. cap. 2.

2 That every such cloth have a seale of Lead, containing the inst length and weight, 39.Euz.

That such cloth be not stretched or strained. 39. Eliz.

4 Whether there be any Teynters, Wrinches, or other fuch engines, for the stretching of cloth. 39.Eliz.

5 That no yron cards, or pickards be occupied in any woollen clothes.2.Ed.6.64.2.

6 That clothes or wools, be not fallly dyed or coloured. 3. Ed. 6.

7 That no haire, flocks, thrums, yarn made of lambs wool, chalk, flower, or starch, or other deceivable thing, bee put in or vpon any woollen cloth. See 3. Ed. 6. 43. El. ca. 10. & 4. Iac. ca. 2.

8 That no clothes be in any deceiuable maner, pressed, to be put

to fale.3. Ed.6. See also the flature of 3.. Ed.6.ca.6.

Thele Ouerfeers, or two of them, shall (or may) once every The Onermoneth at least, go into all or any houses, shoppes, or other roomes feers dutie; of any Clothier, Draper, Clothworker, or other person where such Cloth shall be, and there to make due search and tryall &c. Stat. 39. El.ca.20.

39. Eliz.

Also the same Ouerseers shall fixe vnto every Cloth (by them viewed) a scale of leade, containing the length and the weight of enery fuch Cloth, together with this word, Searched.

Also the said Ouerseers shall seife and carry away as forfeit, all fuch Cloth, as vpon their fearch they shall find not to be sealed with a feale concaining the just length and weight : and shall present the

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fame cloth to the Iust, of P-at the next quarter sessions of the peace.

And if the said Ouerseers shall find any sales seale set upon any Cloth; or any Cloth to be stretched, or strained, they shall present such defaults, at the said next sessions, together with the names of the owners of such Clothes.

And if the said Ouerseers shall find any such Teynters, Wrinches, or Engines (for the stretching of Cloth) they shall deface the same; And for the second offence therein, they shall take away the said Teynters, &c. and shall fell the same to the best value thereof, And by the consent of two suffices of Peace shall dispose the money thereof, to the poore of that parish.

If any person commanded by two Iust. of P. to appeare to bee made an Ouerseer according to this statute doe (without reasonable excuse) refuse to come, and to take upon him that office, he shall forseit for every such refusal 5.1i. the one halfe to the King, and the other halfe to those two Iustices; and shall remaine in ward to the Sherisse, until he hath paid the same for seiture, or put in sucress for the same. 39. Elez. cap. 20.

The money that shall beemade, vpon the sale of any Teynters, p.Drapy Wrinches, and other such engines, shalbe disposed (to the poore of 11th the parish, where the said Teynters &c. shall be sound) by the consent of any two Justices of peace, within the same County.

But by the Stat. 7. Iacobs, certaine clothes made within the Countie of Cumberland, Westmerland, and Lancaster, shall not be subiect to search, &c. Also by the statute 3. Iacob. cap. 17. Wellh Cottons shall not be searched, nor tried: Neither need they to have any seale, containing their length, or weight.

If any person (which shall retaile any of the Clothes, Kersies, 5.Ed.6.6. Frizes, Rugges, or Cottons, of the seuerall makings (specified in the Prush.83. statute 5.Ed.6.cap.6.) doe present any such wollen cloth which is defectine or faultie, vnto two suffices of Peace, next adiopning (out of a City, Borough, or Towne corporat) where such cloth shalbe found faulty, the same suffices shall cause the same cloth to be cut into three equall peeces, whereof the King shall have one, the presenter another, and the third the said suffices shall reteine to themselves.

Any two luft of P. may take order betweene the Clothier and his 7. Jac.7. Spinsters, carders, kembers, sorters, & weathers, which shall vniustly, or deceitfully contend away, imbelill, sell, or deteine any part of the wooll or yarne deliuered to them: & that as weleuery such spinster, &c. so offending, as also the buyers & receivers knowing the same to be embelelled) being therof convicted, by the cofession of the party or by one sufficient witnes vpo oath, before two such lust. Shall give such recompense to the party grieved, for such their losse, as by the said suffices shalbe ordered, & if such offendor shall not be thought

(in the differetion of the faid Iustices) able, or doe not make recompence according to such order, then such offendor is to be whipped, or set in the Stocks (in or neere the place where the offence was committed) at the discretion of the said Iustices. And such two Iustices have full power to minister the oath to such witnesses, and finally to heare, end, and determine the said offences.

Cloth.

Corne. Constables.

Clothiers and other Masters, that shall refuse to pay such wages (to their Spinsters, Weauers or other workemen whatsoeuer) as shall be assessed, at the selsions, by the lustices of Peace, and shall be there-of connicted before any two sustices of the Peace, (the one being of the Quorum) upon their own confession, or upon proofe by two sufficient witnesses, shall for feit for every such offence, x.s. to the party gricued, the same to be leuied by distresse and sale of the offendors goods, by warrant from the same sustices.

Two Inflices of the Peace (one being of the Quorum) may take Limida cloth.

Raftal. 249: the information of firetching, or other deceitfull vling of Linnen cloth (by him that hath feifed it) and of his feifer thereof; and may binde the faid feifer to give in evidence, and to purfue the fame matter with effect (at the next fessions,&c.) and also to pay the moitie of all that he shall recover, to the vie of the Kings Maiestie,&c.

Corne.

The certificat of one lustice of Peace (joyned with the Customer of the place) of the valleding and selling of Corne, or cattell, carried by water from one place to another of this Realme, vato the Customer and Controller of the place where the same was embarked, is sufficient upon the statute of fore-stalling. See more of Corne titulo Transportation.

Constables

L'ery Iustice of Peace may cause two Constables to be chosen in Leach Hundred, Lambert. 190. And this seemeth to be meant of the high Constables of Hundreds, and to include and imply of congruence the swearing of them; and seemeth to be by vertue and force of the Statute of Winchester made 13.Ed.1. and of the Commission, the first Asignaumus, or clause.

13.E.1.66. Note that these Constables of Hundreds were first ordained by the said statute of Winchester tempore Ed.1. And they were to make view of Armour twise energy years, and to present, before suffices assigned, defaults of armour, of watches, of high-wayes, and of Huy and Cry, and also all such as lodged strangers, for whom they would not answere. See Rastal 379.c.d.

Peric Constables (in townes and parishes) were after deuiled (for the aid of the Constables of the Hundred) vide, about the beginning

Dying.

Egyptian.

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of the raigne of king Ed. 3. as appeareth by M. Lambers in his booke of the Duties of Conftables pag. 9.

The chusing and swearing of these pettie Constables, is reputed One Inflece, properly to belong to the Court Leet : yet we find it viuall & warranted by common experience, that every Iu. of P. doth also sweare them. See the title Warrants.

> And here for the better chasing of these Constables, you shall vn- Co. 8-4: derstand, that the law requireth that every Constable be Idoneus homo, that is, apt and fit for the execution of the faid office; And he is faid in law to be idoness, who hath these three things, honesty, knowledge, and abilitie;

Honefty, to execute his office truly, without malice, affection, or

partiality;

Knowledge, to vnderstand what he out to do;

Ability, as well in substance or estate, as in body, that so hee may intendand execute his office diligently, and not through impotency of body, or want, to neglect the place.

And if any shal be chosen Constable, which is not thus inabled Co.8.42 and qualified, he may by law be discharged of his said office, and another fit man appointed in his place.

Counterfeiters.

T Wo lustices of Peace, the one being of the quorum, may con- 33.H.S.s. Two Instices. uent by Proces, or by their Warrant, to the next General! Seffions of the Peace, or Affiles, any person that is suspected of any deceintfull getting into his hands, any money, goods, or other thiugs of any other persons, by meanes or colour of any salse tokens,or counterfeit letter may in any other mans name; or may imprison such offendors, or baile them untill the next general! Seffions,or Gaole delinerie: Butin these cases, the said Inflices of peace shall do well also to take examination of the offence, and to certific

> overthe Informers and Witneffes, to give evidence therein. Also it seemeth that any one Iustice of Peace may bind such of-Fendors (as Cheators) to their good behaulour, and so to the next Affiles, or Selhons of the peace: Or elfe may fend fuch offendours (as idle and diforderly perfons) to the house of correction, there to becominned vntill the next Affiles, or Sellions, and then and there to be forth comming. See polica.

the same to the said Sessions, or Gaole deliuerie: and withall to bind

Dying.

Dying.

39.E].11. P.1.

Pon information given to any Just of Pagainst any per- One Inflice. fon suspected to offend this star, concerning the vsing of Logwood, alian Blockwood, in dying, fuch Inft. may by his warrant, or other commaundement, cause to come

before him, and may examine by oath, or otherwise, the servants, or workemen of such suspected offendors, and other personsable to disclose the offence: And vpon finding the same (se.that any person hath vsed, or caused to be vsed, in the dying or colouring of any cloth, wooll, yarne, grogerain, buffins, or filke, or any thing made of woollen yarne or filke, any Logwood) the faid Iustice shal bind with fureties (to the next gaole delinery, or quarter fessions, of that countie) as well such suspected offendors, there to make answere for their faid offence, as the examinates, which do discouer the offence; And shall also certifie thither the said examinations: And if such suspected offendor shal refuse to be bound, then may such Just. send such fuspect to the next gaole, there to remaine, till he or the shal become fo bound with furcties.

23.El.g. P.1.

Any two Iu.of P.the county whereany Logwood shall be found Two Inflices: (in whose hands socuer it shalbe) may cause the same to be burned.

Egyptian.

22.H.8:10, Raflal, 135,

Very Iu. of P. Sherife, and Escheator, (within one monethalter thearrinall) may feife all the goods of any One luffice. outlandish persons calling themselves Egyptians, that shall come into this realme; and may also keepe the

one moitie thereof to his owne vse, making account to the king in the Exchequer for the other moity. And every person that ca prove by two credible wirnelles (before the faid In. or other officer, that fo feifeth the faid goods) that any of those goods were craftily or felonioully taken from him, shall incontinently berestored thereto(by the party that so seised them) vpon pain of the double value therof to be forfeited by such seiser to such prouer.

But note that after the month the offence is made felony by the flat. of 1. 62. Ph.es Ma.ca. 4. P.2. And then it seemeth the K. isto haue the goods wholly: And quere whether the stat. of 22. H.8. be still in force, or be altered by the faid statute of 1. 6 2. Pq. 6 Ma. Felonie.

Felonie.



Very Iu. of P. (by force of the Committion, the first Aßignammus) may cause fresh suit, huy and crie, and fearch to be made, by the sherife, bailife, conflables, and others, vpon any robbery or theft: and also may cause the constables to arrest, and to imprison all such as shall be suspected to be theeues,

murderers, or felons. Lamb. 190.

Alfo, every Just, of P. may and must take the examination of all 1 & 3. Ph. & fuch felons, or persons suspected of felony, as shalbe brought before him. See the title examination.

2 And must take information against them (of those that bring them) (c. of the fact and circumstances of the felony and fact.

2 And must put in writing such examinations and informations, or so much thereof as shallbe materiall to proue the felonie; & must certifie them to the next generall gaole delinery.

4 And after such examination, and information taken, then must 1-& 1-Ph.& commit fuch felons to the gaole, or may baile them if they be baileable; but then there must be two Justices together, and the one of them of the quorum: see postea tit. Bailement.

7 And must bind ouer (by recognisance) the Informers (that do declare any thing materiall to proue the felony) to appeare, and to giue euidence against the selon, at the next generall gaole deliuerie, to be holden within the county, city, or towne corporate, where the triall of the faid felony shalbe.

But yet if it be for petie Larcenie, or other small felonies, the Just. of peace may bind over the informers, and may certifie the examinations, and informations, to the next quarter fessions of the peace; And this was the aduice and direction of fir David Williams Knight flate one of the Inflices of the kings bench) at the Affifes at Cambridge; For faid he, it was not meet to keepe poore prisoners in the gaole for small matters or felonies, from one Affiles till another; and therefore he gaue order, that the Iu. of P. (at their generall seffions of the peace) should try and deliuer offendors for small felonies

Besides, the Institutes of peace of enery county, as well by vertue Plusters. of their commission, as also by force of the statutes of 18. Edw. 3.2. Li Int. 184 34.Ed.3.1. & 17.R.2.10. have authoritie to heare and determine Constitution all felonies; and are not refrained by the flatutes Ph. of Ma. but that they may proceed therein before the comming of the Iuflices of Affise and Gaole deliuerie (as it seemeth.) The words of the commillion to that purpole are Asignauimus vos Iusticiarios nostros ad pacem erc. Ac etiam ad inquirend de omnibus er omnimodis felonis erc. Es

ad omnia et singula felonias ege. Audiendum et terminandum et ad delinquentes castigandum et puniendum.

Felonie.

Also there be divers statutes which by speciall words did ordaine, that the luftices of peace should have authoritieat their generall quarter sellions to inquire of, heare, and determine certain selonies; As the statutes

18.H.6.19.& 2.H.8.5. Souldiers departing without licence. P.luft.14.

1.Ed.4.2. Felonies presented before therifes in their Turnes, or P.Sher.z ?.

22.H.8.11. Cutting downe of Powdicke. P.luft.ty.

25.H.8.6. Against Buggery. P.Iuft 11. 8.El.3. Transporting of sheepe.

P.Juff.t 5. 39.El.4. 1. Iac. 7. Incorrigible rogues. P. luft.74.

39.El.17. Wandring Souldiers and Mariners. P.Mariners

43.EL13. Carrying men forcibly out of Cumberland &c. So as P.Robbetie the Inflices of peace, at their Selfions, may fafely proceed to trie all petie Larcenies; and smal Felonies, And such other felonies whereto they are authorifed by these last recited stantes: And in such cases alfo, the Inflices of peace that shall take the examination of such felonies, may fafely bind ouer the Informers, and certifie the examinations and informations, to their next general fellions of the peace.

And yet there be some felonies, which the Justices of peace can-Cromp. 56. not heare or try at all, neither can they inquire thereof, nor otherwise

deale therewith (asit feemeth) as namely:

I First, if any man being the kings sworne servant (and his name in the Chequer rol of his houshold) under the degree of a Lord, shall * This is conspire with another to desiroy the * kings maiestic, or any Lord of high Treat this realme, or any other fworneto the kings Councell, or the fleward, treasurer, or comptroller of the kings house: every of these of-3.H.7.6.24. fences are made felonie by the statute made 3.H.7.But such offences are by the same statute appointed to be tried by a Jury of the Checkrol of the same houshold, and before the steward, treasurer, or comptroller of the kings said house.

2 Embeafelling of any record, writ, returne, panell, processe, or warrant of atturney, in the Chancery, Eschequer, the one Bench or the other, or in the treasurie, whereby any judgement shall be reuersed, Euery such offence is made felonie in such imbesellor, stealer, or 8 H.6. c. 12. taker away, and in their procurors, counfellors, and abbettors, by the Co.11.34. flatute of 8. H.6. But such offences are by the same statute appointed to be tried by a lury, wherof the one halfe shall be of the men of the

*P.Fel, 18. fame * courts, and before the ludges of the faid courts, of the one Bench, or of the other.

3 Rafing of any fuch Recordisalso selonie, within the said sta-

tute of 8.H.6. and to be tried as aforefaid. Br. Cero. 174.

4 Forging of any deed or writing fealed, or of any court Roll. Will, or acquittance; Or to cause or affent to bee made any such forged writing; Or to publish or shew forth in euidence any such forged writing knowing the same to be forged; If any person being once lawfully connicted of any of the faid offences, shall afterwards commit any the faid offences againe, every fuch second offence is made felonie by the statute of J. Eliz. But by the same statute, such offences are to be inquired of, heard and determined, by 5.Elica.14. and before Iustices of Oyer and Determiner, and Iustices of Af-

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And therefore whereas one R. Smith was indicted at the Seffions of the peace in the county of Oxford, vpon the said statute of 5. Elizabeth for forging of a falle deed, it was adjudged by the whole Court in the Kings Bench, Anno 30. Eliz. that the faid indictment Co. 1.18. was not wel taken: For although the Iuflices of peace by their com- Cromp. 130 mission have power (of Oyer and Determiner) to heare and determine felonies and trespasses &c. And haue in their faid Commission an expresse clause ad Audiendum & Terminandum, and so are Justices of Over and Terminer, yet it was resoluted by the Court, that for as much as there is a Commission of Over and Terminer knowne diffinctly by that name, and the Commission of the peace is knowne distinctly by another name, That the said indielment taken before the Justices of the peace at their Sellions, was not well taken and therefore it was quashed.

Thereason of this last case and Judgement, seemeth to hold in the former cases, and in all other like cases, where any Statute doth specially give authoritie to any other diffinct Court, or to other Inflices or Commissioners (leaving out the Inflices of peace) to inquire of, heare, and determine, or to try Felons &c. there the Inflices of the Peace (at their Sessions) cannot inquire there-

of &c.

5 Semants imbeafelling, or taking away the goods of their deceased Maister, the Executors of the partie deceased may have a Writ directed to the Sherife to make open Proclamation two market dayes, that fuch Offendours shall appeare in the Kings Bench at a certaine day: And if such Writ bee returned that proclamation is thereupon made accordingly, Then if the fayd persons which should appeare by reason of the said Proclamation, doe make default, and doe not appeare in the Kings Bench at the day specified in the said Writ, they shall be attainted of felony, by the Statute of 33 Henr.6. So that such offence of Seruants embeafelling their faid Maisters goods, beginneth first to be felonie vpon their 31.11.6 c.i. default

default of apparance in the Kings Bench, after proclamation; Of which default the luftices of peace cannot take notice, for that they have not before them the record of fuch default, or not appearing, and thefore the Iustices of peace cannot inquire of such felony &c. Cromp. 56.

But in the former cases, if any such offendour shall bee brought before any Inflice of Peace, and charged with any fuch felony.quare how farre the Iustice of Peace is to deale, or what he is to doe therein, Confidering the Inflices of Peace are no Indges of fuch fe-Ionies, neither haue they any inrifdiction ginen them by the Statutes in fuch cases: And it may seeme both termiceable, and safe, for the Iultice of Peaceto examine the offence, and then to certifie his examination, to fuch persons as by the statute are made ludges of the cause: But it seemeth the Iustice of peace in the last foure cases may not commit such an Offendour to Prison, nor bind ouer the Informers, nor take the information voon oath.

6 Againe if a man had beene feloniously stricken in one county, and after dyed thereof in another county, (by the Common Law) no indictment could bee thereof taken in either of the two Counties, for that the Iurors of the Countie where such party died (of fuch stroke) could not take knowledge of the said stroke (being in a forreine County:) Nor the Iurors of the County where the stroke was given, could not take knowledge of the death in another County : But now by the statute of 2. 6 3. Edw. 6. an indictment thereof found by lurors of the Countie where the death shall happen (whether it shall be found before the Coroner, or before Inflices of Peace, or other Inflices &c.) shall bee good and effectuall in Law: And that the Iuftices of Gaole deliuery, and Oyer and Terminer in the fame County, where fuch indictment shall be taken, shall and may proceede vpon the same, as if such stroke and

death had bin all in one and the same county.

Also where a felonhad robbed or stollen goods in one Countie, and after conucied their spoile, or goods so stollen, into another County, to their adherentsthere, who knowing of fuch felony, receiued the same goods, In which case, although the principall were after attainted, the Accessarie notwithstanding escaped, by reafon that hee was Accessarie in another Countie, And that the lurors of the faid other County (by the Common Law) could take no knowledge of the principall felony, in the first Countie: But now by the faid Statute of 2.6 3. Edward. 6. It is enacted that where any murder or felonie shall bee committed and done in one Countie, and other persons shall be accessarie (in any manner, to any fuch murder or felonie) in any other Countie, That an indict-

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indiament thereof found or taken against such Accessarie, before the Iuffices of Peace; or other Iuffices &c. in the countie where Continue fuch offence of accessarie shall be committed, shall bee good and effectuall in Law; And that the Iustices of Gaole delinerie, or Oyer and Terminer, of or in such Countie, where the offence of anie fuch accessarie shall be committed, shall write to the Custos Rotulorum, where such principall shall bee attainted or connict, to certifie them whether such principall becattainted, conuicted, or otherwife discharged of such felony; And thereupon the Custos Rotulorum shall make certificate in writing under his scale, to the said Inflices accordingly; And then the Inflices of Gaole delinerie, or Oyer and Terminer, shall proceed vpon euerie such Accessarie, in the Countie where such Accessarie became Accessarie, as if both the principall offence, and accessarie, had beene committed and done in the faid countie where the offence of accessarie, was committed.

So as by the letter of this last recited Statute, the jurifdiction ouer these last recited felonies, and ouer such accessaries, is not committed to the luftices of peace to proceed to the triall of them: But this authoritie is remitted to the luttices of Gaole deliuerie, or of Oyer and Terminer. Yet the Iustices of peace may examine these offences, and take information against the offendors, and certifie the fame to the next general! Gaole deliuerie, and may bind ouer the informers, and committhe offendours: Also the luftices of peace may inquire thereof, and take indictments against them, as in other cases of felonv.

7 Lastly the Justices of peace(at their sessions) cannot make triall of fuch as be indiffed of felonie, before Coroners, or before the Iustices of Gaole deliuerie, or of Oyer and Terminer, vnlesse the fame persons (felicet, the said Coroner, Instices of Gaole deline- Lamberto; rie, or of Oyer and Terminer) were also Iustices of peace in the same Countie, So as the Indictment may be vinderstood to bee taken by them, as before lustices of the peace; For the Commission of the peace, and the authoritie of luftices of the peace, extendeth onely to trie fuch as stand indicted before themselves, or before former Iustices of the peace, or before the Sherife in his Tourne, or the Steward in a Leete. See Lambert 486. & Statute 1. Edward. 4.cap. 2. for indictments taken in the Sherifes Tourne: and for indictments taken in a Leete, Sec Br.tit. Leet 1.

Also in some cases of Treason and misprisson of Treason, the Iustices of peace may inquire, and take indictments, but cannot proceed to triall, or to heare and determine:

As of maintainers of the authoritie of the Bilhop, or See of Rome,

Rome; And of the procurers, and maintainers, &c. the Iustices of Peace in their quarter fellions may Enquire of such offences; But they must certific enery presentment thereof made before them, into the Kings Bench (within fortie dayes, vpon for feiture of an 100. li. by every Justice of Peace (there present) not making certificat accordingly) 5. Eliz. cap. 1.

Felonie.

2 So of fuch as shall obtaine from Rome, &c. any Bulls, or Ab-13. Eliz, t. folution: Or shall publish or put in vreany such Bull: Or shall give or take Absolution, by colour of any such Bull.

And their procurers, and maintainers, &c.

And the concealers, of fuch Bull, or Absolution, offred to them. 3 So of fuch as shall withdraw any Subject, &c. to the Romish Religion; Or from thence obedience to the Kings Maiestie; Or to the obedience of the Pope,&c.

And of such as shall be so withdrawne.

And of their procurers, and maintainers, &c.

And of the concealers of fuch offences.

4 So of fuch as shall bring into this Realme, any Agnus Dei, or other superstitious pictures or Beads: Or shall deliuer, or offer any fuch, to any subject.

And of the receivers of fuch superstitious things.

For all these last recited offences, against the stat. 5. Eliz. 1. 13. Eliz.

2. 623. Eliz. I. See more fully posteatis. High Treason.

And if any such offender against any of these last mentioned stat. shall be brought before any Iust. of P and charged with any such offence, it shall be the Iust. part, to take the examination of such offences, and to bind ouer the Accusers and (materiall) Informers, to appeare, (and to preferre a bill of Inditement, and thereupon to give in Euidence to the Enquirors, against such offenders) at the next Quarter sessions (as it seemeth); Or at the next Assies, or generall Gaole deliuery; Or else in the Kings Bench, when soeuer (vpon reafonable warning) they shall be thither called; And then to commit the offender to the Gaole; And after to certifie the faid Examinations, and informations, and Recog. (by him taken) to the faid Seffions, or Gaole deliuery, or into the Kings Bench, &c.

In other cases of High Treason, or Misprisson of Treason, what the Iustices of Peace, shall doe with fuch offenders brought before them, See Postea tit. Misprison.

But now to returne to the businesse of the Iustices of Peace out of their fellions.

If one shall bring a man suspected of felony before any lust of Peace, but refuseth to be bound to give evidence against the prisoner, eyther at the generall Gaole deliuery, or quarter lessions, as the cale shall require, If such bringer hath given evidence before the said Just. 48

against the prisoner, or can declare any thing materials to proue the felony, and will not, the Iustice of peace (vpon his discretion)may Crompcommit to prison such person so refusing, or may bind him to his good behauiour: But if the bringer of a person suspected of selony, cannot declare any thing materiall to proue the felony, nor any other person then present, It seemeth the Justice ought not to commit the prisoner : And so was the direction of sir David Williams, at the Affises at Cambridge aforesaid: yet the Iustices shall do well to examine the prisoner, and if he shall confesse the felony, then to commit him; Or if vpon his examination, there shall appeare any just cause of suspition; Or if the prisoner be a man of enill fame, & that there be a felony committed; in these cases the suffice shall do well not to let him go, but at least to bind him over to the next Gaole deliuerie, and in the meane time to take further information against him. See the other title Pelonie.

Fi/b.

Lyand may appoint and sweare vnder-consequences; and wenter 13.16.17. he may attend it) ought to furueigh all the weares in the rivers, that P. Fide. they he of a reasonable miles of the property they be of a reasonable widenesse.

Forcible

Eucry lustice of Peace may burne the ners, and other engines, put or cast into waters, wherewith the frie or breed of any fish may be taken or destroyed; And this shall be for the first offence, and for the second offence, the said Iust. of P. may (as it seemeth) imprison fuch offenders, for a quarter of a yeere; And for the third offence, one whole yeere, and as the trespalle or offence increaseth, so may the Iust. of P. increase the punishment of such offenders. See the Stat. 13.E.1.47.13.R.2.19. 617. R 2.9.

By warrant of any one Inflice of P. the Constables and Church- 3.13c.12. wardens (where any offence is committed in destroying the spawne and brood of the sea Fish against this act) may leuie the forfeitures of the offenders by distresse and sale of the offenders goods: Now for every fuch offence, the offenders shall forfeit their Nets, and x.s. in money; the one halfe thereof to be to the vse of the poore of the Towns or Parish where the offence shall be committed, and the other halfe to him that will fue for the fame.

Very Inflice of Peace (in the Lent time) may enter into and fearch [1] 20.29] Lall victualing houses, And finding there any Beef, Mutton, Veale, P.7. or Hogges killed, or dreffed (except flesh to bee killed three dayes next before Easter) may take and seise the same as forfeit, And shall give the same to prisoners, and other poore folks by their discretion.

Forcible Entrie.

Forcible Entrie:

Hatis a Forcible Entrie, and what is a forcible holding, or deteyner, feethe other title Forcible Entrie.

15.R.2.3.

Euerie Iustice of peace, vpon complaint to him made, or vpon o- One Iustice. ther notice to him ginen, of any Forcible Entrie into, or holding, or deteiner of possession of any lands, tenements, or other possessions (or of any benefices or offices of the Church) contrarie to these statutes, without anie examining, questioning, or standing vpon the right or title of either partie, ought in convenient time (at the costs of the partie griened) to doc execution of these statutes in manner and forme hereunder following.

I First hecought to goe to the place where such force shall be, And he may take with him fufficient power of the countie, or town, Lamber 132, by his differetion, and the sheriffe also if need be, to aide him, for the better execution of his bufineffe; fex. as well for the arrefting of fuch offendors, as also for the remoting of the force, and for the conceying of them to the next Gaole.

He ought to arrest, and remove all such offendors, as at his Arrest. comming he shall see, or find continuing the force; And may take away their weapons, harnesse, and armor, and presently cause them to be praised, and after to be answered to the king, as for feited, or the

If the doors be shut, and they within the house shall denie the Just. to enter, it feems he may breake open the house to remove the force.

But if such offendors being in the house, at the comming of the Iustice, shall make no resistance, nor make shew of any force, Then the Inflice cannot arreft, or remove them, except vpon the enquirie a force be found. See Cromp. 73. and the other title Forcible Entrie.

Also if the house or land which is holden with force shall extend Cromp.7L into two counties, and the offendours remove their force into that part of the house or land which is in the other countie, when the luflices doe come, they cannot then remoue the force.

And if the Iust at his comming shall see or finde a force, and shall remouethe offendors, yethermay not vpon his owne view, reftore the partie oufted, to his possession again, without enquirie first made of the force by a Iurie (asappeareth hereafter.)

3 Also the luftice ought to make a record of such force by him Record. Co.8.121. viewed; which record shall be a sufficient conniction of the offendors; and the parties shall not be allowed to transrele it.

And this record (being made out of the Sellions by a particular 163, & 375. Iustice) the said Iustice may keepe by him : or he may make it indented, and certifie the one part into the kings Bench, or to leaue it with the Clerke of the peace, and the other part he may keepe himselfe.

8.H 6.9.

value thereof.

The forme of the Record, see the other title, Forcible Entrie, a-

mongst the Presidents.

Imprison.

4 Also he ought to commit (immediatly) to the next Gaole, all 21.H.4.5. such persons, as he shall find and see, continuing the force ashis com-Br. Peace 4. Co.B. 12a. ming to the place; The said offendors there to remaine connict by P.2. his owne eye, testimonic, and record, untill they have payed a fine to the King (or given securitie for the paiment thereof): For this sight and view of the force by the suffice (being a sudge of Record) maketh his record thereof (in the sudgement of the saw) as strong and effectual, as if the offendors had confessed the force before him; and (touching the restraining of traverse) more effectual, then if the force had beene found by a sury, upon the evidence of others.

And yet the words of the statute seeme more large, see. And if he p. 2. do find any that made any such forcible entry, or that hold the place with force, &c. he shall commit the offendors to the Gaole &c. But such force must be in the presence or view of the Just. of P. or else he Crop. 195. be can neither record it, nor yet comit the offendors, 13. H.7. Crooke 41.

The forme of the Mittimus, see the other title, Forcible entry.

Fina

Also the same Iustice of peace, or some of them that shall see Co.8. 41, 2. the force, (as having best knowledge of the matter, & of the quan-Lamb. 163. title of the offence, and having the custodie of this Record) are the 557-proper ludges ouer this offence; And therefore may assess the fine Co.11.43.2 vpon everie such offendor; But the sine must be imposed vpon everie offendor severally, and not vpon them iointly; And the suffice ought to estreate the same sine, and to send the estreate into the Eschequer, that from thence the Sherisse may be commaunded to levie the said sine to his Maiessies vse. But vpon the same sine so assessed and estreated it seemeth the suffice is to deliver the offendors, Lambert, 554.

Also vpon payment of the said sine to the Instice, or vpon suerties found (by Recognizance) for the payment thereof, the said Iu-Lambulez, stice may deliuer the offendors out of prison againe at his pleasure, Br. Imp. 300 by some opinions: But quare whether the Inst. of P. shall meddle with receining the sine, for that the Sheriffe is accomptant for all sines, Lambt. 555.

Or the Iust. of peace (by some opinions) may record such force, and commit the offendors; and after certific the record to the Iusti-Lam.edirio. ces of Assile, and Gaole deliuerie (as it was done at Stafford Assiles, 1582.

Anno 26. Eliz. by the report of Mast. Crompton) Or else to certific it to the generall Sessions of the Peace, (as it seemeth to Mast. Crompton) and there the offendors may be fined; For, saith he, the Statute doth not say, that the sine shall be assessed by them that record the force, more then by other Iustices.

Or rather the Iustices of peace may certifie or deliuer the Record Lamb. 163.

by him made, and referre the fine and further proceedings therein, to the K. Bench (in regard of their supreame authoritie in such cases.) And this M. Lambers thinketh to be the safest course.

6 Also the Iust. of peace, notwithstanding his owne view of the Enquire, force, may & ought in some good towne or place necre where the force was, to enquire by a sufficient Iury of the same countie, to be returned by the sherisse, as well of those which made such forcible entry, as of those which made such forcible deteiner.

And here note, that anie one lust of P. alone out of the Selsions, may make an enquirie (being so appointed by the stat.) whereas otherwise there must be two lustices at the least, to make an enquirie, or to hold a Selsions, and one of them of the Quorum.

And this enquirie ought to be made whether the offendors be prefent or gone, at the comming of the Iust. of P. yea this enquirie the Iustice must make, though he go not to see the place where the force is; for without this enquirie, there can be no restitution. See more concerning this enquirie in the other title, Forcible Entry.

The forme of a Precept to the sheriffe to returne a Jurie, vide tit.

Prefidents.

The form of the Enquirie, Presentment, or Verdict, see as before.

7 And if vpon such enquirie, such forcible entre, (or forcible Reflication. holding or deteiner) shall be found by the oathes of the Enquirors, then the said Iustice of P. shall reseife the lands and tenements so entred vpon or holden, and thereof put the partie in possession againe, which in such fort was put or holden out. See the other title of Forcible Entrie.

But the putting out, as also the holding out, must of necessitie be found, & that by expresse words in the Indicament. See as before.

And this restitution, the Instice of peace may make himselse: Or he may make his warrant to the sheriffe to doe it: Or else hee may certific such presentment or endistment, taken before him, into the Kings Bench, and so leave the restitution to be awarded out of that Court. See as before.

But the Iustices of Asissand Gaole delinerie, nor the Iustices of Peace at their generall Sessions, cannot (asit seemeth) make or award Restitution, except the Indistment were found before them; but the Iustices of peace onely, or some of them that were present at the enquirie, and when the Indistment was found (they only) have power to make restitution; Except notwithstanding the Iustices of the Kings Bench, who have a supreame authoritie in all cases of the Crowne

(.0.9.118

And therefore if the Record, fez. the presentment of such force, shall be certified by the suffices of P. into the Kings Bench; Or that the same presentment or endictment shall be removed thither by

F 2

Certiorari,

Certiorari, there the luft of the Kings Bench may award a Writ of Restitution to the Sheriffe of the same countie to restore possession to the partie so expelled.

After it be found by such Enquiry, that such Forcible entry or deteiner is made, the luftice of peace may breake open the house by P.R.41.4 force, to refeile the same, & to put the partie so put out, in possession againe. And so may the Sheriffe doe, having the Iustices Warrant.

The forme of fuch Warrant from the Inft. of P. to the Sheriffe, to make restitution, see in the other title of Forcible entry, and Presidents.

But the Iust of peace may not (in any case) make restitution, without such enquirie first had, and such force thereby found: And if the Inft, shall make restitution without enquirie, it seemeth to be punishable in the Starre-Chamber.

Also this restitution ought to be made to none but to him onely that was put out; so that if the father be put out by force, and dyeth (after enquiry, & before restitution) his heir shal not have restitution,

To whom restitution shall be made, see the other title, Forcible Entrie.

Also such Restitution must be made, onely where a man is put out or holden out &c. of house, or land; and is not to be understood of a Rent, Common, Aduowson, or such like. See the other title, Forcible Entrie.

Also the Iustice may make restitution, notwithstanding any offer of Trauerse; but yet vpon Trauerse tendred, the safest way (for the Iust. of peace) seemeth to be, for him to deliuer, or certifie the Prefentment into the Kings Bench, and so to referre the further proceedings therein to them. See the other title, Forcible Entrie.

And although these statutes doe inflict no penaltie vpon the luslices of peace, if they shall not execute these statutes, yet if (vpon complaint, or other notice to them given of fuch force) they shall not at least remove the force, record it, and commit the offendors, they are punishable in the Starre-Chamber.

Although the Iustice of P.ought to commit to the Gaole, & may fine all such as he shall see continuing their force at his comming to the place; yet vpon force found by the enquirie only, and not viewed and seene by the lustice (although this Presentment of the lury be a conniction of the offendors) yet it feemeth the luft of P. may neither fine, nor fend to the Gaole the faid offendors, (by the flatute of 8. H.6. which appointeth the enquirie) for the Iustice bath power Crop. 1616 by the faid statute to make restitution only, as faith M. Lambers, 162. 161. Leoner yet M. Crompton holdeth the contrarie.

But howfoener, the luft, of P. is to remoue the offendors that be present, that so he may restore the other; & may binde the offendors to their good Behaviour: and if the offendors be gone, yet the Iuft.

may make his Warrant to take the offendors, and may after fend them to the Gaole, vntill they have found fuerties for their good Behaujour.

Note, that if fuch Forcible entre, or deteiner shall bee made by three persons, or moe, then is it also a Riot; and then (if there be no former enquiriethereof made) it seemeth the two next lustices of P. (vpon notice thereof) ought to enquire thereof (as of a Riot) by a Jury, within one moneth, vpon paine to eyther of them making de-

Crom.68. b fault to forfeit 100 li.

Also one Iustice of peace may (as it seemeth) heare and determine Defaults of the defaults of Sheriffes and Bayliffes, in not returning fufficient Sheriffis. Iurours (whereof euerie one shall have lands &c.to the value of for-\$.H.6.9. tie shillings by the yeare at the least) before him, to enquire of such forcible entry or deteiner: and the faid Iustice of Peace may proceed therein as well by Bill, at the fuit of the partie grieued for himselfe, as also by Enditement onely for the King; And the same Proces shall be made against such persons endicted, or sued by bill in this behalfe, as should be made against persons endicted, or sued by writ of trespalle with force and armes against the K. peace: what the Proces in such case is, wide tis. Proces.

And though anie one lustice of peace may proceede in cuerie of these former cases of Forcible entry, or deteiner, as aforesaid, yet if two or moe luftices shall ioine therein together, it is the better; for, plus vident oculi, quam oculus; & scenrius expediuntur negotia commissa pluribus. Co.4.46.

Also the Maiors, Instices, and Instices of P.& the Sheriffes & Bai- Corporate 1.H 8.g. Raft.174.4 liffes of cities and Boroughs having franchife, shall have in the faid towner. cities, townes, and boroughs, like authoritie to enquire of fuch Entries, or putting out, and in other articles aforefaid, rifing within the fame, as the Just of P and Sheriffes in counties and shires have

Also enery Inft. of P. to whom a writ vponthestat. of Northamp- The Stat. of 2.Ed.3.3. ton (concerning the removing of a force) shall be delinered, ought Northampt, to execute the same writ, fez. hecought to remove the force, and to

> And for that the Instices of peace, to whom this writ shall be delivered, is herein but a minister, and is to certific that which hee shall doe therein, I will here fet downe the maner how he shall procced to

First, when the Iust of P.shal come to the place where the force is Lamb, 173. Supposed by this writ, he may cause three Oyes for filence to be made, and then he may make proclamation in the K. name to this effect:

The Kings Maiesties Inst. of P. straightly chargeth, and in his Maiesties name commondeth all and everie person to keepe filence, whilst his Maiest. writ be beread, and proclamation be thereupon made accordingly.

certifie his doings therein into the Chancerie.

execute this Writ.

Then

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2 Then may he reade, or cause to be read, the Writ, or may declare the effect thereof.

3 Then let three other O-yes be made; And thereupon make

Proclamation againe, as followeth:

His Maiesties aid Iustice, doth in his Highnesse name, and by vertue of his Maiesties Writ, straightly charge and command, that no maner of person of what estate, degree, or condition soener, now being within the house of B. &c. (named in the faid Writ) shall goe armed, or keepe force of armour or weapon nor do any thing there or elfewhere in diffurbance of his Ma peace, or in offence of the Stat.made at Northampton in the 2. yeare of K. Ed. 3. wpon paine of losing his said armour and weapons, and of imprisoning his body at his Maiestiespleasure.

God faue the King.

4 Then the luftice of P.may enter, and fearch whether there be any force of armor or weapon worne or borne, against this Proclamation: (Or otherwise he may enquire thereof by a Jury, for so the Writ it selfe doth warrant him :) And if after Proclamation anie fuch be found, he ought to imprison the offenders, and to seize to the K.vse, and preise (by the oaths of some present) the armor and weapons so found with them; and the offendors so imprisoned, are to remaine in prison vntill that some other commaundement be given concerning them from his Maiestie. See the Writ, Fitz. 249, and the title, Baylement, postea.

But if vpon the Proclamation made, they do depart in peaceable maner, then hath the Iustice no warrant by the writ, to commit them

to prison, nor to take away their armour,

But when the Iustice hath remoued the force (vpon this writ) hee Cromp. 74. may not put the partie that was put out, in possession againe; for if 161, he doe, it seemeth both the Instice, and the party also, are punishable in the Starre-chamber: for the Writ doth authorize the lustice only to remove the force, and not to make Restitution.

The forme of this writ vpon the Statute of Northampt.you may

fee in Fitzh, N.B.249.

The forme of certificat, or return, into the Chancery, of this writ, fee in the other title, Forcible Entry, amongst the Presidents.

Also cuerie lust of Peace, (ex Officio, and without anie writ,) may 2,Ed.3.3. doeexecution of this Stat. of Northampton, & that as well by force P. Armor.t. of the Commission, as also of the said statute.

The manner to execute this flatute, by the Inflice of P. (ex officio) Lamberto. seemeth to be all one, as before, where he hath a writ deliuered him; fauing that when he doth this ex officio, and without writ, he needeth not to make any Proclamation; nor to fend any certificat into the Chaun cerie; but the Iustice may goe to the place where the force is,

and (if it be in an house) he may enter, and search, if any force of armour or weapon, be worne or borne against this Statute; And if any fuch offendors be found, hee may commit them to prison, and may seize and preise the Armour and Weapon so found with them; And he ought to record all that which he shall doe in this behalfe, and thereout to fend some estreate into the Eschequer, that the King may be answered of the armour, or of the value thereof.

But here againe the Iustice must not make any restitution of the possession to the particousted, but must only remoue the force.

Crompage And concerning the offendors so found, and committed by the Lambi. 176. faid Iustice of Peace, it seemeth the Iustice (athis discretion) may fine them, and vpon paiment therof, or vpon suerties found for the same, that the faid lustice may deliner the offendors, even as in the former Statutes of 1 5. R.2. & 8. H.6. Or else the faid Iustice may record such force, and commit the offendors, and also certifie the Record into the Kings Bench, or to the Iustices of Gaole deliuerie, or to the generall Sessions of the peace, as here in this title a little before.

Games unlawfull.

P.Jult 64 Playes.5.

Verie Iustice of P. may from time to time (as well within Liberties, as without) enter into any common house place, where any playing at Dice, Tables, Cards, Bowls, Coyts, Cailes, Logats, Shoue-groat, Tennis, casting the

*12.R.2.c.6 stone, * foot-ball, or other vnlawfull game, now invented, or hereaf-Lambe. 196 ter to be invented, shall be suspected to be vsed; And may arrest the keepers of fuch places and imprison them, till they finde Recogniss. no longer to occupie any fuch house, play, game, alley, or place.

Also he may arrest and imprison the players there, till they bee bound by themselves, or with suerties, no more to play at, or haunt

to, any of the said places, or games, ibid.

The faid Statute of 33. H.8. prohibiteth all manner of persons, to play (arany vnlawfull game) in any common house, alley, or place; except the keeper of fuch house, or place have a Placard, conteyning what games shall there be vsed, as also what persons shall play therat; and then such persons may play there &c.

Also the said Statute prohibiteth all Artificers, Husbandmen, Labourers, Mariners, Fishermen, and Watermen, and all Apprentices, and Servants whatfoeuer, to play at anie vnlawfull game, in anie place, or at any time, except in Christmas time onely, and in their houses; or servants in their Masters houses, and by their Masters licence. Or Seruingmen within the precinct of their Masters house, garden, or Orchard, and by their Masters licence. Also no maner of

Every Just of P. finding or knowing any person to exercise or vse any of the aforenamed vnlawfull games (contrarie to this statute of 22.H. 8.cap.9.) may commit him to ward, there to remaine without bayle, vnill he become bound (in fuch fumme of money as the faid Inflice shall thinke reasonable in his discretion) that hee shall not from thenceforth vie fuch vnlawfull games, ibid.

But enquire what Games shall be faid to be lawfull, other then those before named. Quare of dauncings of the Morrice, or other. open dauncings, Beare-baytings, common Playes, and Fencings:

all these sceme to be prohibited by the Stat. 39. Eliz. 4.

Although these Cames aforenamed, are by Statute prohibited, as vnlawfull for some places, persons, and times, yet are they not vnlawfull or euill of themselues, but are matters of recreation & pleafure (though some of them more vaine and more idle then others) and the King by his Prærogatiue, may tollerate and licence the moderate vse of all such Games, as it shall seeme good to his Maiestie, Co. 11.85.6.

Note also, that playing at Cardes, Dice, and the like are not prohibited by the common Lawes of this Realme (except that one be deceined by falle Dice, or falle Cardes, and then he that is deceined may have his Action of the case for such deceipt:) neither are they malumin se, or of their owne natures; for then none might be tolerated or licensed to vie them; wheras the statute doth except and tolerate certaine persons, places, and times. And yet good Dinines do hold divers of these Recreations to be altogether vnlawfull, as being actions wherein we neither bleffe God, nor looke to receive a blessing from God; Nay, such as wee dare not pray to God for a blessing on them, nor on our selves in the vse thereof: But especially on the Sabaoth day, all fuch Recreations and Games are holden vnlawfull; for if lawfull workes be forbidden on that day, much more vnlawful sports, yea such sports and games, (which otherwise, and at other times are lawfull.) See Efay. 58.13.

Gunnes.

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One Iustice. 17 Hosoener shall shoot in carrie, keep, vse, or haue in his house Dyerasta. or elsewhere, any Gunnes, Groffe-bowes, (* Daggs, Pistols, Cont. 87. or Stone-bows) contrarie to the flat. of 33. H. 8.6. Euerie person see- 33. H. 8.6. ing or knowing this, may arrest or attach the offendors, & bring or convey them to the next luftice of P.in the same countie (where they were found offending) which Inflice vpon due examination and proofe (thereof before him had, or made, by his discretion.) may commit the offendors to the Gaole, there to remaine vntill they

have payed the penaltic of the statute, /cz. x.li.

The effect and particulars of which statute, be as followeth:

Gunnes:

1 No person may shoot in or keepe, any Gunne, Dagge, Pistoll, Crosse-bow or Stone-bow, except he hath per annu 100. li. in lands, tenements, fees, annuities, or offices.

2 No person may shoot in, carrie, keepe, vse, or haue any hand-P.z. gunne vnder one whole yard in length, nor any other Gun (* Dag, * Co.5.7% or Pistoll) that shall be under three quarters of a yard in length.

Euerie person hauing in land &c.100.li.per annum, may seize and

P.2. take from the offendor;

> Euerie Gunne, (Dagge, & Pistoll) shorter then is before limitted: And euerie Crosse-bow (or Stone-bow) from him that hath not 100.li.per annum: and may keepe fuch Bow, but must breake fuch Gunns within xx. dayes next after such seisure.

3 No person may carrie in his journey, any Gun (Dag, or Pistol) Lambt.462. charged, or Bow bent (but only in time & feruice of warre, or in going to or from Musters) except he hath per annu 1 00. li.in lands &cc.

4 No person may shoot in any Gunne, &c. within any citie, borough, or market towne, nor within one quarter of a mile of any citie, borough, or market towne, except for the defence of his person, or house; or at a Butt or banke of earth, and in a place convenient.

The Master may not command his servant to shoot in anie Gunne, or Croffe-bow &c. except at Butt or banke of earth, or in time of warre.

P.4.

P.4.

P.5.

Except notwithstanding out of this Statute, shooting at Butt or banke of earth, by Seruingmen (whole Masters are enabled by star.) and by inhabitants of cities, boroughs, and market townes; except alfo all Lords, Knights, Efquires, and Gentlemen, and the inhabitants of eueric citie, borough, and market towne, as also all persons dwelling alone, or neere the Sea, and makers & fellers of Gunns, &c. these may keepe Gunns &c. of the length aforesaid, in their houses, (yet only toivie, and shoot therein, at a Butt, or banke of earth:) and persons having lawfull Placards, they may shoot according to such Placard or Licence. See other exceptions there.

But for as much as in these former cases the Iustice of peace hath the whole matter committed to himselfe, and that such offendors remain conuict vpon his examination, and proofe of witnesse made before him, therfore he ought to be circumspect in his examination,

Lambrage as also in his Mittimus: and further, to make a Record of the matter, (in writing under his hand) and allo to fend the Estreate of it into the Eschequer, whereby the Kings duetie may be levied.

The forme of fuch Mittingus, vide tit. Presidents.

The forme of the Record, see there also.

All persons which shoot in Gunnes (whether they be authorised 1.E.S.14.

to shoot, or otherwise) ought to present their names to the next lust. of peace, and fuch luftice shall cause the Clerk of the peace to record or register their names : but quare if this be now in vse, Lambt. 296.

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Any two lustices of Peace may commit to the Gaole for three 1.120.27. Two Inflices. months, &c. euerie fuch perfon as shall shoot with any Gun, or Bow, P. Felants, 6 at anie Partridge, Fefant, house-Doue, Mallard, or such towle, or at any Hare. See more in the title, Partridges.

Hawking.

Verie lust, of peace may examine the offences, for Hawe p. Feiants, 4 king or hunting with Spaniels in eared or codded corne, P.Juft. 18. and may binde the offendors with good fuerties to appeare at the next generall Sessions of the Peace, to an-

fwer their faid offences, 23. Eliz. 10. It feemeth requifite also that the Iust do binde ouer the witnesses, which shall discouer the offence.

Against Hawking at Fesant or Partridge betweene the first day of July, and last of August. Sec 7. Iac. 11. hic titulo Partridges.

Hawkes that be found, shall be delinered to the sheriffe, vide titul. Felonies by Statute.

Hawkes, where the taking, or concealing them, is Felonic. See there also.

High-wayes,

Verie Iustice of P. may cause the High-wayes to Markets to be 11.E.1.5. enlarged, and clenfed of bushes and trees (so that there be ney- P. 18 wide. ther bulh, wood, nor tree, within 200 foot of either fide of the way: tit, Robberg. the stat. 13. E. 1. excepteth Ashes, and great trees; but by the statute 5. Eliz. all trees therein are to be cut downe) &c. And this the luft. may doe by force of the Commission, the first Assignauimus, (Lamb. 190.) but how the Iustice shall compell the same to be done, wide tit. Commission of the Peace.

Euerie Iust. of P. (vpon his owne knowledge) may prefent in o- 5.Eliz.13. pen generall Selsions, any High-way not fufficiently repaired, and P. luff. 69. amended, within the countie and limits of his Commission.

Euerie lust of P. (vpon his own knowledge) may present in open generall Selsions, any default or offence committed (within the countie and limits of his Commission) contrarie to the statutes of 5.EL134 2.6 3. Ph. & M.S.& 5. Eliz.cap. 13. concerning the amendment of High-waies: and eueric such Presentment shall be of the force of a presentment of twelve men (sex. shall be a good Indistment against the offendors.) So that upon fuch prefentment, the Justices at the faid fessions may affesse the fine upon such offendors, and that in the ablence

absence of the parties; & without calling them to it by any Processe (fauing to euerie offendor their lawfull trauerle.) didem.

High-wayes.

2.& 3.P.X 5.Eliz.13. 19.Ehr.5.

P.t.

P.1.

P. 3.

P.4.

So that euerie Inst of peace may present, as aforesaid, all & euerie these defaults following, being all contrary to the said statutes, &c.

1. The Constables and Churchwardens of euery parish yeare-Aly vpon the Tuesday, or Wednesday in Easter weeke, do not call together the parishioners; and doe not then also choose Surveyors, for the amending of High-wayes in their parish, leading to Marker townes, according to the statutes, 2.P. & M.

2 Iffixe dayes be not by the Constables, and Churchwardens then also appointed for that purpose, and to be before Midsummer

following, 2.P. & M. & 5.Elis.

3 If notice of the faid dayes be not given the Sunday after Ea-2.F.& M. ster openly in the Church, by the Constables and Churchwardens.

4 If every person having in his occupation, a Plow land in Til-Raft.199. lage or Pasture in the same Parish, or keeping there a Plow, or a Lambe 459. Draught, doe not fend at every day and place appointed &c. for eueric Draught or Plow land, one Cart furnished with necessarie tooles,& two able men with the fame: and that they doe fuch works as they shall be appointed (by the Surueyors) by the space of eight houres, enery of the faid fixe dayes. But by the Statute 18. Eliz. 9. he that shall occupie a Plow land in tillage or pasture, lying in seucrall parishes, shall be chargeable onely in the parish where he dwelleth; P. 13,14. and he that occupieth severall plow lands in severall parishes, shall be charged in each towne or parish where such land lyeth; fez. to find in each towne or parish, one Cart furnished as aforesaid.

3 If any of the carriages shall not be thought needful by the Surueyors vpon any the faid dayes, if then every fuch person shall not fend two able men, for euerie Cart of theirs fo spared, 2.P. & M.

6 If euerie other Housholder, Cottager, or Labourer, (able to labour, and being no hired fernant by the yeare) doe not by himfelfe or one other sufficient Labourer, worke enery of the said fixe dayes by the space of eight hours, as they shall be appointed by the Sucucyors, z. P. & M.

Note, that all persons (being chargeable but as Cottagers) yet if they be in the Sublidie v.li. in goods, or xl. s.in lands, or aboue, they shall find two able men to worke enery of the said sixe dayes (by the stat. 18. Eliz. sap. 9.) But it seemeth the Just. cannot present such default voon his owne knowledge.

8 If all Fences, Hedges, and Ditches next adioyning on eyther fide any High-way, be not from time to time, dyked, scoured, repair red, and kept low, by the owners of the ground, 5. Elicab. & 18.Elizab.g.

9 LF

9 If all trees and bulhes growing in the High-wayes be not cut Podowne by the owners, s. Eliz.

Note that the Kings High-way, (or Regia-via) leading either to the Market, or from towne to towne) the freehold and foyle thereof, and the interest of all the trees and other such profits thereupon growing, doe belong to the Lord of the foile, or Lord of the manor. 17.Ed. z. fol. 42. 6 8.E. 4. fol. 9. Br. Chemin. 10. 11. 6 27. H. 6. fol. 9. Br. Leete 3. And therefore such Lords are chargeable to cut downe the trees and bulhes growing in such High-wayes: and yet by the opinion of Keble, 8.H.7 fol. 5. the freehold of the high-way (& the trees thereupon growing) are belonging to him (fex. to any freeholder) that hath the land next adioyning, Br. Nulans 28, but it feemeth this might be understood of common field waies, or other prinate waies, and not of the Kingshigh-way. See 2. E.4 fel. o. & Britton fel. 111.

Note also, that he which hath land adjoyning next to Kings highway, by the common Law (before these statutes) was and is chargeable and bound of common right, to clenfe and scoure the disches

adioyning to the faid way. 8. H.7. fol. 5. a. Br. Nufans 28.

And it is called the kings high-way, for that the king at all times, hath therein passage for himselfe and all his people; and may punishall Nusans therein, though otherwise the interest thereof be in the Lord, to take all the trees and fuch other profits there growing, and to bring his action for digging therein, or for any other like trefpassethere done.

And the king (by the common law) may award his Commission Firz. N.bit for the amending of the High-wayes and Bridges thoroughout his 113,4. Realme, so as his people may have safe passage thereby.

10 If any chosen to be Surveyor, shall refuse the office, or will Part not take vpon him the execution thereof. 2. P. & M. Euerie Inflice of peace may present this as aforesaid.

11 So if the Surveyors shall not within one moneth after any of P.S. the former offences committed, present every such offence, to the next Inflice of peace, y. Eliz.

12 Also if the Bayliffe, or high Constable (who hath received an P.10. Estreate for the lenying of any forseiture vpon these statutes) shall Rest. 199.c. not leuie the same, or shall not (betweene the first day of March and last of Aprill, yearely) make a true accompt, and payments of all fuch summes as he hath leuied, to the Constables and Churchwardens of euerie parish wherein the offence was committed; or if the Constables and Churchwardens have not imployed the same vpon their high-wayes: it feemeth enerie luftice of peace may (vpon their owne knowledge) present enerie of these defaults as aforesaid.

And if the Surueyors shall present any of the former offences (by them to be presented) to the next Inflice of Peace, within one mo-

neth next after the offence comitted the same Justice ought to certific fuch presentment, at the next general Sessions, sab pana, v. li. But if the Surneiors do not make their presentment to the next suff. till after the moneth, and the luffice certifieth it, this seemeth not good against the offendors.

High-waies.

The Surner-

Enery fuch Surneior (for the better amendment of the waies or authority within the parish) may by their discretion take and carrie away the rubbilh, or smalest broken stones of any quarry within their parish, fo. fuch rubbish as they shall find there ready digged, by the owners, or by their licence.

Enery fuch Surveyor may also (for the vse aforesaid) dig for and take, or cause to be digged for, and taken (in the seuerall grounds of any person within that parish, neere adioyning to the way to bee amended) any grauellor fand; so as they digge in no mans garden. orchard, or meadow, and but one only pit, and not about ten yards out at the most, and the same within one moneth, to be filled vo againe with earth, at the charge of the parish.

Euery fuch Surneyor may likewife, cause stones to be gathered ypon any mans grounds within the parilh, and the fame to carrie

away for the vie aforelaid.

Euery fuch Surueyor may caufe any watercourfe or fpring of water (being in the high-way within their parith) to be turned into another mans feueral ditch(or ground) next adiouning to the faid way, in fuch manner, asby the discretion of the said Surveyor shall bee thought meet.

Alfo any two Iu. of P. (the one being of the quorum) vpon com- Two Inflices. plaint to them made by the churchwardens of any parish, may conuent before them, the bailife and high constables (to whom the clerk of the peace, or fleward of any Leet bath delinered any effrcates for the collecting of the fines, forfeitures, and amerciaments for the defaults aforcfaid) and may take their accompts, and may compell them to pay all fuch arrerages as they shall adjudge, to the constables and Churchwardens of the parilla where the offence was committed; or may imprison them until they have payed such arrerages

Every bailife and high-constable vpon their said accompts shall haucallowed for enery pound he shall collect and pay, 8.d. for his own pains, and 12.d. for the fee for the effreat deliuered.

Also it seemeth any two such Instices of P. vpon complaint to them made by the fucceeding Churchwardens, or Conflables, may contient before them the precedent Constables and Churchwardens, and may take their accompts, & may compell them (as aforefaid) to pay all arrerages in their hands 2.P. & M.8.

Note that all furth fines or forfeitures ariling in the Selfions, shall beleuied by Estreates indented, made by the Clerke of the Peace,

P.11.

5.El.12.

Ibid.

Ibid.

P.6.

Ibid.

who shall seale and signe such estreats, and shall deliver the one part therof fo fealed & figured, to the bailife or high constable of the same hundred; and the other part thereof to the Constables or Churchwardens of the parish where such default was made, and to be delinered by the Clerke of the Peace within fix weekes after Michaelmas verely: the which Effreats shalbe a sufficient warrant to the said bailife or high constable, to leny such fines & forfeitures by diffresse; and all fuch fines & forfeitures shalbe bestowed by the Churchwardens on the high-waies in the same parish.

Allo two such lu. of P. (by the stat. 18.El.) may take the accompt P. 17. of the Surneyors of the waies, and of the pety constables & churchwardens for all fuch forfeitures (within that star.) as they have levied. 18.El.ca.10.

Here I thought good to mooue fome doubts that have arose vpon the former statutes, and defire that some resolution may hereafter beginen, for better latisfaction, for that they be so ordinarily queftioned.

A plow land.

What, and how much a plow land is, fir Edw. Coke in his ninth part, in Lowes case telleth vs,& faith, That a Carue, or Hyde of land (or a Plow land) which is all one, is not of any certaine content, but fo much as one Plow may plow in one yere; and fo in some countric it is more, and some other it is lesse (according to the heavines of their foile.)

And of the same opinion was Judge Prifot 35.H.6.29. where he 25.H.6. faith, that a Carue of land is greater in one country, than in another, for that a Plow may plow more land in the yere in some country than in another.

Also a Carue of land (or a plow land) may containe house, mea- Co.4.37 b.

dow,pasture,and wood.`

1 Now a man with one Plow & flue or fix horses will occupie, plow, and dreffe 7.or 8. (core acres of arable land yerely, (as many do with vs in the East parts of Cambridgeshire,) and wil in Sommer govfually with two Draughts or Carts; yet fuch perfon is viually charged to the amending of the High-waies, but with one cart furnilhed. And another man dwelling in the fame town, and occupieth but 40.0r 50.acres, or not so much, and keepeth but 3.horses, & one Draught or Cart, and helikewife is vsually charged, as the former with one Cart furnished; whether should their two charge for cariages for the High-waies be all alike? For mine own opinion, I think it both reasonable, and warranted by the words of the stat. that he that for his own prinate businesse, shall viually make and set up two draughts or carts, shall also for the King and countries services, bee chargeable with two draughts or carts, though he occupy all his lad but with one plow.

Againe

High-wates.

2 Againe, what a Draught (for carriage) shal be, se with how many horses? and whether he that keepeth but two horses and a cart. as many with vs doe, be chargeable or no? I find that a draught for the kings carriages heretofore hath bin fometimes with two horfes. as it seemeth by th stat. of Magna Charta, ca. 21. (the words of the stat. be, No sherife, &c, shall take the horses or carts of any person, for cariage, except he pay for one cart with two horses, x.d. by the day, and for a cart with three horses, xiiij.d.by the day:) and therfore I should thinke him that viually goeth to cart (for his owne bulines) with two horses, to be chargeable to find a cart and two horses for the amending of the High-waies, and to carry fuch loads, as his two horses are well able to draw.

Againe, if one occupieth a plow land, in pasture, viz. fixe or eight score acres or moe of pasture for feeding of cattell, but keepeth neither cart nor plough, how shall he bee charged to find a cart or draught that keepeth none; and yet the words of the stat. seeme to

charge him, Raftal, 190.a.

4 Againe, he that shall keepe a draught for carriage, or a plough, though he occupyeth little or no land, or pasture in his owne hands, but only carteth, or ploweth for other men, whether he is not chargeable to find a cart, for the amending of the high-waies? It seemeth he is: but guare whether he be chargeable to find two able men with his cart, except he hath in his occupation a plow land: perhaps also he keepeth neuer a man.

There be also certaine particular Statutes concerning High-water, as felloweth;

THe occupyer of any Iron workes, for energy three loades of One Inflice. 39 El.19. P.19. Cole, or Mine, and also for every tunne of yron that hee shall cause to be carried in the Winter time, by the space of one mile, in the high-waies within the Wields of Suffex, Surrey, or Kent, shall pay to the luffice of peace dwelling neere to the places in that county where the high-waies shalbe most annoyed, or to his assignes, 3.5: in mony; the lame, in default of paiment, to be leaded by diffrelle, by such Iustice, or his assignee, of the goods of the party in the said

> county. Also such occupyer, for every 30, loads of cole and mine, and for enery ten tuns of yron carried in the faid high waies, &c. shall lay one load of fynder, grauel, stone, or chalke, in places to be appointed by such lust or else within eight daies after demaund, shall pay iij.s. for enery fuch load, to the hands of fuch Just, who, vpon default of paiment, shall leuie the fame by distresse, &c.

The faid Iu. of P. shall bestow all such summes of mony upon the amending the fame high-waies, at his diference.

Two

Pas.

*P.3.

P.12.

Two Inflices.

Two Inflices of Peace (whereof one to bee of the querum) 29.El.19. which were present at the sessions, wherein any person was consi-Patcted for any offence against this statute of 39. El. may make warrant for leaving the forfeits thereof, to any Constable or other Officer: and they may also appoint such waies and meanes, as they shall thinke meet, to leay the double fummes, for not paying those forfeits within twenty daies next after lawfull demand of the same by such officer.

By the affent of two Iustices of P.and twelve discreet men (of the Hundred, and Hundreds adioyning) any person may make, and lay 14.143.ca.s. out, in and ouer his owne land, in fee simple, in the Wild of Kenr, 2s also in the county of Sussex, a new High-way, more commodious then the old; and in steed therof, may retaine the ground of the old way in seueralty to him and his heires: and the same Justices and twelue men, shal within three months certifie under their seales, such new way into the Chancery, for the length and breadth of the same new way, and other things adioyning or concerning the same, according to their discretions.

See more of Highwaies, tit, Bridger.

Horse.

L Very Inflice of Peace (after fale made in open Faire or Market, of any stollen Horse &c.) at any time within six months after the faid*fale, may take and heare the claime, and proofe of the right ow- *Lamb. 205. ner, from whom the same was stollen (or of his executors or admini- See the flat. firstors, or other person by their appointment) which proofe must 1,EL12. be by two sufficient witnesses vponoath, to be made within fortie P.Faires t. dates next infuing fuch claime.

Also the same Iustice of Peace may minister an oath to the party that bought the said Horse, or that hath the possession and interest of the same horse, what mony he paid for the same bona side, so as the right owner repaying the same, may have his said horse againe, ibid.

Note that enery sale, or other putting away, in any Faire or Mar-Mar-Market, of any stollen horse &c. not being according to the statute in eue 31.El.13. ry point, (sein enery of these particulars following, as it seemeth) is P.5, & 7. void, to alter or take away the propertie of the owner, from whom fuch horse was stollen.

I If the horsebe not, in the time of the said Faire or Market, between ten of the clock and sonne setting, one houre together (at the least) in the open place of the Faire &c. where horses are commonly fold.2. Ph. Ma.

2 If all the parties to the bargaine (being in the Faire) shall not come together with the horfe, to the Book-keeper, to the open place appointed. 2. Ph. of Ma.

2 If the Booke-keeper (Toll-taker, Bailife, or other chiefe Offi-31.Eliz. cer of the same Fayre or Market) shall not take perfect knowledge of the feller, or of the voucher, feilies, of their Christian name, sirname, mystery, and place of dwelling: Or shal not enterall the same into his booke.

Hor/e. Huy and Crie.

4 If the voucher be not a fufficient and credible person: Or if 31.Eliz. the voucher shall not know the seller indeed, or shall not truely declare to the Booke keeper &c. the Christian name, sirname, mystery, and place of dwelling, as well of himselfe, as of the seller (as it fcemeth.)

If the Booke-keeper &c. shall not make entry (into his booke) of the true price, with the colour, and one speciall marke (at the least) of the same horse &c.

6 If a true and perfect note in writing, of the name, of the feller 31.Eliz. or voucher, and of their dwelling &c. and of the price, bee not given to the buyer, by the Booke-keeper &c. and subscribed with his hand.

7 Lastly if the toll be not paid (where toll is due) or the Booke-1.Ph.& Ma. keeper not paid for the entry &c.

Note also, that every contract for any stollen horse &c. made out of open Faires is void, though they be after booked, Dyer 99.

Also, a sale in a Faire or Market ouert, shall not take away the owners propertie, where the buyer doth know that the propertie wasto another man, or that the horse (or other goods) were Rollen. See posteatit. Restitution.

Co.5.83. Also to alter the property (of a stranger having right) horses and all other goods, are to be fold in such a place, or shop, as is commonly vied for the felling of goods of the same kind.

Huy and Cry.

L Very Justice of peace may cause Huy and cry, fresh suit, & search to be made, vponany Murther, Robbery, Theft, or other felony committed: and this he may do by force of the Commission, the first Affionauimus. Stat. Winch. 13. E. 1. sa. 1.

13.Ed. 1.1.2 Note, that all Huy and Cry ought to be made from town to town, 27.Eliz.13. and from country to country, and by horfe-men and foot-men; otherwise it is no lawfull pursuit, 28.Ed. 3.ca. 11.

> Note also, when Huy and Cry is leuled upon any robbery, or other felony, the Officer of the towne where the felony was done, (or -Huy and Cry first levied ought to send to every other rown round about him, and not to the next towns onely; and in such cases it is needfull to give notice in writing (to the purfuers) of the things ftollen, and of the colour and markes thereof; as also of the person of the felon, his apparrel and horse, &c. if it may be.

Seç

3 If

Inrolement.

See more of Huy and Cry in the title Robberie, and Felonie.

Hunting.

▼ 7 Pon information given to any In. of P. of the county where any vnlawfull hunting (of Decreor Conies) by night, or with painted faces, or other disguising, (in any Forest, Parke, or warren) shalbe had, of any person to be suspected therof; that Iu.may make a warrant(to the Sherif, Constable, Bailif, or other officers) to take the party, and to bring him before him, or before any other Just of P. of the fame countie, who may examine him of that hunting, and of the do- plus ie. ers thereof: And if he conceale that hunting, or any offendor (with him therin) then the same concealement shalbe b felony in such con-banare if cealer. But if he then confesse the truth of all that he shall be examined of and knoweth in that behalfe, then his offence of hunting shall be but trespas, and finable; the fine to be affested at the next general fessions of the peace, by the Iustices there. See postea tit. Felony by stat.

Alfo to disobey such a warrant, or to make Rescous thereupon, so that the execution of the same warrant, thereby be not had, it is selony. Vide vt Supra.

The Iu. of P. that shall take the examination of an offendor for vnlawfull hunting in Parkes,&c.as aforefaid,may after such examination, bind the offendor to his good behaviour, (as it seemeth) to the end he may be forth-comming till the offence, & relidue of the offendors be fully examined: otherwise if it shall after appeare, that the offendor hath concealed any thing, whereby the offence becommeth felony, then the offendor perhaps will not be found.

Also all such vnlawfull hunting, if it be by three, or moe, wil proue a Riot.

Whosever shall have or keepe any Greyhound or setting Dog 1.14c.c2.27. (not having sufficient living according to this stat.) or shall trace orcourse any hare in the snow, or shall otherwise destroy, kill, or take any hare, the faid offences being proued, &c. before two Justices of Peace, the faid offendors shall be by them committed to the gaple, &c. Videtit. Partridges, more fully hereof.

And yet Hunting and Hawking, and fuch other passimes enery Counts, man may viethem vpon his own lands at his pleasure, so far as they 37. be not restrained by act of Parliament. But no man may make a Park or Warren within his owne ground, without the kings grant or licence; and therefore such Parke or Warren (made without licence) feeme not to be within the flat. of 1.H.7.7.

There be divers other statutes made against hunting &c. which be very penall, but not to be dealt withall by the Iustices of P.except at their generall Sellions : See more of them bic posteatit, Bailement.

Involutent.

Fnrolement.

Co.5.92b.

Co.5.1.b.

Co.6.62.

Ny one Iu. of P. may ioine with the Clerke of the P. in taking the involment of an indenture of bargaine and fale of lands,&c.lying in that county where he is Iuffice, and it is good.

But fuch deed (and all other deeds to be involled according to this star.) must be indented revera, and

must be involled within six moneths after the date of the same Indenture: and if it have no date, then within fix moneths after the de-Dalifo 4.El. livery of the deed; or if it be inrolled, the very day of the date of the deed, or the very last day of the fix months it is sufficient.

Note, herein you must accompt 28 daies to every moneth, and

not aboue (fc.foure weekes to the moneth.)

Note also the difference, when the stat. accompteth by the yeare, halfe yeare, or quarter, and when by the moneth; for a yeare, halfe a yeare, or a quarter of a yeare, shalbe accompted according to the Kalender, & by the daies in the Kalender, and not after 28. daies to the moneth: And a yeare, or a twelue moneth (in the fingular number)includes the whole yere according to the Kalender. But twelve * Except in moneths (in the plurall number) or eight moneths, or fix * months, seeCo.ibid. &c.fhalbe accompted after eight and twenty daies to euery month: for the month by the common law of England, is but eight & twenty daies; And so

> cthree moneths, Whereas & fix moneths. Letwelue moneths. equarter of a yeare, 7

The \ halfe a yeare,

Dyer 141.

Ter Centum, ter viginti cum quing, diebus, Sex her as neg plus integer Annus habet.

And as to these fixe houres, the Law giveth no regard to them; and yet these six hourses every fourth years do make a day, and so moke the Leape-yeare: and this Leape-yeare containeth in it 366. daics.

Note also for the yeare, when in an indictment or other writing or deed it shall be set down (or the writing shalbe dated) Anno Dom. 1617 it must be accompted according to the computation of the Church of England, which beginneth the yeare vpon the 25 day of March, voon which day our Sauiour Christ Iesus arose from death, asit is holden. Dr. Whites Def. 151.

Labourers.



Very Inflice of Peace vpon request, may cause all & Elizate fuch Artificers, and other persons as bee meete to labour (by his discretion) to worke by the day in Hay-time, and Haruest-time, for the sauing of Corne and Hay, and may upon the refulal limprifon them in the stockes by the space of two dayes

Any one luffice of Peace may give licence under his hand and Parfeale, to fuch Labourers as passe in Hay-haruest, and Corne-haruest,

from one Countrey to another to worke.

Anyone Iustice of Peace (vpon complaint to him made) may Pa4. compellany person meete (in his discretion) to be bound as an apprentice (with any one that shall require him) to Husbandrie or any other Art, &c. And vpon their refusall may commit them to ward, there to remaine vittill they will be bound to ferue as an Ap-

prentice should ferue, according to this statute.

If any Master shall misuse his apprentice, or that the said appren- P.15. tice shall have just cause to complaine, or if the Apprentice doe not his dutie to his Master, vpon complaint thereof made by the Master, or Apprentice, being grieued, to any one Iustice of Peace, the said Inflice (by his diferetion) shall take order betweene the faid Mafter and his Apprentice; and for want of conformity in the Master, the faid Iustice may bind him to appeare at the next Sessions, (where the Just, of P. or foure of them, where of one of them to be of the Quarum, if they shall thinke meete, may discharge the said Apprentice of his apprentiship, and Indentures.) But if there shalbe default in the Apprentice, the faid Iustices (at their said Sessions) may cause due correction to be ministred to him, as they shall thinke meete. Also it seemeth, that if the first Iustice of Peace to whom complaint was made, shall finde the default to be in the Apprentice, that then the said Iuflice of Peace may fend him to the house of correction, as an idle or disorderly person, by the Statute 7. Incohi cap. 4. and needeth not to 7. Inc. cap. 4. trouble the Seffions with him, tamen quare.

Any one Inflice of Peace may allow of the cause of putting away P.5.6. of a feruant, or of the departure of a feruant within his terme.

But otherwise it is of an Apprentice; for an Apprentice cannot Pag. be discharged but by sourc Instices of Peace at the least, and in open Selfions as aforefaid, or elfe by the agreement of the Master and the Pio.27.30. Apprenapprentice, and vnder his mafters hand. And yet one that is remained as an apprentice may be feifed by his Lord as a Ward, by reason the Lords title is more ancient.

Any two Iustices of Peace vpon complaint to them made, that Two Iustices. any feruant (who is retained according to the statute 5.El.) hath departed before the end of his terme (vnleffeit be for some sufficient cause, to be allowed by one Iu. of Peace at the least) or at the end of his terme without one quarters warning given before two witnesses; or that any person, compellable by the statute to serue in husbandrie, or in any other science in the said stanute named, upon request made bath refused to serve for the wages appointed (by Proclamation in that County &c.according to this statute;) or hath promifed to ferue accordingly, and doth not : the faid luftices may examine the matter, and if they shall find such servant or person faulty therein, they may committhin to Ward, there to remaine without baile, until he shall be bound to the party offended to serue and continue with him, for the wages limited according to this Statute, and then to be discharged without paying any see to the Gaoler.

Now by the flat. of 5. El. Euery person vamaried, and enery other 5.Eliz.4. person(maried) being vnder the age of 30-yeres, having bin brought vp in any of the Arts, Sciences, or Trades in the statute mentioned, Grue, is compellable to serue in any the said Trades, vpon request made by any person vsing the same Trade, except such persons be lawfully retained with some other, or haue xl.s.in land, &c. or x.li.in goods and so allowed by two Iu. of P. vnder their hands and seales, or haue some farme in tillage, whereupon to imploie themseues.

And verany one Iustice of peace (as it seemeth) may make his warrant, to attach a feruaunt departed out of feruice, or refusing to ferue, to be before the Iustices at their Selfions, there to answere their

defaults. See posten tit. Warrants.

Also it seemeth that any one lu. of P. may send such idle or disorderly servant to the house of correction, and that by the statute of 7. TAC.CAP.A.

Also every person betweene the age of twelve yeares and threefcore, (not being lawfully retained according to the flat, nor being a gentleman borne, nor a scholler, nor having means as aforesaid, nor parents living having x.li.in lands, or xl.li.in goods, and being their heire apparant) shall be compellable to serue in husbandry, by the yeare voon request, &c. See more what persons bee compellable to

Pluft.66. ferue. Hic postea.

Any two Iuftices of Peace may imprison without baile, the Mafter for tenne daies, and the fernant, workeman, or labourer for one and twenty daies, that shal gine or receine excessive wages, (sex.any greater wages, or other comoditie, contrary to the rates or wages

P.6.

Ibid.

affelfed by the Iust-of P.at their Easter general! Sessions, and Proclamation therof made in that county, &c.

Note, that euerie Reteyner, promile, or paiment of wages or other thing whatfoeuer, contrarie to the true meaning of this flature; And euery Writing and Bond made for that purpose shall be veterly void.

Also any two Iu. of P.may imprison (without baile for ten daies) ibid. the Master that by any meanes shall retaine or keepe any seruant, workeman, or labourer, contrary to this stat. fex. in any the particulars following, as it seemeth.

I Either in giving wages contrary to the state of supra.

2 Or retaining or hiring a fernant, for less time then for one P.1. whole yeare; But this seemeth to extend to artificers or tradesmen, and not to husbandry, Quere bridge P.1 & 3.

3 Or that shal retaine any servant, that is departed out of service, P.7.8. without shewing before his retainer, a testimonial of his lawfull de-

parture.quare.

Assault bis Master. Any two Iustices of Peace (of the Countie where the offence hereunder mentioned shall be committed) may imprison, by the space of one yeare or lesse, by their discretions, any such servant, workeman, or labourer, as shall wilfully make any assault or affray vpon his Master, or vpon any other having the charge or overlight of him, or of his worke, the said offence being proved before the said Iustices by confession of the said servant, &c. or by the oath of two honest men.

Women.

Any two Iustices of peace may compell any such woman (be-P.14) ing of the age of twelue yeares, and vnder fortie, and vnmarried, and forth of service) whom they shall thinke meet to serve, to be retained in service, by the yeare, weeke, or day, for such wages, and in such sort as they shall think it meet. And if such woman shall refuse, they may commit her to ward, vntill she shalbe bound to serve as a foresaid.

Any two Iu. of P. may make a testimonial to a serving man that is turned away from his Master, or whose Master is dead, 14. El.ca.5. quare if this be still in sorce. Lamb. 326.

For clothiers which will not pay their workemen such wages as 1 Jack. shall bee assessed by the suffices, at their Sessions. See the title of Cloth.

The certificate which is to be made to the head officer of any ci-stere tie or towne corporate, where a child is to be bound apprentice, c. That the father of such child may dispend 40.s.per annum, must be evident the hands and seales of three Iustices of peace of the shire where the land lyeth.

Three Iust.

Here

Here I thinkeit not amisse fet downe certaine Cases, some of them being by way of exposition of this statute, 5. Eliz. eap 4. And other some at the Common Lawe, or grounded upon former statutes, yet such as may give light and helpe to our Justices of Peace in this businesse.

Labourers.

ea.11.13. First, by the Common Law no man may be prohibited to work in any lawfull Trade, for the Law abhorreth idlenesse, as the mother of all euill.

A man cannot be restrained to vse the Trade of making Dice, Cardes, Bowles, or the like, (except it be by Parliament) for all trades which do avoid idlenesse, and exercise men in labour, for the maintenance of them and their families, and for to increase their substance, and to serve the King when need shall be, are profitable for the Common wealth; and therfore the restraining of them is against the law, &c. Co. 11.86.

Also by the Common Lawe no man is prohibited to vse divers Mysteries or Trades at his pleasure; And although this was prohibited by the stat. of 37. Ed. 3. cap. 6. yet presently at the next parliament (that restraint of free trade being found preindiciall to the common wealth) it was enacted againe, that all persons should be as free as they were at any time before the said stat. Co. 11. 54. See the stat. of 38. Ed. 3. ca. 2.

For that without an act of Parliament no man may be restrained in any maner, either to worke in any lawfull trade; or to vse divers mysteries, or trades; therfore ordinances made to restraine any perfon therein, are against the law.

Also it is lawfull for any person to vse privately any trade (as of a Cooke, Brewer, Baker, or Tayler, &c.) in his owne house, or in the house of any other, for the private vse of the familie, although such person were never apprentice to the trade. Cosbid.

Note next, that this statute 5. Eliz. cap. 4. extendeth not to servingmen, but to servants in husbandry, and handicrasts: And yet where the words of the statutobe, Servant generally, there it seemeth to extend to all.

An apprentice must be retained by Indenture, and by the name of an apprentice exptessely; or essentially is or essentially in the behavior.

Who are compellable to ferue. See P.iii. Labourers 2.3.14 in this who are come title before.

Figure In of P may command yagrant persons to prison, if they force

Fig. 168.b. Euery Iu. of P. may command vagrant persons to prison, if they forme, will not serue.

Eucry

Infant.

Euery person who hath not sufficient lands to occupie, or line vp- Fitz 167. c.

on nor other arte, is compellable to ferue. See Br. 14.

If an Infant, man or woman, of 12. years of age, or 4 Gentleman, Fic. 168.de. Chaplein, Carpenter, or other person which is not compellable to P-3.14ferue, yet if the shall make a covenant to serue in husbandry they shalbe bound by their couenant, and are punishable if they then shall

depart &c.

Yet by the common law fuch a covenant or reteiner of an Infant Calladiunder 12 yeres of age was void, they neither having ability of body, 3 1H418. nor yeres to consent: for an Infant (by the common Law) is not of (Br.19.20 age to bind it selfe by couenant, ante annus nubiles, which is 12 yeres in a woman, and 1 4. yeres in a man child. Ca. 7.43. & 9.72. Neither before that age are they accompted patens in corpore, which were the words ysed in the statute made 23. E.3. though those words are now lest out of the star, 5. Eliz. And thereupon Markham, in 21. H. 6. and 21. H. 6. ard Mr. Br. abridging that case, seeme to hold 14. yeres to be the age for Br.30. reteiner of an Infant, but there the case was of a man child that was reteined.

But now by the statute 5. El.ca. 4, any person abone the age of ten Passas. veres, by their owne confent and agreement, may by Indenture bee bound as an apprentice to husbandry, or any other trade or art.

Also one of twelve yeres of age by the same status compellable P.3.14.23. by the lust to serve in husbandrie: so also it seemeth of other trades.

arts, or occupations.

Such children whose parents are notable to maintain them, though they be under 12 yet may they bee bound apprentices by the ouerfeers of the poore with the affent of any two Just of P. by the stat. of 43. El.ca.2. See postea tit. Poore.

If a child vie husbandrie till the age of 12. yeres, & after be made 18. R. 2. ca. 4. an apprentice to any mysterie, his couenant shalbe void : but quare P.15. if this be not repealed by the generall words of y. El. 4. Also see the

Rat. of 1 . Iac. ca. 2 5 . P. tit. Poore 5. If a woman who is a feruant, final marry, yet the must ferue out her 2.H.4.fo.13. time,& her husband cannot take her out of her M. seruice.

A fernant may bee compelled to ferue in Summer in the place Fitz. 168.2.

where he ferued in the Winter before:

If aman who is notable nor fufficient to keepe a feruant, shall re- Fizzass, h. taine a feruant, fuch reteiner is void. Br.2 5.

If a man retaineth a Labourer or servant, to serve him according to the statute, though no wages be spoken of vpon the retainer, ver the retainer is good, and they shall have such wages, as is assessed and appointed by proclamation, for that wages is certaine. See to this purpose, the Booke 3. H. 6. fo. 23. Br. 1. lf

If a man reteyneth another, except the Reteyner be according to the statute, it seemeth to be void; without it be indented, and then being by deed, he is bound by his conenant. See Fuz. N. B. 168 f.

Labourers.

Reteyner vpon condition, seemeth to be a good Reteyner. See

11.H.4.42.Br.23.

A man Reteineth a fernant to ferue him, generally, not expressing in what office, or in what bufineffe (as to fay to ferue him in husbandrie, or in the office of a Cooke, Butler, or Horse-keeper &c.) yet fuch Reteyner feemeth to be good.

A man is Reteyned to ferue during his life, it feemeth a good Re-

teyner. Br.44.

A man is Reteined for one yere, to serue at any time when he shall be required; this is no good Reteyner. Sec 22. H. 6.30. Br. 31.

Fitz, 169, h. Reteiner of a servant, without expressing any certain terme, shalbe for one yeare: and this is now according to the stat. of y. Eliz. cap. 4.

A.reteinetha servant for fortie dayes, and after B. reteineth the Fira. 169.6.] same servant for one yeare: The first reteyner by A. is deseated and

become void. Br. 51. See 11. H.6.1. Br. 49.

If a feruant who is reteyned, shall depart out of feruice, and wander, he may be compelled to serue another man; but yet the first Mafler may take him away againe; and besides it is safe to get the confent of his first Mast for now by the statute 7. Eliz. ca. 4. The Mast rereining a feruant that is departed out of feruice, without shewing before his Reteiner, a Testimoniall, shall forfeir v.li.

A man that reteineth a seruant, ought to take notice of euerie former reteyner within the same countie; otherwise it is of a reteyner

in another countie, 1 7.E.4 fol.7.

And yet Mast. Fitch. opinion was, That if one reteyneth another mans feruant (generally) not knowing that hee was another mans hired servant, he was not punishable therefore, except he should deteine him after notice thereof: but now the Mast may and must take notice whether he hath a testimoniall or no (as it seemeth.)

If one taketh an infant, or other fervant out of another mans fer- Departure of Firz. 168. d. nice, this is punishable, though the infant or servant was not retei- a servant. ned; but if an infant being retained as an apprentice or feruant, fall

to be a Ward, the Lord may take him from his Master, for the Lords title is more ancient: yet here it feemeth the Lord ought first to give

notice thereof to his Master, 50. E. 2.22. Br. Labor. 17.

Note, that by the Reteiner, the feruant is in feruice prefently by Law, although he commeth not into his Mast. service indeed, 41. E. 3.20. 46.E.3.4. 47. E.3: 14. Br.9.11.

If a fernant shall depart from his Master, his Master may take him againe, and reteine and keepe him whether he will or no. See the title. Sucreie for the Peace.

Н

The

What retain ner is good.

The Mast. cannot discharge his servant, during his terme &c. with-19.H.6.30. out the agreement of the ferunt; And now by the stat. 5. Eliz. 4. it Br. 27. must be for some reasonable cause, to be allowed by one sust, of P. at least &c. Vide P. 5. otherwise the Master shall for feit xl.s.

Before this stat. of 5. El.4. the Mast-might have discharged his ser- 6.E.4.1. nant by word: but an apprentice cannot be discharged by his Ma-21.E.6.33. ster, except it be by writing; for that an apprentice cannot be but by Br.30.38.

writing.

If a servant shall be put away by his Master, yet he shall have his 6.E.4.2. wages for the time he lerued; And yet in this case if the servant agree 10.H 6.23. thereto, the servant shall have no action to recover any part of his B.48. wages, but must craue the helpe of the Instice of peace herein: but if fuch fernant be within age, it feemeth fuch agreement shall not prejudice the fernant.

But if a fernant of his owne accord shall depart from his Master 10-Ed.4. before his time expired, he shall lose all his wages.

If a servant be reteyined according to the statute, and the Master Apport. 26. dyeth, his executors shall be chargeable to pay such servanthis wages: otherwise it is where the reteyner was not according to the statute, except it were by Indenture. See 2.H.4.1 5.Br. Lab. 44. C. Fitz. Nat Br. 168 f.

An infant of fine yeares of age, or other person which is not potens in corpore, yet if they shall be reteyned, and shall serue indeed, their Master must pay them their wages. Sec 38. H.6. 22. Br. Lab. 46. dr

Ley Gager 67.

If a leruant reteyned for a yeare, happen (within the time of their fernice) to fall ficke, or to behurt or lamed, or otherwise to become non potens in corpore, yet it seemeth the Master must not put such seruant away, nor abate any part of his wages, for such time.

If a fernant shall refuse to do his fernice, this is a departure in law, 3.H.6.37.

although he stay still with his Master.

If the Master shall deteine from his sernant his wages, meate, or Fitz. 1684. drinke; this is a good cause of departure; but yet this cause is now P. 6. by the stat. of y. Eliz. to be allowed of by the lust, of peace, before the fernant may lawfully or fafely depart.

So if the Mast, shall licence his fernant to depart, or if the Mast, or Fig. 168.14 wife of the Mast, shall beat the fernant, these were good causes for the Bissi. feruant to depart, before the stat. 5. El. 4. but now the allowace of the p.6. Iust of P. isrequilite asaforesaid: And yet note, that the Mast by law is allowed, with moderation to chaffile his feruant or apprentice, see 33.H.8.c.12. and in the title, Suertie for the Peace.

But now that by the stat of s. Eli. The causes of putting away and departing of fernants, are referred to the confideration and allowance of the Iultices of peace; It behough them to have good care, left by their giving too much way therin, eyther to the Master or seruant, manie which might (by due ordering) haue proued good feruants, nurne rogues and vagabonds.

London.

NO new buildings shall be erected for habitation within three miles of London, nor anie building shall be divided or converted to severall habitations there, except such houses shal be fit for the dwelling of fuch a person as heretofore hath beene assessed to the Subfidie at v.li.in goods, or iij.li. in lands at the affellement next before the faid building or division, or as shall be adjudged by the two next Inflices of peace (by writing vnder their hands and seales to be presented at the next quarter Sessions) to be sit and able to be so asfessed in the Subsidie, 35. Eliz.6.

The two next luftices of peace have power to decide and determine of the sufficiencie and conveniencie of such houses, and of the

fufficiencie of the inhabitants therein sbidem.

London.

Mault.

2.Ed.6.10. 27.El.14. 1.lac.25.

He Constables or Baylisse of anic towne, where anie de-One Institute, ceiptfull Maults shall be made, or mingled to be solde (contrarie to the statute 2. Ed. 6.) may from time to time view and search all find Marks at 1977. view and fearch all fuch Mault as shall be made or put

to sale, within anie of their townes; and if thereupon they shall find anie Mault (put to fale) being euill made, or mingled with euill Mault, contrarie to this Statute, Then the faid Constable or Bayliffe fo finding anie such deceiptfull Mault, with the aduice of anie one Inflice of peace, may canfe the same to be sold, to such persons, and at fuch reasonable prices, as to the discretion of the same Instice shall feeme expedient.

These deceiptfull Maults be of three sorts, see. such as be not well

made; Or not well drelled; Or mixed. As

First, if anie Barley Mault shall be made (in the moneths of Iune, July and August onely except) if the same Mault shall not haue in the making thereof (fee. in the fat, floore, steeping, and drying thereof) three weekes at the leaft: and in the moneths of June, July, and August, seventeene dayes at the least. For vnder such times, the Mault cannot be well made, nor wholfome for mans bodie; and Maults not sufficiently dried, cannot be kept long, but will be multie, and full of weuills.

Secondly, H 2

Partridges. Oath.

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2 Secondly, if any Maults shall be put to sale, which be not well trodden rubbed and well fanned.

3 Thirdly, if anie Maults be mingled, fez. Maults not well made as aforefaid, Or made of Mow-burnt, or spired Barley, and mixed

with good Maults, and so put to sale.

The luftices of peace at their Quarter Sessions (or the more part :). Elia, 16. Two Iustices, of them) at all times, may suppresseand discharge, or restraine the P.6. number of Maultsters; And also may restraine such persons, as they shall thinke meete, from buying Barley to connert to Mault; And if anie person shall refuse, disobey, or not persorme, such suppresfing, discharge, or restraint, or anie other order, which the faid lusti- Lambt 326. ces in their Selsions shall set downe touching the same, Then and so often fuch person being thereof duely connicted before the luftices at their Quarter Selsions; Or before anie two Iustices of Peace out of their Sessions, (by his owne confession, or by two witnesses) shall be by the faid Iustices committed to the common Gaole, there to remaine without bayle for three daies, and after that untill he shall become bound by Recognisance in fortie pounds to the kings vse, One Inflice. before some one Iustice of Peace, to performe and obey such order, suppressing, discharge, or restraint. So that any two Justices of Peace may connict such offendours (vpon their confession, or by two witnesses) and then may commit them as aforesaid: and after anic one lustice of Peace may take such Recogn, as aforesaid.

Mariners.

NIO Fisherman shall be taken to serue as a Mariner by the Kings 5.Esta.5. Commission, but by the choise of two Iustices of P. next adioy- P.3. ning to the place where he is taken.

See more for Mariners, situl. Rogue, and Souldier.

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Night walkers.

Verie Iustice of Peace (ex officio, and by the Commissi-Lab.46,122 on, the first Assignaumus) may cause to bee arrested all 13.H.7.to.
Night walkers, be they strangers or other persons that be watch. suspected, or that be of cuill behaviour, or of cuill fame;

and more particularly all such suspected persons as shall sleepein the day time, and goe abroad in the nights; And all such as shall in the night season haunt anie house that is suspected for Bawderie; Or shall in the night time vse other suspicious companie; Or shall commit anie other outrages or misdemeanours;

and may force them to finde fuertie for their good Behaulour. See the title, Suertie for the good Behaviour.

For as one faith, such Night-walkers (or night birds) are ominous like the whiftler &c. and fuch night-walkings are vnfit for honest men, and more futing to the thiefe (the right whiftler) and to beafts of the prey web come forth of their dens, when man goes to his rest.

Oáth.

Lamb, 290. Nie one Iustice of Peace may compell such as are betweene One Institute.

Lamb, 290. The age of fifteene yeares and threescore, to be sworne to keepe the peace. See the Stat. of Winch, 13. E.1.c.6. And the Articles of Inquilition vpon the faid Statute of Winch, made about Anno 3 3.Ed.1.

Any two lustices of the peace (the one being of the Quorum) may require any person of the age of eighteene yeares or about (vnder the degree of a Baron or Baronelle) to take the oath of alleageance, And vpon their refufall, may commit them to the common Gaole, there to remain without baile, till the next assifes, or quarter sessions.

Two luft.&c.may take the oaths of the Vndersheriffes, and their officers &c. See the title Sheriffes.

Partridges.

Verie Iust of P. (by the statute of 23. Euro.) may common P. Fesants 2. P. Just 38.

P. Just 38.

Verie Iust of P. (by the statute of 23. Euro.) may common all offences, for the destroying or taking of Partridges or Fesants in the night time, and for hawking, or hunting of the control of th Verie luft of P. (by the flatute of 23. Eliz.) may examine with Spaniels, in any eared or codded corne; And may

bind by recogniance the offendors with good furries to appeare at the next generall Sessions of the P. to answer their said offences &c.

But now by the statutes made 1. Iac. 27. 6 7. Iac. 11. the offences of destroying &c. of Partridges, & Felants (generally) is referred to two Iust. of P.to examine, heare, & determine, out of Sessions, vid. hic inf.

Also after the conviction of any such offendor (according to the stat. of 23. Eliz.) for taking or destroying any Partridges or Feasants in the night, any one Infl. of peace of that countie may bind fuch offendors with good fuerties, that (for the space of two years) they shall not take, or destroy any Partridges or Feafants contrary to that stat.

1 By the statute made 1. Inc. Euerie person which shall shoot at, Tro Insticer. kill, or destroy (with any gunne or bow) any Partridge, Feafant, House done, Pigeon, Hearne, Mallard, Ducke, Teale, or any such Fowle, or any Hare.

Ηş

2 Or

2 Or shall take, kill, or destroy any Partridge, Fesant, House-doue, or Pigeon with setting doggs and nets, or with anie maner of nets, snares, engines, or instruments.

3 Or shall take out of their nests, or willingly destroy or breake in the neast, the eggs of anie Fesant, Partridge, or Swanne.

4 Or shall trace or course any Hare in the snowe.

5 Or shall at any time take or destroy any Hare with cords, or anic such Instruments,

6 Or shall have or keepe any Greyhound for Deare, or Hare, or fetting Dogge or Net, to take Fefants or Partridges, except they haue lands &c. of inheritance of the cleere yearely value of x, li.or xxx.li.per annum for life, or goods worth 200.li.or be the sonne of a Knight, or of some person of higher degree, or the sonne and heire 1.1ac.17. apparant of an Esquire: The said offences being proued by the confelsion of the parry, or by the oath of two sufficient witnesses, before any two luft of P. (of the countie where the offence shall be committed, or the offendor apprehended) shall by the said Iustices (for eueric fuch offence) be committed to the common Gaole for three moneths, without baile; vnlesse the said offendor shal forthwith vpon the faid conniction, pay to the vse of the poore there, xx. s. for enerie Hare, Fowle, and Egge, so taken or destroyed, and fortie shillings for having fuch Greyhound, setting Dogge, or Net: Or after one moneth after his commitment, become bound by Recognif. with two sufficient suerties in xx. li. a peece with condition not to offend hereafter, in anic the particulars aforesaid: which said Recognisance shall be taken by any two Justices of peace of the countie where the offendor is imprisoned, and by them shall be returned to their then next quarter Sessions.

Also it may seeme by the generall words of the statute, that anie two suffices of peace, may in like manner proceed to examine and punish the offences of selling, or buying to sell againe, any Decre, Hare, Partridge, or Fesant, contrarieto this statute; for the words of the statute be, That anie two suffices of P. or more together, out of anie Sessions, may examine, heare, and determinal offences against this statute made 1. Inc. Regis, and may performe everie other thing requisite for the due execution thereof.

By the statute made 7. Iac. Regis, Euerie person which shall take, 7. Iac. 11. kill, or destroy any Feasant, or Partridge, with setting Dogges, and Nets, or with any manner of Nets, Snares, or Engines (it being proued by the confession of the partie, or by the oath of one sufficient witnesse before any two suffices of peace) shall by the said suff. be committed for three moneths without baile; vnlesse the said offendor shall forthwith pay to the vse of the poore there, xx.s. for every such Feasant, and Partridge: And surther to become bound by Re-

cognifance

cognifance in the summe of xx. li. neuer to take, kill, or destroy anie Feasant, or Partridge anie more; which recogn. shall be taken by any one suff. of P. of the county where the offence shall be committed, And shall be returned to the next quarter Sessions.

7.lac.11.

Euery person which shall hawke at, kill, or destroy any Feasant, or Partridge, with any kind of Hawke, or Dogge, (by colour of Hawking) betweene the first of Iuly, and the last day of August, (the same being proued by the confession of the partie, or by the oath of two sufficient witnesses, before any two Iust. of P. of the county where the offence was committed, or the offendor apprehended) shall by the said Iustices be committed to the common Gaole, there to remaine for one moneth without bayle; unlesse the same offendor shall forthwith upon the said conuiction, pay to the vicos the poore there (where the offence shall be committed, or the party apprehended) xl.s. for every such hawking at Fesant or Partridge, and xx.s. for every Feasant or Partridge which any, and every such offendor by himselfe, his hawke, or dog, shall take, kill, or destroy, contrarie to the intent of this statute.

7.[AC.11.

7.lac.1 1;

But no offendor punished by vertue of this law, shall be punished by vertue of any other law, for the same offence. Also such offences must be complained of to the Justices of P. within sixe moneths after the offence.

ici

Any two Iustices of peace may make their Warrant vnder their hands, to any Constable, to enter into, and search the houses of anie person (other then of such as haue free warren, or are Lords of any Mannor, or haue freehold of xl. li. by the yeare, or more, of someestate of inheritance, or haue sourescore pounds by the yere for terme of life, or be worth in goods 400. li.) being suspected to haue any setting dogs or nets, for the taking of Feasants and Partridges: And wheresoeuer they shall finde anie such dogge or nets, the same to take, carry away, deraine, kill, destroy, and cut in pieces.

By the same statute 7. Iac. cap. 11. enery such person as hath free Warren, or is Lord of a manor, or hath other estate as aforesaid, is allowed (on their owne free Warren, Mannor, or freehold) to take Feasants and Partridges in the day time only, and between e Micha-

elmas and Christmas.

Peace.

E Very Inflice of peace hath authoritie and power given him (by the first Asignaumus, or clause in the commission) to keepe and cause to be kept the kings Maiesties peace; by force of which words they have as well the auncient power touching the keeping of the peace, which the ancient conservators of the peace, had by the common law; as also all authoritie which the statutes since have added thereto:

Plague.

Plague. Poore.

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thereto: And so they may cause to be kept all the statutes & lawes now in force, which beene made for the peace, or keeping thereof: and more especially they may arrest, or cause to be arrested, and sent to the Gaole, all murtherers, robbers, and felons, and persons suspeched of fuch things.

They may also suppresse, and bind to the peace, or good behauiour, all affrayors, and all persons vulawfully & riotously assembled. or vnlawfully wearing armour, or any weapons, by night or by day, or otherwise putting the people in feare, and all valawful night-walkers, and the like: All which may well be faid to be disturbances or breaches of the P. See more for these vnder their particular titles.

Plague.

IF anie person infected, or being, or dwelling in a house infected 1.1ac.31. with the plague, shall be by any Instice of peace (or other officer) commanded to keepe his house, And norwithstanding shall wilfully goe abroad, and converfe in companie, having any infectious fore vpon him, it is felonie: And if fuch person shall not have such foreabout him, yet for his faid offence he shall be punished as a Vagabond, by the appointment of any Iust. of P. as it seemeth; And surther shall be bound to his good behaviour, for one whole yeare,

It shal be lawfull for luft of peace (and other head officers in corporate townes) within their fenerall limits, to appoint Searchers, P.C. Watchmen, Examiners, Keepers, and Buryers, for the persons and places infected: and to minister to them oathes for the performance of their faid severall offices: And to give them other directions, as to them fliall feeme good.

If any person insected, or dwelling, or being in a house insected, shal contrarie to the commandement or appointment of the Instice of P.(or other officer) wilfully attempt to go abroad, or to refift such their keepers or watchmen, Then may fuch watchmen with violenceenforce them to keepe their houses &cabidem.

Two Inflices. Any two Inflices of peace (or anie two head officers) of any citic, p.r. borough, towns corporate, and place priviledged, may taxe all and euerie inhabitant, and all houses of habitation, lands, tenements and hereditaments, within the faid citie or borough &c. or the liberties thereof (at such reasonable taxes as they shall thinke sit) for the reafonable reliefe of fuch persons as are insected, or inhabiting in houfes infected in the same citie &c. And may leuie the same taxes (by distresse and sale of the goods of eueric person resulting, or neglecting to pay the faid taxes) by warrant under the hands and feales of two fuch lustices, or head officers, to be directed to any person or persons, for the execution thereof: and in default of such distresse, and that refufall be made of payment, vpon returne thereof, the faid

Iust. (or Officers) by like warrant may commit such person to the Gaole, there to remaine without bayle, vntill he shall satisfie the same taxation, and the arrerages. P.3.

If the inhabitants of any such Citie &c. be vnable to releeue their infected persons &c. vpon certificate thereof, by the head Officer, and other Iustices of Peace of such Citie&c. or by any two of them, to any two Iustices of Peace of the County of, or necreto the said Citie &c. so infected, Any two Instices of, or neere the said Countie, may taxe the inhabitants of the Countie within fine miles of the faid place infected, at fuch reasonable weekely rates as they shall thinke fit, to bee leuied by warrant from any two fuch luft of P. of, or necre the faid Countie, by diffres, and fale of goods, and in default thereof, by imprisonment, of the body of the partie taxed, as aforesaid.

If any fuch infection shall be in any Borough or Towne Corporate, where there are no Iustices of peace, or within a Village within any County, then any two Iustices of peace of the same Countie, wherein the faid place infected shall be, may taxe the Inhabitants of the faid County, within fine miles of the faid place infected, at fuch reasonable weekely rates as they shall thinke fit, for the reliefe of the faid places infected, to be leuied by diffres and fale of goods (vpon warrant from the faid Iustices of peace of the same Countie) And in default thereof, by imprisonment, as aforesaid.

All such taxes made by the Iustices of the County for the reliefe of fuch Citie &c. shall bee disposed by the faid Instices of the faid Countie, and as they shall thinke fit (where there are no lustices of peace in such Citie &c.) And where there are Iustices of peace then in such fort as the head officer and Justices of peace there, or any two

of them shall thinke fit.

P.3.

P.3.

P.;.

All fuch taxes made either in City &c.or county, shall by the faid Just, that taxed them, as it seemeth) bee certified at their next quarter seffions, to be holden within fuch City &c. or County, respectfuely, there to be continued, inlarged, extended to other parts of the countie, or determined, as at the faid Seffions shall be thought fir.

But no Iustice of peace shall do or execute any thing before men-P.6. rioned, within either of the Vniuerlities of Cambridge or Oxford, or within any Cathedrall Church, or the liberties thereof, or within the Colledges of Eaton, or Winchester; but the Vice-Chancellor of the Vniuerlity, Bishop and Deane of such Church, and Prouost or Warden of the faid Colledges shall doe and execute all things aboue mentioned, within their feuerall precincts.

Poore.

Δ Ny one of those Instices of peace who may appoint ouer- One Instice. feers for the poore, may also send to the house of correction (or common

common Gaole) such as will not imploy themselues in worke, being thereunto appointed by the Ouerfeers according to the flatute.

Two (or more) Iuflices of peace, whereof one to bee of the Quo- 47 Els. rum, dwelling in or necre the parish or division &c. shall yearely P.2. within one moneth after Eafter, under their hands & feales, appoint foure, three, or two substantial housholders in cueric parish, to be Ouerleers of the poore within the same parish, who shall joine with the Churchwardens therein.

Such Ouerfeers and Churchwardens (or the greater part of them) The Oner- with the confent of two or moe fuch luftices, shall take order from feers ductie. time to time for fetting their poore on worke, putting out apprentices, and relieuing their impotent, as followeth:

I First for setting to worke the children of all such, whose pa-parents shall not by (the greater part of) the said Ouerseers be thought able to keepe and maintaine their children; which children, they or the greater part of them, by the affent of two fuch Inflices, may also put out to be apprentices, fez. the men children till their age of 24, and the women children till their age of 21. yeares, or the time of their marriage.

And all poore children fo bound apprentices, may be taken and kept as apprentices, by their mafters, any former statute to the contrary notwithstanding. See 1. Iac. cap. 25. but such binding must be by Indenture. See antea tit. Laborers, & Cromp. 184.b.

2 For fetting to worke all such persons (maried or vn maried) as, having no meanes to maintaine them, vie no ordinarie and daily trade,&c.

The Ouer-

To raise weekely, or otherwise (by taxation of everie inhabifeers accompt tant, Parlon, Vicar, and other, & of euerie occupier of lands, houses, tythes, mynes, or faleable vinderwoods (proportioning them to an annuall benefit &c.) in the same parish, in such competent summes of money as they shall thinke fit) a convenient stocke of some ware or stuffe to set the poore on worke; and also competent summes of money towards the necessarie reliefe of their lame, impotent olde, blinde, and other poore not able to worke; and also for the putting out of such children (as aforesaid) to be apprentices.

Two fuch Inflices shall take the accompt of such Overseers, at P.z. the end of their years, and of the Churchwardens in eueric of these particulars following.

- I Of all fummes of money by them received, or rated, and not received.
- 2 Of all fuch flock of ware or stuffe as they, or any of their poore haue in their hands.
- 3 What apprent, they have out, & bound according to the flat.

4 What poore they have let to worke, or relieued:

5 Whether

Whether they have fuffered any of their poore to wander and begge out of their towne, or in the high-waies, or in their town without their direction. See for this 39.EL3. & 4. & Lambt. 206. Refol. 15.

6 Whether they have monthly met to confider of these things.

Whether they have affelled the inhabitants, and occupiers of lands &c. in their parish fex. all such as are of abilitie, and with indifferencie.

8 Whether they have endeuoured to leuie and gather fuch af-Ibm, feffements.

Whether they have beene otherwise negligent in their office: within which words also, there seemeth to lie included, if they shall neglect to execute the Iustices Warrants, to them, or any of them directed, for the leaying of any forfeiture according to this statute. See P.2.07 12.

Now if the Churchwardens, or either of them, or any of the O- Oursfeers uerseers, shall refuse to make and yeeld a true and perfect accompt defaults. to the faid luftices, of all fuch fummes of money, and of all fuch flocke, as aforefaid, Any two fuch Iustices may commit them to the common Gaole, there to remaine without baile, till they have made a true accompt, and satisfied and payed (to the new Ouerseers) so much of the faid summe and stocke, as vpon the faid accompt shall

be remaining in his (or their) hands &c.

Also if anie of the Churchwardens, or Ouerseers, shall refuse, or denie to pay and deliuer ouer to the new Ouerfeers, the arrerages (fummes of money, or stock) which shall be in their hands, and due and behinde upon their accompt to bee made as aforefind, Anie two fuch luftices of peace may make their Warrant, to the present or subsequent Churchwardens and Ouerseers, or any of them, to leuie the same by distresse and sale of the offendours goods, rendring to the parties the ouerplus, And in defect of such distresse, anie two fuch luft, of Peace may commit him or them to the common Gaole, there to remaine without baile, vntill paiment or deliuerie of the faid fumme, arrerages, and flock, be made.

If any such stock shall be in the hands of any the poore to worke, and such poore shall refuse to deliuer the same, it seemeth anie two fuch lustices may make the like Warrant to leuie the same by distresse, and in defect thereof may commit such offendours, as aforefaid.

And as for other the negligences of the Churchwardens and Ouerfeers in their office, or in the execution of the orders aforefaid, euerie of them making default, shall forfeit for euerie such default twentieshillings, (but it seemeth such default must be proued eyther by the offendours confession, or by examination of witnesses,) which for feitures thall be lenied (by the new Churchwardens and Ouerfeers.

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Ibm,

Ouerfeers, or one of them) by warrant from any two such Iustices of peace, by distresse and sale of the offendors goods &c.or in defect of such distresse, it shall be lawfull for any two such Iustices of peace to commit the offendor to the common Gaole, there to remaine without baile till the said forfeitures shall be payed: And the said forfeitures shall be imployed to the vse of the poore of the same parish.

Two such Institutes of P. are to allow the cause, or excuse of such Ouerseers, as shall not meete euerie moneth, to consider of the premisses, or as shall be otherwise negligent in their office, Lambt. edit.

1614.pag.360.

Refufers to pay their Rates, Two lustices may make their warrant (as well to the present as **.* subsequent Ouersers and Churchwardens, or to any of them) to leuie all such summes of money, and all arrerages, (of euerie one that shall refuse to contribute according as they shall be assessed by distressed and sale of the offendors goods (rendring to the partie the ouerplus,) And in defect of such distresses, such two Justices may commit him or them to the common Gaole, there to remaine without baile, till paiment be made of the said summe and arrerages.

If the said Justices doe perceive that any parish is not able to re-p., lieuetheir poore, Then anie two such Justices may taxe, and assessany other persons within the Hundred (where the said parish is) to pay such summes of money to the Ouerseers of the said poore parish for the said purposes, as the said Justices shall thinke sit, according to the intent of this saw.

If ante persons finde themselves grieved with anie taxe, or other p.7. act done by the Overseers, or by the said Instices of peace, they are to be relieved at the quarter Sessions.

Corporato townes. Headofficers of cities and corporate towns (being Inflices of P.) P.9. have the same authoritie within their limits, as herein is limitted to Inslices of peace of the countie &c. And no other Inslices of peace are to enter or meddle there.

If anic parish shall extend into two counties, or part thereof to lie in any citie or corporate towne where they have suffices. Then the Pro-Iustices of everie countie &c. shall intermeddle onely within their owne limits: And every of them respectively within their limits, are to execute this law concerning the nomination of Overseers, binding of apprentices, giving warrants to levie taxations, taking accompt of Overseers, and committing such as result to accompt, or to pay their arrerages: And yet the said Overseers shall without deviding themselves execute their office in all places within the said parish; but shall give up severall accompts &c.

The Father and Grandfather, and Mother, & Grandmother, and Refolissing the Children and Grand-children (of cueric poore impotent person, or other poore person not able to worke) being of sufficient abilitie, P. s.

shal relieue such poore persons in such maner as the Iustices of P. (of that county where such sufficient person dwelleth) at their generall quarter selfions shal assess; vpon paine that every one failing therein to forfeit twentie shillings for every moneth: the said forfeiture to be levied by the Churchwardens, and Overseers, or one of them, by warrant from any two such Iustices of peace (the one being of the quorum) within their limits, by distresse and sale as a foresaid: and in defect of distres, any two such Iustices may commit the offendor to prison, there to remain without baile, til the said forfeiture be paied: And the same forfeiture shalbe imployed to the vse of the poore of the same parish.

P.8.

Refol 8.

Refol.7.

Poore.

Now for the better furtherance of this so needfull and charitable a service, and for the better helpe as well of the Iustices of P. as of the Ouerseers &c. I thought it not a misse to set downehere certaine resolutions and aduises of the the Iudges (as I find themin M. Lamber) together with certaine other observations to this purpose.

Refol 20. If there be but one Churchwarden in the parish, hee suffiseth with the other Ouerseers.

If the parents be able to worke, and may have worke, they are to find their children by their labour, and not the parish: But if they be ouer burthened with children, it shalbe a very good way, to procure some of them to be placed apprentices, according to the star. And such apprentices would bee put out especially to husbandrie and huswiverie.

Young children, whose parents are dead, are to be set on work, relieued, or maintained, at the charge of the towne where they were dwelling at the time of the death of their parents; and are not to be sent to their place of birth &cc. For if the parents were not rogues, we may not make the children rogues (except they wander abroad and beg.) This was the direction of Flemming chiefe Iu.in a case between Weston and Cowledge, anno 11. Iac. Regis.

If any (not being rogues) shall travell with their children through a towne, and the father or mother dye, or run away, that town is not bound to keepe their children, nor to fend them away, but onely in charity, except they become wandring beggers.

Such persons as be of any parish, and have able bodies to worke, if they refuse to worke at such wages as is taxed (or commonly giuen) in those parts, are to be sent to the house of correction, and not to their place of birth, or last dwelling by the space of a yeare: But if they have any lawfull meanes to line by, though they be of able bodies, and refuse to worke, yet are they not to be sent to the house of correction.

None may be suffered to take reliefe at any mans doore, though within the same parish, vnlesseit be by the order of the Ouerseers:

Nei-

Neither may any be suffered to beg by the highwaies, though in their owne parish.

No man is to be put out of the towns where he dwelleth, nor Reals. to be sent to their place of birth (or last habitation) but a vagrant rogue; Nor to be found by the towne, except the party be impotent; but ought to set themselues to labour, if they be able, and can get worke: If they cannot get worke, the Ouerscers must set them to labour.

And so of them that have or shall have houses, when their estates be expired, And fernants whose times of service are ended, though they cannot get houses; for they must provide themselves houses an

new, if they be not impotent. Ibidem.

So that fuch persons whose estates of their houses be expired, and feruants when their feruice is ended, they shall not be put out of the townes where they so last dwelt, or served: (Neither are they to bee fent from thence to their place of birth, or last habitation) but are to be fetled there to worke, being able of body, or being impotent, are to be there relieued: And yet (it seemeth that) if such persons shall wander abroad begging, out of that parish, then they may be sent as vagabonds (from the place where they shalbe taken wandring or begging) to their place of birth &c.

Such as shall remoue or put any out of their parish, that be not to Refet 12. be put out, This is against the statute, concerning the reliefe of the poore, and finable: And if any haue beene so sent, they may be sent

backe againe.

Now this fine seemeth to be by force of the statute 39. Elizab. P.Vag.5.11 cap.4. and to amount to fine pound. And is to be leuied by diffres and fale of the offendours goods, vpon a Warrant under the hands and seales of any two lustices of Peace, either vpon the confession of the offendors or vpon the the testimony of two sufficient witnesses.

All fuch persons as (in any wife). Shall disturbe the execution of 39 ELG this Law, concerning the reliefe, or fetling of the poore, shall P.Vag.5-11 forfeit fine pound; and any two Inflices of peace may bind such offendours to their good behauiour; And may also, by Warrant under their hands and seales, cause the said fine pound to be levied by diffresse and sale of the offendours goods as a foresaid: which forfeiture, the faid two Iustices also by their discretion, may order to be imployed to the reliefe of the poore where the offence shall be committed, asit seemeth. P. Vag. it. But quare (for the fine or forfeiture) for that the stat. 39. El.cap. 3. made for the relief of the poore, is expired.

Nexthere is consideration to behad of three sorts or degrees of

poore.

1 Poore

I The aged, and decrepit, that are past la-

2 The infant, fatherles and motherlesse, and not able to worke.

I Poore by impotencies

3 The person naturally disabled, either in wit, or member, as an Ideot, Lunaticke, Blind.Lame &c.

4 The person visited with gricuous diseafe or ficknes, though cafually, yet thereby for the time being impotent.

All these (being impotent, or not able to worke) are to bee found, and prouided for by the Ouerscers, of necessary reliefe.

Poore.

alty.

' I The person casually disabled, or maimed in his bodie; as the Souldier, or Labourer &c.maimed in their lawfull callings.

2 Poore by casu- 2 The householder decayed by casualty of fire;water,robbery,furetilhip,&c.

3 The poore man ouercharged with children.

All these last (and such others) having no sufficient meanes to maintaine themselues, are to be holden, or set to worke, (by the Ouersecrs) and being not able to line by their worke, are in charity to be relieued in some reasonable proportion, according to their seuerall wants and necessities.

> I The riotous and prodigall person, that confirmeth all with play, or drinking &c.

> 2 The dissolute person, as the strumpet, pilferer,&c.

3 The flouthfull person that resuseth to Thriftlesse. worke. poore.

4 All fuch as wilfully spoile, or imbesill their worke &c.

5 The Vagabond that will abide in no leruice, or place.

For all these last, the house of correction, or common gaole is fittest: And yet such persons being able in body, are to be compelled to labour; for the rule of the Apostle is, that such as would not work fhould not eate.2. Theff. 3.10.

And if any of them happen to proue impotent, it feemeth they are to be relieued by the towne. But I leave that to better confide-

ration.

Where

I 2

Where any summes of mony (at any time within three yeres before the making of this statute) have been given, or hereaster shalbe
given to be continually imployed for the binding out of Apprentices vito trades and occupations, the Parson, or Vicar, Constables,
Chuchwardens, and Ouerseers for the Poore, in townes not incorporate, or the most part of them, are by the statute appointed to
have the disposing of such stockes or summes of money: which
persons shall once every yeare, within one moneth after Easter day,
make a true and persect accompt before two or moe suffices of P.
(dwelling in or next to every the said Townes or Parishes) of all
such summes as they have so imployed, And of all bonds taken for
the payment thereof, and of all summes remaining in their hands
and not imployed.

Licenfed to travell.

88

Two Inflices of Peace may licence poore diseased persons to tra39-E14uell to the bathes for remedy of their griefes; so as they be prouided
1.lac.25of reliefe &c. for their trauell, and beg not. See hereof 105, 108.pesteatis. Rogues.

The Inflice of Peace dwelling neere where any person suffering 39.Eliza-schipwrecke shall land; or where any poore Souldier or Mariner 39.Eliza-schill land; may, and ought to make a testimoniall vnder his hand to such persons, of their landing &c. and thereby to licence them to passet he next direct way to their place of birth or dwelling &c. limiting them therein a convenient time for their passage. See the title Roque.

But (it seemeth) no Iustice or Iustices of P.may or can in any case licence any poore man to wander or beg at all, nor may licence any poore to trauel, but onely in these former three last cases, and some few other. See the title Rogue.

Here I thought it not a misse shortly against o observe such offences, as the suffices of P.out of their Sessions are to deale withall, and where the forfeitures (or part thereof) are given by the statute to the vse of the Poore of the Parish, where the offences bee comitted.

Alchouses.

Alchouse-keepers &c. suffering townssimen to continue drinking in their houses. See before tit. Alchouses.

Alehouse-keepers &c. selling lesse then one quart of their best beere or ale for 1.d. and 2.quarts of the small for 1.d. See ibid.

Townsfmen tippling in alchouses &c. See ibid.

Constables &c.not leaving the forfeitures of the offendors afore- tile. faid, vpon the Iustices warrant. See ibid.

Cloth

The money made vpon sale of Teynters, or other like Engines (found by the Suffices of P.or by the Overseers of cloth.) See iii. Cloth:

Fift.

The moity of the forfeiture for destroying the spawn of sea fish. See tit. Fish.

The flesh in Lent time, found in anic victualling house (vpon the Instices search). Videtit. Fish-dayes.

Poore.

Taking, or destroying of anie Feasant, Partridge, or other fowle. Feasants.

Vide tit. Partridges.

Partridges

Taking, or destroying of the Eggs of any Feasant, Partridge, or Swanne. See ibidem.

Taking, destroying, tracing, or coursing in the snow, of any Hare. See ibidem.

Keeping of any Grey-hound, fetting Dogge, or Net to take Partridges or Fealants, contrarie to the statute. See ibidem.

Selling of any Deare, Hare, Partridge or Feafant; See ibidem. & wide Stat. 1. Iac.eap. 27.

Hawking betweene the first day of July, and the last of August. Fideticulo Partridges.

Ouerfeers of the poore, negligent in the execution of their office. Poore. See before in this title, Poore.

Parents, or children, failing to relieue each other, as shall be ordered at the Sessions. See ibidem.

Such as shall put out any of their parish, that be not to be put out. See ibidem.

Such as shall any waies disturb the reliefe, or fetling of the poore. See ibidem.

Persons absenting themselves from Church vpon any Sunday. Recusants. Vide titulo Recusants. 3. Inc. sap. 4.

Persons disturbing the execution of the Law made 39. Eliz. con- Rognes. cerning the punishing, or conveying of Rognes. Vide sit, Rognes.

Sending Rogues by a generall Pasport. See ibidem. Refol. 13. Constables not receiving a Rogue, to convey him according to the statute. See ibidem.

If a Rogue shal not be delinered to the next Constable, to be conueyed still forward &c. See ibidem.

If a Rogue be fent to the towne whereto he ought, and be there refused. See ibidem. Refol. 12.

The Minister not keeping a Register booke, and therein entring eueric Testimoniall made for the conveying of Rogues punished in his parish. Secibidem.

Constables not doing their best endeaour for the apprehending, punishing, and conveying of all Rogues. See ibidem.

Eueric person that shall not apprehend Rogues resorting to his house. See ibidem.

Eucrie person bringing into this Realmeany Rogue. Seeibidem.

13

Preachers

4.Isc.

The

Preachers.

TFany person shall of his owne authoritie, willingly diffurbe anie 1.M1. ca.3. Preacher in the time of his Sermon; or shall be aiding procuring, Palaor abetting thereto; or shall rescue anie such offendor being apprehended; or shall disturbe the arresting of any such offendour; And that anie of the faid offendors shall be brought before any Justice of peace (within the countie where the faid offence shal be committed) Then everie such lust of peace (vpon due accusation thereupon made) shall forthwith committenerie such offendor (so brought before him) to fafe custodie, by his discretion.

Two Inflices.

Within fixe dayes (after acculation had of any of the faid offen-the ces, and after the committing of the faid offendor to fafe cuffodie by one Inflice of the peace) one other Inflice of the peace of that shire must ionne with the first Justice in the examination of the said offence; And if they two vpon their examination shall find the partie accused guiltie (and that by two sufficient witnesses, or by his owne confession) Then shall they commit him to the Gaole, there to remaine without baile for three moneths then next enfuing. And further to the next quarter Sessions &c. But enquire, if all this statute be not repealed by 1. Eliz. cap. 2. in general words at the latter end therof. Lambt.199.

Prophefies.

T feemeth by the generall words of the flatute, that everie Juft. of P.Juft. e. Apeace may imprison (by the space of one yeare without bayle) P.Proph. 1. fuch as admifedly shall publish anie false prophesies (contrarie to the tenour of the statute 5. Eliz. 15.) to the intent thereby to make anie rebellion, insurrection, or other disturbances within the Kings Dominions.

Prifon.

A Nie Just of peace, having sent or committed to the Gaole an offendor (for any offence or mildemeanour) if the offendor (ha- 31se. 14. uing meanes or abilitie thereto) shall refuse to beare and defray the 197. charges of such as shall convey and guard him or them to such Gaole, or shall not at the time of their commitment, pay or beare the Tame, Then the faid lustice may give his Warrant under his hand & scale (to the Constables of the Hundred, or Constable of the towne where such offendor shall be dwelling, or from whence he shall be committed, or where the faid offendor shall have anie goods within that countie or libertie) to fell fo much of the offendors goods, as (by the discretion of the said Iustice) will satisfie such charges, &c. the appraisement to be made by four inhabitants of the parish where such goods be, yeelding to the partie the ouerplus of the money: And where the offendor hath no fuch goods, then the charge therof must

be borne by the towne, where the offendor was taken; And the taxation made on the towne (for that purpole) must be allowed vnder the hand of one Iust. of Peace; And by like Warrant from such Iustice, the goods of the person refusing to pay such taxation, may be diffrained and fold.

Purneyors.

IF any person within fine miles of Cambridge, or Oxford, shall re-I fuse reasonably to serue the provision of the said Vniversities, 13.Eliz. 21. Then may the Vice-channellor, and any two luft of peace within the same Vniversitie, Town, or Countie, under their hands & seales, allow any the Kings Purneyors, to prouide any corne, or victuall of any fuch person, to the vie of the king, as they lawfully may in other

places without the faid precinct.

The Vice-chauncellor (or his Commillarie for the time being) in 1.21.Ph. & either of the Vniuerlities, with any two luft. of P. of the same coun-M.cap.15. tie;may (by the oathes of xij.men) enquire of and punish the offenco of Purueyors, Takers, Badgers, Loaders, Poulters, or other ministers for the kings Maiesty, and all other common Poulters &c.committed contrarie to the flatutes for the priviledges of the Vniversities &c.fez.in taking or bargaining for any victuall or graine, within Cambridge, or Oxford, or within fine miles of either of them; or in taking or bargaining for any victuall or graine bought (within the faid fine miles) by any common minister of any Colledge or Hall, to be spent there; without the licence of the Chauncellor, or Vicechauncellor in writing, under the scale of their office; or not according to fuch licence; and eneric fuch offendor that forf the quadruple value of fuch graine, or victuall fo taken or bargained for, & shall fuffer imprisonment 3. moneths without baile; which punishments the faid Vice-chancellor &c. and two Inflices of peace may fee duely executed accordingly.

If any Buyer, or other officer of any Lord, or other person, (but only for the K.& Qu. and their houses) doe take any victuali, corne, 37.H6. hay, carriages, or any other thing what loeuer, of any of the K. people, in any wife against their will (without lawfull bargain between the faid buyer & seller made) Then vpon request made to the Maior, Sheriffe, Bayliffe, Conftable, officer, or other the K. ministers (vn-*Crom.61. der which word *Ministers, the Instices of P. bealso comprehended)

of the cities, boroughs, counties, or places, where such taking shall happen to be, The faid Major, Sheriffe &c. Minister (and Just. of P.) that prefently take & arrest such buyer & officer so offeding, & them shall fend to the K.next prison, there to remain without baile, vntill they haueredelinered the faid goods to taken, or the value thereof.

See more of Purucyors, titulo Felonies by Statute.

Recufants.

Recusants.



Fanieperson about sixteene yeares of age, doe for-22.Eliz.t. beare to come to Church, by the space of twelue P.1. beare to come to Church, by the space of twelve moneths, contrarie to the statute 1. Eliz. 2. Any Iustice of peace of the countie where such an offendor I shall dwell or be, may make thereof Certificat into

the Kings Bench; to the end fuch offendors may there be bound to

their good Behaulour.

Any one Justice of P, may require the submission, and declarati- 35 Eliz. on of conformitie to his Maiesties laws, of Reculants and Sectaries, P. 19. within three moneths after their conniction &c. And in default of fuch submission, may require them to abiure this Realme: which abiuration notwithstanding shall be in open Sessions.

For the forme of such submission, see the stat. of 35. Eliz. cap. 1.

P. Recusants 20.

No woman couert (or maried woman) shall be forced to abiure, by vertue of this statute.

Where one Iuft.of P.may require a Popish Recusant to take the Oath of Allegeance; fee poster in this title.

Any Inflice of peace within the Countie, in which anie Iesuite or 17. Eliz. 1. other Popish Priest, or other Ecclesiasticall person, shall arrive or P. Ielaits J. land, within three dayes after their landing, may take their submission,oath, and acknowledgement, touching their obedience to the K. P. Lefuirs, 4. Maiestie, and his lawes provided in cases of religion: But if it be any other subject, who is no Priest &c. and yet brought vp in any Seminarie, they must make their so mission, and take the Oath &c. before two Iustices &c. See more in this title.

Eueric subject knowing any lesuite, or Popish Priest, to be within the Kings Dominions, ought to discouer the same to some Iustice of P. Ichuis. peace, or other higher Officer, within twelve dayes, &c. And fuch 10. Justice of peace ought within eight and twentie dayes after such discouerie made to him, to give information thereof to one of the kings Privie Councell, vpon paine of two hundred markes. And vpon fuch information given by the Iustice of P. he shall have redelivered to him a note in writing subscribed by such Privie Counceller, &c. (with his owne hand) testifying that such information was made vnto him.

If anie person to whom anie Agnus Dei, Croffe, Picture, Beads, or such superstitious things shall bee delinered or offered, doe dif- P.Rome 6. close such deliuerer or offerer to anie Instice of peace, &c. That Inflice of peace within fourteene dayes, must declare the same to

one of the kings Privie Councel, or else he shall incur the danger of a Pramunire.

Recufants.

Co.11.63.b* P.Sacra.

If there be any subject of this Realme, be hee Popish Recusant, (conuict, or not conuict) or other person, that shall not repaire eucry Sunday to some Church, and then and there to abide orderly during the time of prayer, preaching, or other service of God there vsed, according to the statute made 1. Elizacap. 2. Then any one lustice of peace of that limit where the said party shall dwell, vpon proofe to him made of fuch default (by confession of the party, or oath of witnesse) may within one moneth next after such default, call the party before him; and if he shall not prooue sufficient cause of his faid absence (to the satisfaction of the said Justice) the said Iu-Rice of peace may give Warrant under his hand and feale, to the Churchwardens, to leav twelue pence for enery fuch default, by diftreffe and fale of the offendors goods &c. And in default of fuch distresse, the said Instice of Peace may commit such offendor to prifon, untill paiment be made of the faid fumme fo forfeited; the fame to be imployed to the vse of the poore. Also this statute seemeth to extend to women that be maried: see Co. 11.61 b. See also the title, Riot his postea pag.

The party that doth fielt discoues to any Ju. of P. any Recusant. or other person entertaining orgeliening any Issuite, Seminary, or Popish Prieft, Or any Masse to have bin said, and any of them that were present thereat, within three daies after the offence, (and by reason of his discouery any of the offendors bee taken and conni-(ted) shall be freed from danger of the offence, if he be an offendour therein, and have the third part of the forfeiture which shalbe forfei-

ted by fuch offence, 3. Iac cap. 5.

P.79.17-

Before some Iu. of P. of the county, libertie, or limit where the parents of a child fent beyond feas without licence, did dwell, such child must take the oath of allegeance expressed, 3. Iac.cap.4. And they that were beyond seas before the making of this act, are to take the same oath within six months after their returne, before some Iu. of P.where such persons inhabiteth, before they can take the benefit of any gift, conuciance, denife, or discent &c. of any lands or tenements &c.q. lac.ca.5.

P.63.

Popish Recusants indicted or convicted, and all other persons which have not repaired to some vsuall church or chappel, & there heard dinine fernice, by the space of three moneths last past, dwelling, or which shall dwel in any county within ten miles of the city of London, shall depart from thence according to this stat and deliuer vp his or her name to the next Iu of P. in the same county, vpon paine of forfeiture of 100.li.3. Jas.ca.5.

Any one of the foure Inst. of peace, which by this stat. may licence a confined

P.63.

a confined Recufant to tranell, may minister the oath, to be taken by fuch Recufant, that he hath truely informed them of the cause of his journey, and that he shal not make any causelesses states, 3.144.5.

After any warrant bee graunted out from the quarter Selfions, or from any foure luftices of P. there for the taking away of the armor of any Popilh Reculant connict; if any such Reculant having any fuch armour, gun-powder, or munition; Or if any other person hauing any such armour to the vie of any such Reculant, shall resule to declare vnto the faid luftices of P.or any of them, what armor he or they have; Or shall hinder or disturbe the deliverie thereof, to any of the faid luftices, or to any other person authorised by their warrant to take and seise the same, Then every such offendor shall bee imprisoned, by warrant of and from any two lustices of peace of fuch county, by the space of three moneths sithout baile.

Two Instices.

Any two Justices of peace (the one being of the quorum) tnay re- 3.1ac.4 quire any popish Reculant, man or woman, of the age of eighteene P.45-46. yeares, or aboue, which is connicted or indicted for Recufancie; or which bath not received the Communion twice the yeare past; or which trauelleth the countrey, and is vaknowne (and being examined vpon oath, shall confesse, or not deny themselves to be Recufants, or nor to have received the Communion twice the yeare past) to take the Oath of Allegeance appointed by the statute, 3. Iac.cap. 4. And if fuch person shall refuse to answere vpon Oath, such suflices of peace examining him as aforefuld; Or to take the faid oath of Allegeance, then the faid two Iudhal commit the same person to the common gaole, there to remaine without baile, vntill the next affiles or quarter fessions: But noble meq and noble women are excepted, as not to be dealt withall herein by the Iu. of peace.

Also any two Iustices of peace may take the said Oath of Al- 7. Iac.s. legeance of such persons as have charge of Castles, Fortresses, Block houses, or Garrisons, And of all Captaines having charge of souldiers within this Realme: And vpon refusall may commit the offendor, being of the age of eighteene yeares, to the common gaole, there to remaine without baile till the next Affiles or quarter Selfi-

ons.7.Iac.6. Also by the same stat. 7. Ja.c. 6. any two Just of P. the one being of the quoru, may require any other person or persons, man or woman, be they reculants or not, of the age of 18 yeres or about (vnder the degree of a Baron or Baronesse) to take the said oath; & may commit them as aforesaid, vpon their refusall.

One Imfrice.

And by the faid statute if any person what somer, of the age of Tluc. 6. eighteen yeres (vnder the degree of a Baron) shall stand and be prefented, indicted, or connicted, for not comming to church, or receiuing the communion, before the Ordinary, or any other having lawfull power to take such presentment or indictment; Or if the Minifter, pery Constable, and Churchwardens, or any two of them, shall complain to any one lu. of P. necre adioining, and the faid Iust shall find cause of suspition, Then that Iu. or any one other Iu. of P. within whose commission or power such person shall be, vpon notice thereof, shall require such person to take the said oath; And if any parson hall refuse to take the said oath tendred to him or her, as a-Presid, then such In.or Instices shall commit such offendor to the common gaole, there to remain without baile till the next Affifes or quarter Sellions.

The faid two Iust of P. shall certify in writing (subscribed with Two Iustices. their hands) at the next quarter Selhons, the names and place of aboad of fuch persons as have so taken the said oath before them, by

force of the flat. 2.14c.4.

And it seemeth requisit, that the Instices or Instice of peace, doe make like certificat (at the next Affifes or quarter Seffions) of fuch persons as have taken the said oath before them, by force of the sta-

tute, 7. Iac. 6.

Such persons as have bin reconciled to the Pope, if they shall returne into the realm, & therupon within 6.daies next after their returne shall submitthemselues to his Ma.and his laws, before any two In of Prioritly or fenerally, of the county where they shall arrive, the faid Iu. may take fuch submission, & withall may take their oath to the Supremacy, and their oath of allegeance; And the faid oaths fo taken, the faid luftices shal certifie at the next quarter feshons vpon pain of 40.li.

Any two Inflices of P.of the County where any of his Maieflies P. Lefuits. 4. Subjects (not being a Lefuite, or other Popilh Priest &c.) brought vp in any Seminary, shall arrive within fix moneths next after proclamation to be made in that behalfe in the City of London vnder the great seale of England, may (within two daies next after such return) receive his submission to his Maiesty and his laws, & take his outh to the Supremacy.

The Iustice or Iustices of P that shal receive or take any submission, or oath, as aforesaid (by force of the stat. of 27. Elea. 2.) shall certific the same into the Chauncery, within three moneths after such fubmission, vpon pain to forfeit one hundred pounds. 27. El. cap. 2.

P. Iesuites 11.

7.1ac.6.

If any maried woman (vnder the degree of a Barones) being lawfully connicted as a Popilh Reculant, shall not within 3. moneths (after fuch conniction) repaire to the church, & receive the communion &c. Any two lu. of P. (the one being of the quorum) may commit her to prison, there to remain without baile, vntill she shall conforme herfelfe &c.

Any.

Ryotts, Rout, &c.

when

Any two Just of P. from time to time, may search the houses and 3-lacs. lodgings of every popilh Reculant conuich, and of every person whose wife is a populh Reculant connict, for populh bookes and reliques of Poperie, And they may presently deface and burne such bookes and reliques as they shall find: yet if it be a relique of any price, the same is to be defaced at the generali sessions of the P. and to be restored to the owner.

Aconuicted popilh Reculant of small ability (not having hundred markes freehold per annum, or forty pounds in goods, Nor being a feme couert) that shall not repaire to his place of vival dwelling, or place of birth, &c. and there notifie himfelfe to the Minister, and Constables (according to the stat of 25.EL) Or shall afterwards remoone aboue fine miles from the same; if after he be apprehended, and shall not conforme himselfe (within three moneths) in comming viually to the Church, and in making fuch publique fubmission as in the said statute is appointed, being thereunto required as hereunder is mentioned, Then any two luftices of Peace may require such offendor to abjure the realme, and may affigne him the time and Hauen &c. And every fuch offendor shall vpon his corporall oath before the faid luit, abiure the realme &c. for euer; and his refuling to abiure, or not departing accordingly, or returning without licence, is felony. The oath of Abiuration (for felony) fee Stamf. 110 two feuerall formes thereof; the latter it feemeth may be taken of Reculants.

The lustices of P. before whom any such abiuration shalbe made, shall cause the same to be presently entred of record beforethem, and shall certifie the same, at the next gaole deliuerie to be holden in the same county, 35. El.ca.2. P.31.

The Bilhop of the dioces, or any one Inft. of P.or the minister of the parish, where such connicted popish reculant of smal ability shall be, may require the submission of such recusant, 35.El.2.P.31.

The forme of fuch submission, sec wid. P.34.

Reculants confined to fine miles, may be licensed by any foure Lie, s. Inflices of Peace, (and the Bishop, or Lieutenant, or any deputie P.63. Lieutenant, refiding in the faid County) under all their hands and seales, to travell about their necessary businesses out of the compasse of fine miles. But such Licenses must specifie the particular cause of the faid Licence, and the time of their absence must therein be limitted; and the party so licensed must first take his oath before the said foure Inflices, or any of them, that he hath truely informed them of the cause of his iourney, and that hee shall not make any causeleffe stayes.

A Ny one Inflice of peace alone, may vie all good meanes to pre-One Inflice. uent a Ryot or Rout before it be done; and for to stay it whilst Lamb. 184 it is in doing, and in the doing may take and imprison the Ryotters, P.Jud. 18. and binde them to their good Behaulour; but being once done and committed, one Iustice of peace can neyther record the Ryot, nor make enquirie thereof, nor affeste any fine, nor award any Processe,

14.H.7.8.9, nor otherwise meddleto punish it (in the nature of a Ryot, or Rout) but onely as a trespasse against the peace, or vpon the Stamtes of Northampton, or of Forcible entries; whereof fee the title, For-

cible Entry.

Ibán.

And yet if one Iuft. of P. sitting in a Iudiciall place (as in the Sessi-Cromp. 65. ons) shall see a ryot, he may commaund them to be arrested, & may make a record thereof, and the offendors shall be concluded therby; but if one Inft. of P. shall see a ryot in another place, and shall command them to be arrested, and shall make a record thereof, the offendors shall not be concluded thereby, but may trauerse it.

If a luft of P, will commit a man to ward, pretending vntruely, that he did a ryot, wherehe did none, the partie may have an action of trespasse against him. Yet see Br. ludges 2. & 10. that an action

will not lie against a Iustice or Iudge of record.

Euery Iuffice of peace, (being of, and in the countie, and having notice of any Ryot, Rout, or vnlawfull affembly) ought to haue a Dycr.210. care of the execution of the statute made 13.H.4.cap. 7. (viz. that the Ryotters &c.be arrested, and remoued;) for if that statute be not ex-Lamb. 321. ecuted by some of the lustices, the two next lust of P. shall forf. each of them 100 li and euery other Iustice of peace within that county, in whom there shall be any default, shall be fineable in the Starre-

Chamber. And therefore every Iuft.of P. of the countie, hearing of any rout, or of any intention of a ryot (without making any Precept, or tarry-14-16-7.9-b ing for his fellow Iustice) shall doe well to goe himselfe (if he be a-

ble) with his feruants, or other power of the county, it need be, to the Lamber, 185: place where such persons be so affembled, & to suppresse them; and

all fuch as he shall find ryotously affembled (and armed) to arrest them, and to force them to put in fuertie for the peace, or for their good behaviour; and for refuling to give such suertie, or in default of sucrey, to imprison them : also he may take away their weapons and armour, and seize and prise them for the king. Vide tis. Armour,

and Forcible Entry. And if the Iustice of peace (being come to the place) shall not find

14.117.10. Bt. peace 7, the Ryotters yet come thither, he may leave his feruants there, to restraine them in their said enterprise, or else to arrest such offendours

Foure lust.

Ryotts.

when they shall come, if they shall offer to committany ryot, or to breake the peace.

Soifthe Iustice be sicke, and shall heare of a Riot, heemay fend his feruants (or other power of the County, if need be, as it feemeth) to the place to represseit, or to arrest such offendors, and to bring them before him, to finde fuerties for the peace; and all this hee may 14.H.7.10. doe and command by word of mouth, without any warrant in wri-Br.Peace.7. ting; and without expecting the comming of any his fellow Inflices, or of the Sheriffe or vider-sheriffe.

Also one Instice of peace (by the statutes made 1. M. cap. 12. and P.16,27. 1. Eliz. 16.) might have made proclamation in the Kings name, That all persons ryottously assembled should depart to their habitations, &c. (The forme of which proclamation, you may fee in the same stat. and in P. Ryots. 27.) But the faid stat. are now expired.

Also any one Iustice of P. (by the first Asignauimus in the Commission) may cause to be kept and put in execution, all other statutes made for the repressing of ryots, force and violence; but therein hee must deale onely according to the forme and order in such statutes

prescribed.

But the ordinary power of punishing of Ryots belongeth vnto 13.H.4, 6.7. two luftices of P. at the leaft; And therefore the two next luftices of P.1.5peace which dwell neerest in the County, where any ryot, assembly, or rout of people shall be against the Law, (together with the She-Dyenzie. riffe, or vnder-sheriffe of the Countie) vpon complaint or other notice of the ryot, shall doe execution of the statute 13. H. 4. 7. (s. of all and every part thereof respectively, as to them is appointed) every one of them vpon paine of 100. li. And in default of the two next Inflices, the other Inflices of peace of and within the countie (vpon Lambigas, notice of fuch ryot) ought to doe execution thereof, every one vpon danger to be fined in the Star-chamber; but the penalty of 100. li. is only to be laid upon the two next luffices.

And if the Riot &c.be great and notorious, whereof by common intendment enery person may take knowledge, it is not safe for the Just, or Sheriffe, &c. to expect and stay, till complaint thereof shall be made vnto them, or that they shall have information or notice ginen them therof, left they incur thereby the faid penalty of 100. li.

If any other of the Iustices of P. of the county (besides those two P.R. 10. which are next) shall execute this stat, that shall excuse the two next

Iust for that the star giveth power herein to all Iustices.

If one, or the two next luft. shall come, and not the Sheriffe, or vnder-lheriffe, such Just as do come shalbe excused of the forfeiture of 100.li. but though the faid Iust. shalbe excused of the faid forfeiture, yet if there commeth but one Iust of P. he ought to arrest the riotters & to remoue the force, & the riotters, otherwife he is finable, &c.

And if there shall be two Instices present, and neither the sheriffe nor vnder-sherisse, yet those two Iustices are finable, if they shall not doe all that, which (without the sheriffe or vnder-sheriffe) they are authorised to doe by the said statute.

But no Iustice of P. that dwelleth in another Countie is bound Lambergar. (vpon the faid penaltie of 100.li.) to execute the faid flat.of 13.H.4. although he dwelleth next to the place where the ryot is, and although he be in commission of the Peace for the countie where the ryot is, as it seemeth: for the words of the statute are, The Iustices which dwell neerest in enerie countie where such ryot shall be, and P.5. not which dwell neerest to the place where the ryot shall be; & yet it scemeth safe that such lustice dwelling out of the countie, vpon notice of fuch ryot, doe come into the countie, and doe his enderour to suppresse the same ryot, and to execute the statute, for that he is one of the Iust of the countie.

If the sheriffe or under-sheriffe do not come, the Iustices ought to

fend for them, as M. Marrow thinketh.

And some seeme to be of opinion, That if the sheriffe or vndersheriffe, shall not come to the suffices, being sent for to assist them, That then all the Iuftices of Peace dwelling necre or remote shall be excused of the same penaltie of 100 li. or of anie other penaltie or fine; for that the faid statute doth give the sheriffe or vnder-sheriffe equall authoritie, and as it were ioine him in Commission in the copulatine with the luftices of Peace. But others feeme to be of ano-Lambingan, ther opinion, viz. That if the sheriffe or under-sheriffe shall not Cromp 63. come, yet the luttices of peace shall be fined if they come not and ar-

rest the Ryotters, and doe not moreouer proceed to doe therein all that which (without the sheriffe or under-sheriffe) they are any waies authorised to performe.

Now what the Inflices of peace may or ought to doe therein (by force of this statute 13. H. 4. 7.) without, or in the absence of the sheriffe and under-sheriffe is worthic confideration, as being needfull for the Iustices of peace to know, and safe for them to perform, as well for the speedie presenting of such present mischiefes as may happen to the Common-wealth by fuch dangerous affemblies, as also for their fauing of the penalty of the Law otherwise like to lie

vpon them.

But herein I dare not determine, finding that others (of good Lambr. 313 judgement and experience) that have written hereof, have both seemed to doubt herein, and haue written sparingly thereof.

And yet there is no doubt, but that the Inflices of peace (without the sheriffeor under-sheriffe) upon all ryots, may and ought first to goe to the place; and fuch ryotters as they shall see or find ryottously affembled, they may and ought to arrest them, and to take away

their Armor and weapons, and to remove the Ryotters, and may cause them to finde suerties for the peace, or good behaviour, & for want of fuch fuerties may commit them to the Gaole; all which any one luft of P.may doe.

Also two Iust of P. after the ryot committed (without the sheriffe P.Ryots 4. or vnder-sherisse, as it seemeth) may and ought to enquire of the ry- Crop. 67.b. ot, and if vpon fuch enquirie the ryot be found, the faid Iuftices may fine and imprison the offendors, as hereafter appeareth.

But whether two Iust. of P. seeing a ryot, may record the same vpon their owne view, without the sheriffe or under-sheriffe; and therupon (without any enquirie) may fine them for the same, and may committhem to prison till they have payed their said fine, is to bee considered. I know the common opinion to be, that they cannot record the ryot (without the sheriffe, or under-sheriffe) for, say they (by the statute) the sheriffe or under-sheriffe are associated to the Iuflices of peace, and have equal authoritie with them therein, and then consequently the Justices of peace alone vpon their own view, without enquirie, can neyther fine them, nor imprison them for their fine.

* M.Lambert 14.E.g.r.that the flat.of 13.H.4.

Yet Fineux chiefe Iustice, saith that * this statute (of 13.H.4.) was 14.H.7.9. b. thinketh it to made for the common profite of the Realme, and for a hastie remedie, and to avoid a present mischiese like to happen, and therefore See Co.to. Finest meant, shall be construed largely for the common good, and in furtherance 103.b.such rather then and advancement of awardings of 103. and advancement of expedition of Justice.

Also we see that any one Instice of peace may doe all these things \$1,H.6.f. in case of a Foreible Entrie, fez. Any one Just. of P. may come with the power of the county, if need be, and may arrest the offendors, and may record the force by him viewed: and this Record shall be a fufficient conuiction, so that he may thereupon commit the offendors to the Gaole, and may fine them.

Also this statute of 13. H. 4. doth relate to the said statute of For- P.1. cible Entries (8.H.6.) touching the conniction of offendours by the record of the Inflices.

Also (by some good authorities) if two Iust. of P. (without the Fire Iust.). lheriffe) shall see a ryot, they may arrest them, & make a record ther- 14.H.7.8. of and the offendors shall be concluded by such record, for that the Cromp. 65. view of the ryot is not to be trauerfed.

Also the stat. 34.E.3.1 . seemeth to enable two Just. of P. to impri-Rast. Just. 3. for and fine Ryotters, and that without enquirie, and then confequently, it seemeth they are to make a Record of the Ryot. See Lambt.291,292.

Ideo quare whether two Iustices of peace (vpon the statute of 13. H.4.7.) without the sheriffe, may not, (nay, ought not vpon the penaltic of 100 li)vpon their view of aryot, to record the ryot, & fine

the offendors, and imprison them till they have paied their fine (as conuict by their view and record) which also seemeth to be more for the kings aduantage rather then to hazzard the fine voon the finding it by Enquiry.

And now to the particulars of that which the (two next) Iu. of P. with the sherife or vnder-sherife must do in execution of this stat, of

13.H.4 7. Euery one vpon pain of 100.li.

t First, they shall go to the place in person, if they be able, where 17.H.4.7. the riot,&c.shall be. P. 1.3.

> And they shall take the power of the county (if need be) so, they shall have the aide of the Knights, and other Temporall persons vnder that degree, that be about the age of xv. yeres, and be able to trauell: for all the K. Subjects that are in the county where a riot &c. shalbe, being able to travel, must be aiding & assistant to the Iu. of P. therife or undertherife (or other Commissioners) when they shall be reasonably warned, to ride or go with the said Justices, &c. Therife &c.in aide to relist such riots, &c.vpon paine of imprisonment, and to make fine and ransome to the K, which ransome shall be treble so much at the least as the fine, Dyer 232.

Lanhage.

But it is referred to the discretion of these Justices how many, or few, they will have to actend them in these busines, and in what fort they shall be armed, weaponed, or otherwise furnished for it.

Againe, it is not good for the luftices to affemble the power of the Poffe Comi-Cromp. 64. county, without certaine information, or knowledge of fuch riotous tatue. assembly: yet if vpon falle informatio of a riot, to be at such a place, the Iustices shall cause the power of the county to be assembled, the Inflices shall be excused by reason of the information; and if without information, the luftices shall thinke that such a riotous affembly is made in such a place, and shall affemble the power of the county to go thither to arrest the Riottors, and when they come to the place they find a Riot there in deed, they must arrest and imprison the offendors, and shal be excused of the assembly made by them; but if they thall find no riot there, then shall they be punifhed for making fuch an affembly of their owne heads, without information.

2 All fuch offendors as they shal find there present, they shalarrest them, or cause them to be arrested, & shall remove the force fe. shall committo prison all the riottors, & take away their weapons.

Also it seemeth, that all such as came in the company with such Riottors, or in the company of any of them, if that the Iustices shall find them there prefent (though they do nothing, and though they came without any intent of their parts to commit any riot, yet) they shall be arrested, imprisoned, & fined. Sectothis purpose in the title Forcible Entrie. K 3 Alfo

without any other inquirie.

Also all such Riotters, as the Instices shall meet in their way (riot- Mar.Lca.s. toully arrayed, and comming from the place) they may arrest and imprison them, for that they found them valawfully affembled; but they cannot record any Riot by them done, for that they faw it not, yet they must afterward (as it seemeth) inquire therof by a Jury, that fo the offendors may be fined, &c. See more in this title.

But if the luftices do come and see the riot committed, and after the said Riottors shall escape from the Instices at that time, yet the faid luftices shalrecord it; but they cannot arrest them at any other time, except it be presently after and in fresh suit; neither can they fine the offendors, nor award any proces against them upon that record which they shall make; and yet for that they saw the riot (and those Riottors that be escaped, committing the riot) they shall record it. But that record shall not bee kept amongst the records of the peace, but the faid Iustices shall send the faid record into the Kings Bench, that Proces may from thence be made vpon it, against those Lamb. 312. riottors that be escaped; where also the said offendors shall not bee admitted to any trauerfe, but must of necessity make fine for their said offence.

If after the Iustices and Sherife shall see the Riot, the said Riottors shal escape, & the Iustices & the Sherife record the same riot, & then one of the Iu. be put out of the Commiltion, or the therife or one of the In. shal happen to die, yet shall that record be sent or certified into the K. Bench, by the other Just.

Also such offendours as the lustices saw committing the Ryot, rether though they shal escape from the Iust. yet the said Iustices may after Cromp. 196 grant out their warrants for them, and fend them to the gaole, till they shall find surety for the good behaulour.

If such offendours shall be departed before the comming of the Iustices, yet (vpon certaine information of their being there) the faid Iustices may also grant out their Warrants for them, and may commit them, till they have found fureness for their good behavior: and yet rather the luftices shall doe well to proceed against them, by Plusters. inquirie, and so to fine the offendors for the the King, &c. See more in this title.

Also in the execution of this arrest of the Riottors, the said Iusti-Lamb. 310. ces &c.may iustifie the beating, wounding, or killing of any the Ri-158. ottors that shal resist them, or that wil not yeeld themselves to them. Vide tit. Homicide, bis.

Also the said Instices may take from such Riottorstheir Armour, Harneis, and Weapons, and shall cause the same to be prised, and to be answered to the King as for feited.

3 After the arrest made, the faid Justices (and Sherife or vnder- p. 13.H.4.ca.7 sherife) shal make a record in writing of the said riot, (see of all that which

But if the Iultices of peace doe not themselves see the riot, then they cannot make a Record thereof, but then they must inquire thercof.

which they shall see and find done in their presence against the law)

If the Iustices of peace, &c. going to see ariot, another riot shall happen in their presence, they may record this, and arrest and imprison the offendors.

So if the riottors shall make a riot vpon the Inflices (and Sherife) that do come to arrest them for their former riot, they may record that also.

So if two Iu. of P. (and the sherife or under-sherife) shal meet for any other cause of service, or for any private businesse (as upon an arbitrement, or other like matter, land a riot shall happen to be done vpon themselues, or in their fight, they may record it, and may arrest and imprison the offendors.

And if the Iustices of P.shall record a riot, and vpon examination 9.H.6.fo.60 of the matter after, it shall appeare to be no riot; or that they saw it Cromp. 63. not, or that there was no riot at all; yet the parties shall bee concluded thereby, and have no remedy (as it feemeth;) & therefore the Iuflices shall do well to be aduited what they record. See 9. H.6.fo.60. Br. Indges 2.

Lambt.311. And againe, for that this record of the Justices and Sherife, is a fufficient conniction in it selse against the offendors, therefore it ought to be formall and certaine, as wel for the time and place, as also for the number, weapons, manner, and other circumstances, because the parties be concluded thereby, and shall not be received to traueric, or deny it, in any point.

The forme of the record. vide iit. Presidents.

Lamber 122, This record ought to remaine with one of the faid fuffices of P. *365:375. and shal not be left amongst the records of the selfions of the peace, it being made out of the fellions, and not appointed to be certified

P.z.et. A Also the said Justices of Peace (and none other Justice of Peace) Imprison. shall commit such offendors to the Gaole, there to remain connict by their view, testimony, and Record (asin case of Forcible Entry) vntill they have payed a fine to the King.

Also such commitment of the offendors to the Gaole ought to be Co.5.110. done presently.

Lamb. 314. And the power of the County ought to be ayding to the Sheriffe or vnder-Sheriffe, for the conneying of them to the Gaole.

If the luftices of Peace (and theriffe or undertheriffe) thall record Cromp. 61. the Ryot, and shall not (presently) committhe Ryottersto prison; or if they shall commit them to prison, and shall not record the Ryot,

Record.

Riot, they shall forfeit every of them 100.li.by the stat. 13.H.4. for that they have not done execution of the fame flat. for by the fla-P. Riots t. tutes they shall record, and commit; and againe, by the same statutes

the offendors must be aswel imprisoned, as fined.

5 Alfo the faid Iustices of P. (and none other) shal affesse the fines vpon the faid offendors; for they have best knowledge of the matter &c.Co.8.41.a. which fines by the star. 2. H.J. 8. ought to be of good Lambigua. value, that out therof the charges of the faid Iuftices & other officers Ctomp. 161 may be borne, se. their charges in going, tarrying, & returning &c.about the suppressing & inquiry of such riots; of which charges paiment shal be made by the sherif, by indenture therof made between him and the faid Iustices.

And yet fuch fines must be reasonable & just, and secundum quantitatem en qualitatem delicti, and not vnreasonable or excessive (for excessus in re qualibet ture reprobatur communi. Co. 11.44.vide) and so it is commanded by the statutes 18.Edw.3.2.6 34 Edw.3.1.P.Inft.

1.6 18.

Note also, that the fine affested in this and such like cases, must not be imposed upon all the offendors iointly, but must be assessed upon

cuery offendor feuerally. Co.11.43.44-

And the faid Inflices shall cause the faid fines to bee estreated into the Eschequer, that so the said sines may be leuied to the K. maiesties vse, and then they are to deliuer the offendors againe, as it feemeth: Or elfe the faid Iuft-may record fuch riot by them viewed, and commit the offendors, & after certifie the record to the affiles or fellions,

or into the kings Bench, as in case of a Forcible Entry.

6 But if the riot was not committed in the presence of the said 13.H47. Iustices of P or that the offendors be departed before the comming of the faid luft. & therif, or vndersherif, then the faid lustices (or two of them at the least) within one moneth after such riot, assembly, or rout, shall inquire thereof, by the oaths of a sufficient Jury (to be returned by the sherif:) and the same riot &c.being found by such inquisition, the said Iustices must make a record in writing of such their inquiry, & presentment found before them, which record also is to remaine with one of the faid luft. P.R.29.

The forme of fuch Enquiry or Presentment. See the title Presi-

dents.

This Enquiry shall not be, but where the riottors are gone before Cromp. 61. the comming of the Iustices.

It is not necessary that one of the Iu. of P. (which shal make En-

quiry of a riot be of the quorum.

Although the words of the stat. are, the same Iustices, (se. which came to fee the riot) shall inquire; yet if any other two luft, of P.of Limb gre, that county shal do it, that will suffice.

At this enquirie, the sheriffe or under-sheriffe ought to be present Lamb. 316. with the Iustices of P. but the sheriffe and under-sheriffe be now as ministers (only) for the returning of the Jury (for this enquirie) and be not herein affociated with the Justices as they were before in arrefling the Ryotters, and recording their disorder, and therefore they are now to be spared from being Judges therein: howbeit by this their presence they may helpe to espie the cuill; and besides, it addeth force and credite to the Certificat.

neth, the statute is not offended.

yet they may enquire thereof within the moneth after.

Lamb. 317. Neither is it of such necessitie, to have the enquirie within the mo-

Ryotts.

neth, that for default thereof the presentment shall be voide; for the

lustices of peace may enquire thereof at any time by force of their

Commission: but if it be not within the moneth, then enerie of the

two next Justices are in danger to loofe 100.li.for it. And yer if these

Justices doe charge the Jurie within the moneth, and doe give day

vnto them for to yeeld their verdict and presentment after the mo-

Also the Iustices of peace, although they goe not to see the ryot,

Lamb. 317. If the luftices do affemble themselves, the sheriffe and the Jurie, to Cromp. 62. make enquirie of a ryot within the moneth, and the parties beene agreed amongst themselves, so as none will solicite the enquirie, nor give in evidence for the king vpon that ryor, yet ought the Iustices to proceed (ex officio) to make enquiry of that ryot, feeing it may be that some of the Jury may have knowledge of the ryot.

And also the lustices ought to make Proclamation, that if any man will give evidence for the king concerning that ryot, or (generally) will informe the kings Iustices of any ryots, routs, &c. And thereupon some other persons may perhaps come forth to informe

them therein.

But if (at the parties request) the Inflices shall dismisse the Jurie PR.15.

Cromp. 62. without enquirie, they are fineable in the Star-Chamber to the king for the fame.

> And if the Iustices shall not proceede herein (ex officio) without some will give in evidence for the king, quare, if they shall not be therby in danger to lose the 100 livpon this Statute, for the reasons abouefaid.

> And it feemeth that the Iustices of peace may justly binde to their good behaviour, the parties that first complained to them of this ryot, and have caused them to meet, and now will not prosecute the same for the king, but have agreed it.

13.H.4.e.7. After such enquirie had, & ryot found, the said Inflices have and Heave and thoritie (by the faid flat.) to heare & determin the same according to Determine. the Law, viz. they may make out Proces against the offendors under their own Teffe (therby to cause the offendors to come in & answer,)

Alfo

Enquirie.

P.3.

and may affeste their fine, and may commit them to prison till they have payed their faid fine, and may deliver them after payment of the same fine, or vpon suerties taken for it (which suerties ought to Br. Imp. 100 be bound by Recognisance): or otherwise they may receive their trauerle, and thereupon (if the matter will so serue) to discharge and Lamb. 317. dismisse them. But then the said Justices shall doe well to fend such indictment or inquilition found (and fuch trauerse) to the next quarter Sessions, or into the kings Bench, and there the trauerse shall be tried and determined according to Law: PR.30.

But when men are indicted of ryots (or the like) they will vhually yeeld themselues, and pray to be admitted to their fine (in which case the luftices of peace commonly doe affelle but some small summe, or fine, and vpon the payment thereof doe discharge the offendor:) and hereby the offendors are not imprisoned, (which would worke more feare in such offendors, then such fine) and therefore it is behoueful for the Justices of peace to vse good care and discretion herein, for by the statute the offendors are as well to be imprisoned, as fined, and it feemeth much more feruiceable, and more agreeing with Lamb. 559. the intent of the Law. Belides, this fine called by * divers olde fla- . Math. 12. tutes Ransome (or Redemptio in Latin) seemeth by the propertie of 1,2,3,4. this word to imply, that the offendors ought first to be imprisoned, Lamb. 556. and then to be ransomed and deliuered in consideration of this fine.

And these fines the Iust. of P. are now willed by the stat. (2.H.5. eap.8.) to put in greater summes then they were wont to be put in fuch cases, for the bearing of the charges of the Iustices and other officers,&c. See more before in this title.

Arthe Common Law, a ryot was punishable as a Trespasse, and as well the fine as the imprisonment were at the discretion of the Judges: and in the same manner the statute of 13. H. 4. enableth the Iustices of peace to punish such offendors. But now as well the imprisonment as the fine of such offendors are to be encreased by the said statute 2.H.5.

And therefore where the Iustices of peace are remisse herein (fcz. in not sufficiently punishing such offendors by due fine and impriforment) the Lords in the Starre-Chamber, may (and doe often) Cromp.63. assessed as a straightful and a straightful as a straight haue formerly affested a fine in the countrey) a greater penaltie, if they see cause; and yet in this case the offendors be not twice punished for one offence, but that part of the due punishment is inflieled at one time, and part at another.

Cortificat.

8 Lastly, if the truth, or ryot cannot be found by the Justices of 13 H47 peace vpon such Enquirie (being hindred by the peruerinesse of the P.3.1). Iurors, or by the valawfull maintenance, countenance, or embraceric of others) then within one moneth next after the Enquirie, the

same Instices and Sheriffe or under-sheriffe, shall certifie before the Lamb. 319. King and his Councell (fc. into the Starre-chamber, or to the Bodie *Br. Prz. and Board, of the Prinie Councell, or into the Kings * Bench, Cromp. 63.) the whole fact and circumstances thereof, with the certainty of the names of the principall offendors, And also the names of such mainteiners and embraceors, with their misdemeanors, and of the time, place, and other circumstances, and impediments: yet the not certifying of the maintenance or embracery, is but forfeiture of twentie pound a peece, to every of the Justices and Sheriffe: the not certifying the reft, is a forfeiture of 100.li. Cromp.63.b. & 199.b. The end of this Certificat, is but onely to put and force the offen-

Ryotts.

dors to answer thereto, before the King and his Councell: & though the words of the flatute doe make this Certificat to be of the force of Lamber 18. a presentment of twelve men against the offendors; yet such certifi-*But fuch cat is no conuiction, but that the offendors may * Trauer fe it, by the Trauerie words of the same statute. And so this Certificat is only of the naand Certificat thalbe ture of a Declaration, or Indictment at the Common Law, and therfent into fore it ought to comprehend the certainty of the time, place, persons the Kings Bench, and other materiall circumstances.

If this Certificat be not made within one moneth after the Enquithere bee ry, then is it not according to the statute, and so not good to force the offendors to answer.

> If two Iustices of peace (and the Sheriffe) shall go to see a ryot, yet any other two luftices of the County, may make the enquiry, and then they altogether, or the first two, or the last two (with the Sheriffe or under-sheriffe) may make Certificat thereof within the moneth after that Inquilition taken.

Where there bee severall Certificats made, or that the Certificat Cromp.63. and the Enquiry doe disagree; then that shall be preferred which is best for the King.

> If there shall betwentie parties to a ryot, and the lury shall finde butten of them guilty, yet the Iustices may certifie that twenty committed that tyot, and this Certificat of the Justices shall stand good.

> Also it seemeth, if anything material happen to be omitted or let out in the Inquilition, yet it may bee supplied by this Certificat, andit shall fland good.

If after the Enquiry, and before the Certificat, the Sheriffe shall dye, or one of the Iullices be put out of the Commission, no Certificat can then be made, by the opinion of Master Marrow.

For the forme of fuch Certificat: See the title Prefidents. Vpon the default of the two next luftices, and Sheriffe or vnder-Commission. theriffe, for not executing the faid statute of 13. H. 4. 7. the partie

grieued may haue a Commission to Enquire, as well of the ryot, as of the defaults of the faid luftices of peace and Sheriffe.

Alfo

And although that such writ come not to the said suffices sheriffe or under-sheriffe, yet they shall not be excused of the penaltie of 100.li.asoresaid, if they make not execution of the said statute.

Also if any assemblies of people in great number in maner of infurrection, or other rebellious ryots, shall be done or committed, & 8.H.6.c.14, that such offendors shall withdraw themselves, to the intent to avoid Rash.374. the execution of the Law, then vpon Certificat by two suffices of P. and the sheriffe of that county, by letters vnder their scales, to the Lord Chauncellor of England of the same ryot, and that the common voice and same thereof runneth in the said county, the Lord Chauncellor may make a Capias to the said sheriffe for the apprehending of such offendors; and after, if need be, a writ of Proclamation that the said offendors yeeld themselves in the kings Bench at a certaine day, vpon paine to be convict thereof.

Roques and Vagabonds.

Nthis title of Rogues, I have intermingled certaine Resolutions of the ludges, made vpon the statute 39. Eliz. cap. 4. for the better vnderstanding thereof: which Resolutions you shall finde in Master Lambert.

One Inflice.

Any one Iust of P.may appoint all Rogues & Vagabonds (which 39, Eliz.4. shall be taken begging, wandring, or misordering themselues) to be P.Vag.3. stripped naked from the middle vpward, & to be whipped till their 1.lae-7. body be bloudy.

After such whipping, the said lust, of P. shall make them a Testimoniall under his hand and seale, testifying their punishment, and mentioning the day and place thereof, and the place whither they are to goe, and what time they are limited to passethither, &c.

The forme of such a Testimoniall, vide tit. Licenses.

All R ogues and Vagabonds are to be fent and conveyed forthwith, from Parish to Parish, by the Officers (fez. the Constables of P.Vagabeuery of the same) the next straight way to the parish where they were borne (if it may be known by the parties confession or otherwise,) or (the place of birth being not knowne, then) to the parish where such person last dwelt by the space of one yeare, there to put themselves to labour; or (not being known where such person was borne, or so last dwelt, then) to the parish thorough which such person last passed without such punishment; and then the officers of such Village or Parish, are to convey them to the house of correction of that limit wherein that village is, or to the common Gaole,

Rogues.

there to remain and be imployed in work, till they shalbe placed in feruice for one whole yeare, or not being able of body, till such perfon shalbe placed in some Almeshouse of that county.

Cefol.6.

The rogue whose place of birth, or last dwelling cannot beknown, having wise and children under seven yeares of age, they must goe with the husband to the place where they were last wilfully suffered to passe without punishment; where the children must be relieued by the worke of their parents, though the parents be committed to the house of correction.

39.El.4. P.Vag.2. Now all these persons hereunder mentioned, being about the age of 7. yeres, and offending as hereunder is mentioned, shalbe adjudged rogues, or at least shalbe punished as rogues, viz.

I All persons about the age of seuen yeares, going about begging, vpon any pretence or colour whatsoener; year althought they be licenced by any subject, except it be in the cases hereafter mentioned.

2 All idle persons going about the countrie, either vsing any subtil craft, or vnlawfull games, or being fortune tellers, or luglers, or vsing any other like crafty science.

3 All Procters, Patent gatherers, or Collectors for prisons or

ho/pitals.

4 All Fencers, Bearewards, common Players of * Enterludes, and Minstrels wandring abroad.

5 All Pedlers, petic Chapmen, Tinkers, and * Glassemen wan-

dring abroad.

6 All wandring persons and common labourers, being able in body, vsing loitering, and refusing to worke for reasonable wages, not having living otherwise then by labor to maintaine themselves. And yet such persons as be of any parish, and have able bodies to worke, be no wanderers abroadout of the parish, though they refuse to worke at such wages as is taxed or commonly given in those parts, are not to bee sent to their place of birth or last dwelling, &c. but to the house of correction: see tit. Poore.

Refol 15.

7 Poore persons appointed to aske relief in the parish where they dwel, by the Ouerseers therof, if they shall beg in any other fort then is so appointed them; or shall beg by the high-ways, though in their owne parish. See 39. El.ca. 3. & Lamb. 427.

And yet fuch persons are not to be sent to their place of birth, or

out of the town, except it beto the house of correction.

So it seemeth of all other poore persons begging in the parish where they dwell (without the appointment of the ouerseers) they are to be sent to the house of correction.

8 All persons wandring, and precending themselves to bee L Egypti-

·Lava

Refolig.

39.El.4.

Egyptians, or wandering in the habit or forme of Egyptians not being felons.

9 Souldiers or mariners, that shall beg, (except as pag. 99.) or shall 43.El.3. counterfeit any certificat from their Generall, Gouernor, Captaine, Lieutenant, Marshall, Deputy, or Admirall. But Souldiers and Mariners, in divers like cases shall incur the danger of felony. See the title, Felonies by statute.

10 Poore difeafed or impotent persons, trauelling to the bathes 35-El-4for ease of their griefes, (and being licensed) yet if they beg; Or if fuch person bee not licensed by two lustices; Or shall not returne home againe, according as they are limited by their faid licence; Or thal not be prouided of necessary reliefe, &c. for their trauell; They thatbe punished as Rogues.

11 A Rogue that hath been punished according to this stat and P.Vag.3. hath a tellimoniall, if through his or her default they do not accomplish the order appointed by the said testimonial, then are they to be whipped againe as Rogues, and so as often as any default shall be found in them &c.

12 A rogue &c. that shall go with a generall pasport, se. which is Resolution not directed from parish to parish, is stil to continue a rogue, & may be punished by whipping againe.

So also may such a rogue, as shall carry his owne pasport without a guide; For by the letter of the flat they are to be fent fe. conueyed from parish to parish by the officers of enery the same.

13 Seruants departing out of feruice, (/c.forth of one city, town, 5.El.4. or parilh, to another, or out of one hundred, or county, to serue in P. Labor 9. another) without a testimoniall, &c. or which shalbe taken with any counterfeit or forged testimonial, shalbe whipped as vagabonds.

14 Persons infected, or dwelling in houses infected with the P. plag. 4. plague, that contrary to the commandment of any officer, shall wilfully go abroad, and converse in company, shalbe punished as vaga-

15 So all persons being able to labour, & therby to relieue them- 7-lac.4felues and their families, that shalrun away, or threaten to run away and leave their charge to the parish &c.

No childe under the age of feuen yeares, shall bee adjudged a 39.El.4. Rogue(within the statute of 39. Eliz. 4.) But it seemeth, such chil-P. Vag. 1. dren being vagarant, must be sent to, and placed with the father, or husband of the wife, and if he be dead, then with the mother, (where the wasborne, or last dwelt by the space of one yeare:) And fuch children once thus fetled or placed, must there remaine, and not bee fent from thence to their place of birth, though after the parents die, or runne away, or that the faid children grow about the

age of 7. yeres, yea, and though the faid children after beg and proue vagrantin the towne, for there they must be set to labour. See Refol.

Roques.

Children about 7. yeres of age, going abroad vagrant, or begging 39.Eliz.4. Refol.4. in the country, shalbe punished as rogues, and sent to their place of

The wife being a vagrant Rogue, must be sent to her husband, Wife. Refol 5. though he be but a fernant in another town.

If the husband or wife haue a house (though as an Inmate) and Refol.3. either of them rogue about, they are to be fent to the towne where that houseis.

> No man is to be put out of the town where he dwelleth, nor to be fent to their place of birth, or last habitation, but onely a vagrant rogue, se. such as wander abroad in the country, a not such as are vagrant, or do beg, in the same towne where they dwell.

Such as their estates of their houses be expired. & servants whose time of service is ended, they shal not be put out of the towns where they last dwelt, or scrued, &c. Vide tit. Poore.

The lu. of P. (dwelling in or neere the place where any Seafaring Who may beg P.Vag. 14. man fuffering shipwrecke, shall land) may make a restimonial vnder his hand to fuch person (not having wherwith to relieve himselfe in his travel homewards) fetting down in such testimoniall, the place, and time, where & when he landed, & the place of his birth or dwel- fering flipling vnto which he is to passe, limiting him therin a convenient time for his passage; which person (without the danger of this law) in his direct passage, & within his time in such his testimonial limited, may aske and receive necessary reliefe.

The Iu. of P.in or neere the place where any poore, idle and wan-Souldiers dring fouldier or mariner (comming from the feas, or from beyond & e.from fea. the feas) doth land, ought vpon request, to give him atestimonial vnder his hand, licenting him thereby to passe the next and direct way to the place whither he is to repaire, expressing therein the time and place of fuch his landing, with the place of his dwelling, or birth, to which he is to passe, and to limit him a convenient time for his pasfage thither; and fuch person pursuing such licence, may aske and

receine necessary reliefe, without the danger of law. But now quare of these persons, and see infra.

Also one lustice of Peace, (or the Constable, with the Minister, Rosnes whipand one other of the parish) after the whipping of a Rogue according to this statute, may make the said Rogue a Testimonial vnder their hand and feale, for the conveying of fuch Rogue according to this statute: And such Rogue pursuing such Testimoniall, may (as it seemeth) by the direction of the Officers of enery parish where he commeth, aske and receine necessary reliefe; yet quare,

Children.

Two Inflices.

for feeing they are to be conneied from parish to parish by the officers/fesheconstables) of the same it seemeth more requisit, that such rogue be relieued according to his need, by the constable of every fuch parish (yet at the towne charge) or not to be suffered to go beg-

ging through the towne.

And as for the Souldier or Mariner (especially such as are sicke, 43. El.3. hurt, or maimed) they now are viually, or may be, relicued with P.Capt. 10. money by the Treasurors of enery County where they come, videlicet, with fuch convenient fummes, as may carry them to the next County, and this is by a latter Law, And therefore now it may seeme vnfit, that either the Constable should relieue them, or fuffer them to beg or aske reliefe in their townes, for fo the country shall be double charged towards their reliefe, fez, in paying to the Treasurer towards their reliefe, and againe in giving them at home at their doores.

So that I do not find, that any one or more luft of P.may or can in any case licence any man to beg, or aske reliefe at all; but onely may make a Testimonial or Licence in the three former cases, and fome few other, to passe from place to place; And yet in those three cases only, the Law tollerateth them to aske & receive necessary reliefe, as aforefaid. For I observed before, that poore diseased persons 39,EI4. trauelling to the Baths (though licenced by two luft of P.) yet they might not beg, & belides must be provided of maintenance for their trauel. See more in this title before.

Likewise poore prisoners delivered out of gaoles, may in no wife

beg.ftat.29.El.ca.4.

Tobserue further, that (by the stat. 29. El.c. 3. thought it be now expired) no person whatsoever, might go wandring abroad and beg. in any place wherefocuer by licence or without vpon pain to be iaken as a Rogue.

And therfore quere, of fuch briefs & licences as lately have vival- Refol.13. ly come from or in the name of the lord major of London, licensing poore persons to trauell, & to aske or beg reliefe in their trauell, and by generall pasports, not directing them from parish to parish. See more in this title after pag.feq.

And yet any one Iu. of P. may licence labourers in hay and haruest 5.El.4. time, to palle from one countrey to another to worke; but not to

wander, or beg : See the title Labourers.

And fo, any two lu. of P. may make a testimoniall to servingmen, P. Labor 7. (or other feruants, as it feemeth) departing from their mafters; but fuch persons under colour thereof may not wander up and downe idly, nor beg: fee the title Labourers.

Any two luftices of P. of the limit where any incorrigible rogue 39.El4. shall be taken (the one being of the Quorum) may commit such P.Vag-4-

rogue to the house of correction, or to the gaole, there to remain vntil the next quarter Sellions of the peace; and there to be dealt withall according to the stat. 1. Iac.ca.7.

Roques.

39 El 4.

Refol 1.

Refol.2.

P.Vag.4.11 Now these incorrigible rogues be such as shall either appeare to be dangerous to the inferiour fort of people; or fuch as wil not be reformed of their roguilh kind of life.

Of the first fort are such as shall offer any violence, or shall yee anythreatning speeches, or other like misdemeanors towards any person.

Of the other fort feeme these which follow, and such like.

1 Such as having had punishment, and thereupon sent to their place of birth, &c. and there fetled according to the law, shall not-

withstanding fall to their roguish life againe.

2 A Roguethat affirmeth that he was borne in such a towne, in fuch a county, and is fent thither, if he were not borne there in truth, he is to be said an incorrigible rogue, and is to be sent thence (by two fuch Iuft, as aforefaid) to the house of correction in that county, and if there be none, then to the gaole, vntil the next sessions, there to be dealt withall according to the statute.

3 The same course is to be observed (if it appeare not where he was borne) if he vntruly affirme that he was last dwelling in such a towne & county, by the space of a yere, and was not.

7.120-4.

All persons being able to labour, & therby to relieue themselues and their families, that shal run away out of their parishes, and leaue their families or children, to the parish, shalbe deemed and punished as incorrigible rogues.

Also all persons being able to labour, as a foresaid, that shall threaten to run away, and leaue their families, as aforefaid, it being proued by two fufficient witnesses vpon oath, before any two Iust of P. of that divilion, shall be sent by the faid Instices to the house of correction, there to be dealt withall as flurdy and wandring rogues &c. vileffe fuch persons shall put in sufficient sureties for the discharge of the parish.

39.Eliz.4.

All fuch persons as shall in any wife disturbe, or hinder the execution of the law, made 39. Eliz.ca. 4. or any part thereof, concerning the punishment, and conveying of rogues; Or shall make rescous against any officer or person authorized for the execution of this statute, shall forfeit for every such offence v.li. & shall be bound to the good behaulour; and any two lu. of P.may bind fuch offendors to the good behauior, and may also by warrant under their hands and feales cause to by distresse and sale of the offendors goods, the said fumme of v.li.vpon the confession of the offendors, or vpon the testimony of sufficient witnesses, before the said Justices of such offence.

L 3

Within

Within the compasse of which words and star. seeme to be these offendors and offences which follow.

1 To fend rogues by a generall pasport, without conucying them Refol. 13. from parish to parish, is a let to the conveying of rogues according to the flat & so a forfeit of y.li. vpon them that shallo send them (& they are to be bound to the good behaviour.)

2 Note that all Rogues are to bee conveyed to their place of Refolira. birth &c. by the Constables of every parish (fez. from Constable to Constable, the next straight way) And therfore if the Officer, (fc. the Constable) of any parish will not receive a Rogue, to convey him to the place where he was borne (or dwelt) this is a forfeiture of fine pound in such Officer, that shall not receive the party to convey him, or her, and he is to be bound as aforesaid, to his good behaulour.

3. So it feemeth, if the Constable or other person which shall convey a roque towards his place of birth &c.if he shall not deliver him to the Constable of the next parish.

4 If any be sent to a towne whereto he ought to be sent, and is Research refused, being a sturdy, or an impotent rogue, the persons so refufing, shall forfeit flue pound, and may be bound to the good behauiour.

Note that he that is so to be sent, is to be delivered or offered to Resolution the Churchwardens & ouerseers, & if they shall refuse him, they shall forfeit 5.li.as aforesaid.

Alfo any two Iu. of P. (by warrant under their hands & scales) may: 39.El.41 eause to be leuied by diffres and sale of the offendors goods, all fines and forfeitures appointed, or to grow by this act of 39. Eliz. 4. or by 1. Inc. 7. the star. of 1. Iac cap. 7. by conviction of any person, for any offence hereunder mentioned: (But such conuiction must be, either by confession of the offendor, or by the testimony of two sufficient witnesfes before the faid luft.) as namely:

I The Minister which shall not keepe a Register booke, & therin P. Vag. 3. enter the substance of enery testimonial made for the conneying of Rogues (punished in his parish) shall forfeit for every default five shillings.

2 The Constable which shall not dochis best indeauour for 19.El.4. the apprehending, punishing, and conveying of all rogues which shalbe found in their parish, shall forfeit for euery such default, ten

3. The Constable which shall not cause to be punished, and to be conveyed (according to the statiof 30.El.4.) all such rogues, as shall P.Yag., 1. be brought or sent to him, by any of his neighbours, shalf or seit for enery fuch default 20.5,

Note that the Constable is to execute the said punishment, of

whipping of rogues, either himfelf, or by fome other by his procurement : fec to the like purpose in the title Trespasse.

Roques.

4 Euery person shall apprehend, or cause to becapprehended 1.lac.7. P 5 fuch rogues as he shall fee or know to refore to his house to beg or receive any almes, and him or them shal carry or cause to be carried to the next Constable, or else shall forfeit for every such default ten

> 5 Euery person that shal willingly bring or conuey in any vessel. out of Ireland, or the Isle of Man, into this realme, any rogue, or any fuch as shalbe like to live by begging &c.shall for feit for every such person so broughouer 20.3.

> All(or the most part of) which fines and for feitures appointed or to grow by these acts (39.El.4. & 1.146.7.) are to be imployed to the maintenance of the houles of correction, or reliefe of the poore, where the offence shalbe committed, at the discretion of any two Iu. of P. (as it feemeth) of the same limit.

Note that any two Iuflices of peace (whereof one to bee of the quorum) have power to heare and determine all causes that shall P.Vag.ra. grow or come in queltion by reason of the stat. made for the puniihment of rogues. 39.El.4.

Any two lu. of P, may licence diseased persons to trauell to Bath or Buxton, for the ease of their griefs; so as they be provided for necellary maintenance for the time of all their trauell &c. but they may not beg. See hereof more in this title before.

The lustices of peace(or the more part of them) within their diuisions, twice in every yeare at the least, shall meet for the execution of the flatut 7. Inc. 4. against rogues and vagabonds: And some foure or fine daies before their meeting, they (hall by their warrants command the Constables of every hundred, towne, and parish &c. within their feuerall diuisions, to make a general priny fearth in one night for the apprehending of all rogues and wandring & idle perfons, to be brought before them at their faid meeting, there to be examined of their idle life, and there to be punished: or otherwise by Warrant of fuch Inflices to bee fent to the house of correction within the faid County: which fending to the house of correction shall be by the faid Constables who apprehended them (yet at the charge of the Hundred.) But by whom they shall bee punished or whipped, quare, it feemeth by the officers of the towne where the luftices to fit or meet; and thereupon to be fent to their place of birth &c.

Also at the same meeting, the Constables of every Hundred and Parilli are to appeare before the faid Tuffices, and there shall give an account (vpon oath) in writing, and under the hand of the minister of enery parish, what rogues they have apprehended as well in the

39.El.4.

39.El.4.

1.lac.7.

P.11.

7.Tac-4.

same search, as also between enery such their meetings, & how many they have punished, or conveyed to the house of correction.

Also the said Instices at their said meetings, may assessed reasonable 7. Lac. 4. fines (being not about 40.5.) vponany the constables, as welfor their neglecting to performe this feruice, fr. in not appearing, or giving accompt, as aforesaid, as also for their neglecting the safe conveying of rogues, and other idle & disorderly persons, sent to the house of correction by warrant from the faid luftices of P. which convey of fuch persons to the house of correction, must be at the charge of the hundred as is aforefaid.

Also the said lustices at their said meetings, may deliver such per- 7-146-4fons as they have formerly fent to the house of correction, from such their meetings.

Robberie.

One Infliee. A Free a Robbery committed, the party robbed shall not have his action upon the stat. against the hundred, except he shall with all P. Huy and fpeed convenient, give notice of the faid robbery, to some of the in- Cty Liahabitants, neere to the place, where such robbery was committed: Co.7.7. And also except hee shall commence his suit or action within one yere next after fuch robbery committed: And also except hee shall first be examined voon his oath (within 20, daies next before such action brought) by some one Iu of P (of the county where the robbery was committed) dwelling within, or neere to the faid hundred, where the robbery was done, whether he doth know the parties that comitted the faid robbery, or any of them: and if he knoweth any of them, then also (before such action brought) he shalbe bound before the same Iu. by sufficient recognisance, to prosecute effectually the faid offendors, by indictment, or otherwise according to the due course of law.

After a robbery committed, the whole hundred must aunswere 27.EL 32. the losse, if the robbers be not taken within forty daies: And yet for Cry 4.5. that the party robbed hath his recovery and execution against some one or few persons of that hundred, therfore for a contribution to bee yeelded from the relidue of the faid hundred, vpon complaint made by the parties against whom such recourry and execution is had; Any two Iu of P. (the one being of the quorum) being of the fame county, and inhabiting in or neere the same hundred where fuch execution shalbe had, may affeste & taxe according to their discretions, proportionably, all and every the townes and parilhes &c. Aswell of the same hundred (where the said robbery was committed) as also of the liberties within the said hundred, towards an equal contribution to be had for the reliefe of the parties charged: The which mony the Constables of enery town shall leuy, and deliner

ouer to the same lustices, or to one of them, within ten daies after collection: And which the faid Iustices shall deliver ouer (vponrequest) to the parties charged, to whose vse the same was collected.

The like taxation, affellement, leuying and paiment, shall be had and made for a contribution within enery hundred, where there was any negligence, fault, or defect of pursuit, & fresh suit after Huy and Cry, viz. if vpon luit any recovery and execution of any mony, or any damages shall be had against some one or few persons of that P.Huy and hundred, where such default was (towards the ease of the hundred, where the robbery was done) vpon complaint made by the parties so charged, to any two such Iustices of Peace; The said suffices may make the like assessent &c. towards the reliefe of the said parties fo charged.

Note that if any man be robbed in his house, the hundred shal not Co.7.6. be charged therwith, whether it were done in the day, or in the night. Coabid.

Also a robbery done in the night, shall not charge the hundred: but yet if it be in the day time, or by day light, though it be before Sunne riling, or after the Sun letting, the hundred that answer for it.

If vpon pursuit any one of the offendours be apprehended, the P.Hay &c.7 hundred shall not be charged, although the residue of the offendors happen to escape, (but pursuit without apprehending some of the robbers, is no excuse.)

Crompary If the party that was robbed shall himself take any of the thecues, after Huy and Cry made, this shall excuse the hundred.

It seemeth by my Lord Dyer an. 22. El, that the star is satisfied, if the names of the offendors be discryed; so that they may be indited and outlawed; quareinde, for the words of the statuts of 13. Ed. 1.& 28.Ed.3. are, that the country must aunswere for the bodies of such offendors. Winch. 13. Ed. 1 ca. 2. de flat. 28. E. 3 ca. 11.

Nota, the party robbed, must bring his action within xx.daies next after his examination taken before the Iustice of peace.

Alforhe Iu. of P. must be abiding within the country, at the time of fuch examination taken by him as it feemeth. See the title Justices of Peace.

If a man be robbed in Middlesex, and maketh huy and cry freshly into Essex, if the townes adiopning do not according to the state of Winchester, the party robbed may have his action of debt, in the one county, or the other by Fincham. 15. Ed. 4.18. Br. Deste 104.

High-waies leading from one market towne to another, thalf be inlarged, so that there be neither dike, vnderwood, nor bush, whereby a man may lurke to do hurt, within menty foot of the one fide, x two fundant and of the other; And if by default of the Lord that will not amend the waies as aforesaid, any robberies be done therein, the lord shalbe answerable for the robbery: And if a Park be neere the high-

way, the Lord must let his parke 200. foot of each side from the way. as aforefaid; or else must make such a wall, dike, hedge (or pale) that fuch offendors may not passe to & fro there, Winch. 13. Ed. 1.cap. 5.

And every Iu. of P. may cause such highwaies to be inlarged and clensed as aforesaid; See hie antea tit High-waies.

Sacraments.

Three Inft.

118



T feemeth that three Iustices of the Peace (one of t.Ed.6.1. them being of the quorum) may out of the generall P.Iu.R. Seffions, take information and acculation (by the oathes of two honest persons) against such as shall depraue, or vnreuerently speake of the Sacrament of the body & bloud of our Lord and Saujour Ie-

fus Christ, against the stat. &c. And may bind the accusers (and such other witnesses as were by) by recognisance (in 5.li.a peece) to gine in euidence at the day of trial: But M, Lamb. maketh a quare hereof. Lamb. 352.

Sewers.

Six Inflices. Six Inflices of Peace in the shire where any lawes and ordinances of Sewers are to be executed, (two being of the quorum) within 13.El.g. their limits, may execute the faid Lawes and Ordinances of the Pile. Commissioners of Sewers, for one yeare after the expiration of any fuch Commission, except a new Commission be published in the meane time.

Note that the proceedings of the Commissioners of Sewers, Co.5.100. ought to be limited and bounded with the rules of law, and reason, & 10.128. And according to the auncient flatutes and ordinances. See the title 140. Inft. of Peace.

Now these ancient statutes concerning Sewers, are many, and are of three forts:

The first fort consist in defending, & repairing of the wals, banks, and sewers &c. of this fort are the statutes made 9.H.3.cap.15.6 16. 6.H.6.cap.5. 18.H.6.ca.10. 23.H.6.ca.9. 12.Ed.4.ca.6. 4.H.7.cap.1. & 6.H.S.ca.10.

The fecond fort confift in pulling downe, and removing Nufances &c.as the statutes made, 9. H. 3. ca. 23. 25. Ed. 3.4. 45. E. 3.2. 1. H. 4.12.9.H.G.ca.9. & 12.Ed.4.ca.7.

The third confisteth of both forts, se aswel in repairing the banks &c. as in pulling downe nulances &c. And of this fort are these statutes following, viz. 23. H.8.cap. 5. 25. H.8.cap. 10. 3. Ed. 6.cap. 8. 13. Eliz.cap.9.

The forme of the Commission of Sewers, as also the forme of

their oath, you may fee at large, in the stat. 23. H. S. cap. 5. & P. 2.4.

Sewers.

Note that the King, by the Common Law, may award his Commillion of Sewers, for the amending of the fea banks, and for the repairing, amending and scowring of other bankes, sewers, gutters, ditches, pits, and trenches; so as the fresh waters may have their direct courfe. Fitz. N.B. 113.4. And fee there the form of that commif-

fion, and the proceedings thereupon.

These Commissioners cannot make any new great river, neither Co.to.141. can they make new inventions (as artificiall mils, to cast out the waters, or fuch like,) But fuch new rivers, and new inventions (if they be for the publique good) ought to be made by parliament: And yet the making new of an ancient bank or sewer in a place more fit, and with some little alteration and distance, and vpon necessity, seemeth to be warrantable.

> These Commissioners cannot cast downeany milles, causies, or stankes, &c. creeted before the time of Ed.1. but onely may cause them to be abated, if they be raifed about their auncient hights. Co. 10.138.

> These Commissioners ought to taxe none towards these reparations &c. but fuch as have prejudice by the nulances or defaults, And which have benefit by the amending or removing of them. Co. 10.142.

Also these Commissioners ought to taxe all that be in danneer Contains to be indammaged by the not repairing &c. (and that according to their land &c.) And not to taxe him onely whose grounds lye next adjoyning to the river &c. for Qui fentit comodum, fentire debet Er onus.

Note that in all cases of taxing or rating by these commissioners. Co.9.114.4. it ought to be proportionable, & according to the quality, and yerely value (of their lands, tenements, rents, commons, & filhings) and not according to the quantity, or content thereof.

Againe if the owner of any land be bound by prescription or otherwise, to repaire the banke of a river, wal, or sewer, &c. he ought to do it : yet if he be not able to repaire it; or that there be other ineuttable necessity; or that there was no default in the party, but that the banks or wal &c. are broken, or overflown by tempeft, or vnufual ouerflowing of waters, or the like (which be the act & handy work of God, and which no prouidence or industry of him that is bound to the reparations, could preuent) In these cases the Commissioners ought notto charge him only (with the whole) but may & (in good discretion) ought, to charge & taxe all such as have any lands (or other profits) there, in danger, or subject to losse, according to their lands &c.

But when one is bound by prescription, or otherwise, to repaire a

banke or wall &c. if there be any default in him, and the danger not ineuitable, but that he alone may well repaire it, the commissioners may there charge him only to repaire this: and if by his default the danger become ineuitable, or that (by his default) he alone is not able to repaire it, whereby others are charged as aforefaid, enery of them may have their action of the case against him &c. and shall recover their damages, according to their losse.

Also where a man hath lands lying between the sea, the river of Thames, or any other river, & his neighbours grounds, and is bound by prescription, or otherwise, to make, or keepe certain banks, or to fcoure certain dirches, or fewers, between his faid neighbour, and the faid river or fea, & doth not make, keep, amend, & scoure the same, as he ought to do, by reason wherof his neighbors grounds are drowned, the party fo indamaged that have his action of the cafe against the other so making default &c. see Fitz. N.B.03.g.& 7.H.4.8.& 41.

Alfo these taxations ought to be perticular, fc. vpon enery seuerall Co. to. 139. owner, or occupyer of lands, tenements, rents, commons, and fishings &c. And not to be a generall summe ingrosse, vpon a whole

town.See more here, after.

Sherifes.

One Inflice.

He Cuftos Rotul. or the eldest Iust. of the quorum (in his absence) 11.H.7.15. oughtatthe generall fessions after Michaelmas, to appoint two P. 16.18.20. Just of the P. (the one being of the quorum) to have the overlight and controlment of the sherife, under their officers and deputies, and of their bookes and amerciaments in their countie courts: And either of thele two lu. of P. (or any other luft of peace, a Lamb. 203 as some thinke) vpon complaint of the party grieued, may examine P.16. the sherife, vndersherife, thire-clerke, and plaintifes, concerning the taking, or entring of plaints in their faid county courts, and bookes against the stat.viz.

r First if any plaints shall be entred in their bookes, in any mans name, voles the party plaintife be either present in court in person, or by a sufficient and known atturney or deputy.

2 If that the plaintife find not pledges to pursue his said plaint, (see fuch persons as are known there in that county.)

3 If they shall enter more than one plaint, for one trespasse, or contract.

4 If they shall enter, or cause to be entred any moe plaints then the pl. supposeth he hath cause of action for against the defendant.

And if the faid luftices or luftice of peace upon his or their examination, shall find any such default in the faid sherife, vndersherife, or clerke, that shal shand for a sufficient conviction without any furtherinquirie, or examination; and they shall forfeit vpon the same examination forty shillings to the King and Informer, for everie default default, the same to be recourred in the Exchequer : And the same Iustice shall certifie his faid examination into the Exchequer within a quarter of a yeare, vpon paine of xl.s.

Sewers.

Also the said Instice of peace may examin the defaults of the Bai-11.H7.15. liffe of the Hundred, for not warning of the defendants (in such plaints) to appeare, according to his precepts (from the sheriffe, or vnder-sheriffe) And if vpon examination, the Iustice shall find anie default in such bayliffe, in not warning the def. to appeare, or otherwife in executing their faid office, that shall stand for a sufficient conuiction; and the laid bayliffe thereur on shall forfeit for cuerie such default xl.s. the fame examinations to be certified into the Exchequer as aforefaid.

Sheriffes &c. Thall make no eftreats to leuie their faid shire amerciaments, vntill the faid two Iustices hauchad the view and ouer light Two Iustices, of their books: And their said estreats shall be made by Indentures betweene the said Iustices, and the said sheriffe and under sheriffe, and sealed with their seales, and the one part to remaine with the said Iuflices, and the other part with the sheriffe.

The collectors of the faid amerciaments shall be sworne by the faid lustices, that they shall not take more money then is forfeited, and conteyned in their faid estreats, sealed by the lustices as aforefaid.

Alfothe faid Iustices of Peace, or any one of them, may exa- One Instice. mine the defaults of the faid Collectors, Bayliffes, and other gatherers of the sheriffes amerciaments; whether they have taken or gathered any more money then is forfeited and contained in their estreats (séaled with the seales of two Iustices of peace as aforefaid:) And if vpon examination the Iustices, or Iustice shall finde any such default, That also without further enquirie shall stand for a sufficient conviction, And the said Collectors, Baylisses, or other gatherers of such amerciaments, thereupon shall forfeit for cuerie default fortie shillings, The faid examination also (whether it be by one or two Iustices) is to be certified into the Exchequer as aforesaid.

Also the said Iustices of peace upon suggestion or information of Two Inflices. 11.H.3-15 the partie grieued, shall make like processe, as in an action of trespas Lambe. 349 against the faid sheriffe, under their ffe, and other their officers (offending in any the perticulars as aforefaid) for to appeare before them to answer the said suggestion or information: See what the Proces is, in the title Proces.

The Custos Rotulorum, or any two Instices of the peace (the one 27.Eliz. 14. being of the Quorum) may take the Oaths of the vinder-sheriffe of their countie, his Bayliffes, Deputies, Clerkes, and other officers, before they shall exercise their faid offices, fex.

The

5 The Oath of the Supremacie.

The Oath for the true exercifing of their office.

See the forme of this Oath flat. 27. Eliz. P. 32.

27 Eli c.11.

But speciall Bayliffes made for the serving of processe are not to Crom. 67.6 be sworne by this statute.

Souldier.

One Inflice. To Verie Iustice of peace of the Countie where any Souldier, which 2, Ed. 6.2. hath ferued the king in his warres, shall be found, which hath P.Capi 1.2, fold, given, purloined, or puraway &c, any horse or harneis (where-11.1ud.s+ with he was fet forth, or which was after appointed to him by the Lieutenant or Captaine &c.) vpon complaint and due proofe of the offence to be made (by the owner, his executors, or administrators) to any fuch lustice, shall by the said Iustice be committed to ward, there to remaine without baile, vntill he hath satisfied the partie grieued, his executors or administrators, for such horse, or harneis, &c. vnleile he doe bring with him before the fame lustice sufficient testimonie from his Captaine &c, in writing under their feale, testifying that the faid horse or harneis &c, was lost in the kings sernice against the will of that fouldier; or was taken by his Captain &c, from him, and appointed to some other to serue withall (except the same souldier were imprisoned for the same offence before, by his Lieutenant or Captaine &c.and made restitution.)

The next lustice of peace to the place of landing of any poore 39.El. 4.17. fouldier, mariner, or feafaring man, fuffering shipwracke, may make them a licence to passe to the place where they are to repaire &c. See

here in the title Rognes.

In default of the Parishioners, Churchwardens, and Constables (that shall not assess the raxe imposed upon the Parishioners, by the P.Capt 17. Justices at their Easter Sessions, towards the reliefe of disabled souldiers and mariners) Any Iust. of peace dwelling in that parish, or (if none dwell there) in the parts next adioyning, may affeile the fame; and the same Iust. of P. may also in default of the Churchwardens and Conttables, leuie the same by distresse and sale of the goods of the partie for refuling or neglecting, rendring to the partie the ouerplus&c.

If anie poore souldier or mariner, comming from, or beyond 39.Eliz. 17. the seas, shall repaire to his place of birth &c. and cannot there P.Mar.s. get worke, Then vpon his complaint, anie two Inflices of peace neere the faid place, shall take order (by their discretion) to set him to worke; and for want of worke, the faid Inflices shall taxethe whole Hundred (by their differetion) for his reliefe, till sufficient worke may be had.

Stocke of the Shire.

IN default of the Parishioners, Churchwardens, and Constables One Inflice. I (that shall not assess the taxe imposed upon the parishioners, by Towhat week the Iustices attheir Easter Sessions, towards the reliefe of the priso-thes must bee ners in the Kings Bench and Marshalley; and of the Hospitals of imployed, that countie, and of losses by fire, water, and other casualties, and reliefe of the poore within that countie,) Any Iustice of peace dwelling in that parish, or (if none dwell there) in the parts next adioyning, may affesse the same : And the same lustice, or any other lust of Prof that limit (in the default of the Churchwardens, & Constables) may leuie the same by distresse, and sale of the goods of the partie, refuling or neglecting to pay his partthereof, rendring to the partie the ouerplus: And in default of fuch distresse, any Just of P. of that limit may commit such person to prison, there to remaine without baile, till he hath payed the same.

Now in these, and other rates and taxations, you shall obserue

these rules following:

I First, that the most reasonable rating of land, is by the yearely value, and qualitie thereof, and not by the quantitie or content.

See heere

Co.9.24.

2 He that occupieth (in his ownehands) lands lying in feuerall Co.5.67. parishes, shall be charged in euery parish proportionably for his lands there.

The Fermour shall be rated for the lands, and not the Lessor, Co. 5.67.

or Land-lord.

4 A man shall not be rated or taxed for his Fermerents, in as much as the Fermour or occupier of the land is chargeable for the fameland. So where my Fermour is affeffed by his goods, I ought not to be affessed for my rent of the same ferme. Br. Quinz. 2.4. 7.H. 4.33.6 11.H.4.35.

By goods in most cases a man may be rated (as well as by

lands) but not both by goods and lands, as it seemeth.

The like you may fee in divers Acts of Subsidies, wherein there is viually a speciall Prouiso, that no person shall be taxed both for his lands and goods, Nor doublerated: feethe Acts of Sublidies, Anno 7. Iacobi Regis. Et Annis 27.29.31.35.39.6 43. Eliz. And yet see 44.E.3. Br. Customes 6. where a taxe of ten pound was made by the parishioners for the amending of their Church, and was taxed to be leuted of cuery plow land fix pence, and of euery Cow one peny, and of euerieten sheepe ob and I.S. for his Land, Cowes, and Sheep, was rated at ix.s. & was distrained for the same, And vpon a Repleuin by I.S. sued, no Exception was taken to the maner of rate imposed vpon I.S.But notethat the said taxe was made by consent, Et omnis confensus tollit errorem. Co.5.36 & 40. Note

Stocke

Note, where a man is charged by goods, they must be bona Notabilia, as it feemeth: And yet to the Subfidie men are rated not onely former Acts of Subfidies. by their stocke of Merchandise, or Cattell, Corne, Houshold-stuffe, and other moueable goods which are Notabilia, but also by their coyne, and debts owing to them (deducting fuch debts as they owe to others, and such debts as be desperate): But there the partie ouerrated, vpon his complaint to the Commissioners, and his oath taken

before them, that his goods, coyne, or debts be not of fuch value, (which oath the faid Commissioners are authorised to take by the faid statutes) the said Comissioners may abate the said affessements, according as vpon such examination thall appeare to them inft. See the afore recited Acts of Subfidies.

Also for goods, a man shall be charged only in that towns where the goods be at the time of the affestement, Quinz. 4.6 6. See the statute 9.H.4.cap.7.

And if a man be affested for his goods in D. when as he hath no goods there, and be distrained for such assessment, he may have an action of trespasse, B. Quinz. 3.6 4.

The Constables (or other Officers) and greater part of the Parishioners (vpon a generall warning given in the Church) may affemble and make such taxations by law. See Coke 5.67.

The like may be done by the Churchwardens, and the greater part of the parishioners, for Church charges.

And if the greater part of the Parishioners will not meete vpon fuch warning given, it feemeth, the officers, and fuch of the parishioners as will meete, may make fuch taxations.

Note, that such taxations being made for a Common wealth, as for the making or amending of a Bridge, High-way, Cawley, Seabanke, or the like, they shall binde all persons (although they assent not) 44.E.3.18.19. Br. Customes 6.

And so of taxations made to repaire the Church, or for other common towne charges (as it feemeth), where fuch taxations are made by the greater part of the parishioners, as aforesaid. See Co.5. 67.621.H.7. fol. 20.b. 8.E.1. Fitz. aff. 412.

If a townelhip be amerced, and the neighbours doe (by affent) afselle a certaine summe voon cuery inhabitant, and doe agree that I. S. shall gather it vp, and that if it be not paid by such a day, that I.S. shall distreine for the same, In such case a distresse taken by I. S. (for fuch Rates behinde) is good. Br. Cuft. 6. Doct & Stud. 74 b.

Subsidie.

IF any person that ought to be set to the Subsidie, do by his craft or couin escape the taxation, and that be proued before two Just of peace of that countie; then shall he be charged at the double value

of so much as he ought to have beene taxed at, and shall further be punished at the discretions of the said Justices, 7. IAE. Reg. and diverse

Transportation.

P.Juff. 17.



T should seeme by the words of the statute, that any One Justice. one Iustice of peace may enquire of, heare, and determine (as also may examine the mariners, and eueric other person) of all and singular the offendors against the Act 1.62.P. & M. prouided for the re-

strayning of carrying Corne, Beere, Butter, Cheese, Herring, and Wood beyond the Sea, but quare.

Yet note that euerie man may transport corne, it being at these prises following (except it be prohibited by Proclamation) foz.

3.lac.25. P. Corne 6.

a.xxvj.s. viij.d. Wheate Rye, and Peale Sthe quarter 8 xv.s.
Barley, and Mault

Also every man may transportany Beer, when the price of a quarter of Mault exceeds not the summe of xvj.s.3. Iac.cap. 11.

And it is holden to be great pollicie, to prouide that come be alwayes of a reasonable and competent value, it being an assured meanes to encrease and aduance husbandrie and tillage (the auncientest of all trades and professions, and commanded by God to Adam, Gen. 3, 23. One of the greatest commodities of this Realme, and much respected and fauoured as well by the Common law, as also by the common affent of the King, the Lords Spirituall and Temporall, and by all the Commons in manie Parliaments, Co. 4. 39. See the flatures 17.R.2.cap.7. 4.H.6.cap.5. Et 1. & 2.Ph. & M.cap.5.

Tresposite.

ALI and euerie lewd and meane perfons, which shall vnlawfully cut, or take away any cornegrowing; or rob any Orchards or Gardens; or breake or cut any hedge, pale, raile, or fence; or digge, pull vp, or take away any fruit trees; or shal cut or spoile any woods, vnderwoods, pooles, or trees standing (not being felonie); And One Inflice. their procurers, or receivers knowing the fame, being thereof conuict, by confession of the partie, or by the testimonie of one sufficient witnesse voon oath, beforeany one lust, of P. (where the offence shall be committed, or the offendour apprehended) shall for the first fault, give the party wronged such recompence, and within such time.

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time, as by any one Iustice of peace (of the countie where such offence shall be done) shall be appointed: And if such offendor shall be thought (in the difference of the faid Inflice) not able, or doe not make satisfaction accordingly; then the said suffice shall commit the faid offendor to some Constable, or other inferior officer (where the offence shall be committed, or the offendor apprehended) to be whipped.

Alfo, it seemeth that for the second fault, and energe other offence, whereof such offendor shall be after connicted in forme aforesaid.

fuch offendor shall be whipped, as aforesaid, Ibid.

If any Constable, or inferiour officer, doerefule, or doe not, at the P. L. commandement of the luftice(by himfelfe, or fome other by him to be appointed) execute upon the offendor the punishment aforesaid, The faid Iuft of P. may commit fuch Conftable &c. to the common Gaole, there to remaine without bayle, vntill the faid offendor be by the faid Constable, or by some other by his procurement, whipped as aforesaid.

But no Inflice of P.shall execute this statute for any of the offen- P.3. ces aforesaid, done unto himselfe, unlesse he associated and assifled with one or moe other luft of Peace whom the offence doth not concerne.

Tythes.

Two luftices. T Wo luftices of the peace (the one being of the Quorum) vpon 17.H.8,10. complaint by any compotent Judge of Tythes, for any milde. P.luft, 104. meanor of the defendant in a fuit of Tythes, may cause him to be attached, and committed to ward, there to remaine without bayle, vntill he find fufficient fuerties (vnto the faid Justices) by Recognifance to the kings vie, to obey the proces and lentence of that ludge.

Also vpon complaint or certificat, in writing by any Ecclefiasticall ludge, that hath given definitive sentence in case of Tythes, a- Plusting. gainst one, which wilfully refuseth to pay the Tythes, or summes of money fo adjudged, two fuch Inflices of peace may cause the party to be attached, and committed to the next Gaole, there to remaine without baile, till he finde fuch fuertie (as aforefaid) to performe that fentence.

Tyle.

T feemeth by the words of the statute, That any one Instice of P. 17, Edd. 4. may enquire, heare, and determine (by examination, or otherwife, P.3.4. by their discretion) of all and singular the offences committed in Lamb. 1972 Tyle making, (sex.if they be not made good, and of earth well prepared, and also of due ashie in length, breadth, and thicknesse,) And may affesse the simitted by the same stat: And may call before

him such as hauebest knowledge in Tyle making, and appoint them searchers of the said defaults, but quere Lambert 197.

Watch. Watermen.

Watch.

1 3. Ed. 1 .

Jbin.



Verie Iustice of peace may cause night watch to be duely kept, for the arresting of persons suspect; and night-walkers be they strangers, or others that bee of easill same or behauiour: and this they may doe by sorce of the com-

mission, the first Assig. Lambert. 190.

This watch is to bee kept yearely from the feast of the Ascention, vntill Michaelmas, in euery towne, and shall continue all the night,

feilifet, from the Sunne fetting, to the Sunne rifing.

All such straungers, or persons suspected, as shall in the night E_1.cap.4. time passe by the watchmen (appointed thereto by the Towne, 5.E.3.i4. Constable, or other Officer) may be examined by the said watchmen, whence they come, and what they bee, and of their businesse &c. And if they finde cause of suspition, they shall stay them; and if fuch persons will not obey the rest of the watchmen, the saide watchmen shall leuie huy and cry, that the offendors may be taken; or else they may instific to beat them (for that they resist the peace and Iustice of the Realme) and may also set them in the stockes (for the same) vntill the morning; and then if no suspition bee found, the faid persons shall be let goe and quit: But if they finde cause of suspition, they shal forthwith deliuer the said persons to the Sheriste, who shall keepe them in prison untill they be duly delivered; or els the watchmen may deliner such persons to the Constable, and so to convey them to the Just of peace, by him to be examined, and to be bound ouer, or committed, untill the offendors be acquited in due manner. See more of watchin the title Felonie.

Watermen.

Very Iustice of peace (as it seemeth by the generall words of the Stat.) within the shires next adiopning to the river of Thames (betweene Grauesend and Windsor) within his seuerall iurisdiction, hath power (vpon complaint made to him by the Ouerseers & Ru-2.83.P.& Iers of the Watermen and Whirrymen, or two of them, or by the M. cap.16. Masters of any such servants) to examine heare and determine all P.Botem. 2. Masters of any such servants) to examine heare him that shall bee P.luft. 109. offences against the Statute: And to set at large him that shall bee Lambtacos imprisoned by such Ouerseers or Rulers according to this Act, (if there be just cause): And also by his discretion to punish those Ouerscers and Rulers, that shall vniustly punish any person, by colour of this Act.

The

The offences of Watermen against this Statute, are these:

1 No fingle man shall be a Waterman there vnlesse he be a P.Botem.4. house-keeper, or an apprentice, or reteined in seruice by the whole

2 One of the (two) Watermen, rowing together in one boat, P.ibid ; must be allowed by the most part of the eight Ouerseers, by writing vnder their scale; And must have vsed rowing there 2. years before.

3 Watermen shall not hide themselves in time of pressing for P. ibid. 6. the kings feruice &c.

Watermen shall not take for their fare and labour, about the P.ibid. prises affessed &c. and set vp in tables in Westminster Hall &c. But quare whether the Iust. of P. be to meddle in this; see the stat. at large.

Waxe.

L Verie Iustice of peace may examine, and fearch (by his discreti-Con) fuch as doe fell or fet forth to be fold any Candlesor other P. Waxe 8. works of Waxe at higher price then after the rate of iiij.d. the pound, P.luft. 42. ouer the common price of plaine Waxe, betweene Merchant and Merchant, and may punish them by forfeiture of the worke or value thereof, and by fine to the King.

Wine.

C Verie lustice of peace (as it seemeth by the words of the statute) within the precinct of his office, (at the request of any subject, to 24.H.8.6. whom deniall of sale shall be made of any Wine, and full payment P. Wine 4 therfore offered according to the prizes let down by the Lords &c.) may enter into the places where such Wine shall lie, and may sell and deliuer the same wine desired to be bought, to the person requiring to buy the same, taking the Buyers money towards the satisfa-Ction of the forfeiture,&c.

Wood.

"Wo Inflices of peace(not being of kindred, alliance, counsell, or fee, to the Lord or owner of a Wood) appointed by the more 35 H.8.17. part of the Iustices of peace at their Selsions, vpon complaint of the page Lord made vnto them, may divide and fet out the fourth part of the Wood, if the Lord and Commoners thereof (being first called before them) cannot agree vpon it.

Weights:

Wo Inflices of peace (the one being of the Quorum) may by 11.Hy. examination, or enquiry, heare and determine the faults of head P. Infl. 22. officers, in cities, boroughes, and market townes, That doe not twice cuerie yeare view and examine, all weights and measures in their COWNES

townes &c. And doe not breake and burne the defective.

Weights and Measures.

Also two such Iustices may (by examination, or enquirie) heare ibm. and determine the defaults of all buyers and fellers, which doe not Lamb. 344. buy and fell with weights and measures that be lawfull, (fez. with P.weighte, fuch as be marked and fealed, or like and equall with the Kings standard.) Also the said Iustices may breake and burne all desective weights and measures.

The faid luftices may fine all and euerie the offendours aforefaid P.Iuft.91. by their discretion, and may make Processe against them, as if they Ibidem & Lamb, 345. were indited of trespasse against the peace. For the Processe, see here-

of in the title, Processe.

Now for the readier direction of the Just of P. herein, I thought good to fet down the iust and certaine contents of all (or most forts of) weights and measures, that so they may the better judge what weights and measures be vulawfull, or defective, and what not.

By the Statute of Magna Charta, capit. 26. there shall be but one P.weights t Weight, one Measure, and one Yard, throughout the whole Realm, (fez.according to the Kings Standard in the Eschequer) and this statute of Magna Charta, hath fince herein beene confirmed by many feuerall Parliaments, viz. by the Statutes of 14.Ed.3.12.27.Ed.3.10 13.R.2.9. 8.H.6.5. 7.H.7.4. 11.H.7.4. and 12.H.7.5. as thereby appeareth.

And yet notwithstanding there alwayes hath beene, and still are Raft.s.diu. two kinds of weights vsed in England, and both warrantable; the one by law, the other by custome (as it seemeth), but they are for seuerall forts of wares or commodities; for there is Troy weight, and Auerdepois.

I Troy weight is by Law, and thereby are weighed Gold, Silucr, Raft.S.diu. Pearle, pretions Stones, Electuaries, Bread, Wheat, and all maner of graine, or corne is measured by Troy weight. And this hath to the pound xij.ounces, or xx.s. sterling weight.

2 Auerdepois weight is by custome (yet confirmed also by statute) and thereby are weighed all kind of Grocerie wares, Phylicall druggs, Butter, Checle, Fleth, Waxe, Pitch, Tarre, Tallow, Wools, 37.E.3.c.10 Hempe, Flaxe, Iron, Steele, Lead, and all other commodities not before named (as it seemeth), but especially every thing which beareth the name of Garbell, and wherofillieth a refuse or waste. See Raft. 8. fol. 527. and the Booke of Afife, impref. 1 597.

And this hath to the pound fixteene ounces, or xxv. s. sterling weight. Also in this Auerdepois weight, vnto euerie hundred is allowed twelue pound weight.

Also all manner of Auerdepois, shall bee weighed by lawfull 17.Ed.3.10. Weights, sealed according to the Standard of the Eschequer, P.Weights 14. Auer depois

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Averdepois
weight.

1 4.0 unces and an halfe, and 2. pence weight Troy doe make 16.0 unces of Averdepois.

7. Spounds, Averdepois, make the gallon, pintes, or pounds, Averdepois, make the peck, pounds, or pintes, Averdepois, make the bushell, so or pintes, Averdepois, make the bushell,
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Trey weight. Pints, or pounds. 5120 512 250 64 16 8 Measures of 2560|256|128| 32| 8 | 4 graine, accor-Quarts. ding to Troy 1280128 64 16 4 2 Pottles. weight. 640 64 32 8 2 1 Gallons. 320 32 16 4 1 Pecks. 8 4 1 Bushels. 80 20 | 2 | 1 | Ten quarters of Coombes. corneis a Last. 10 | 1 Quarters.

	Beere measures.	Ale measures.	
Pintes. Quarts. Pottles. Gallons. Firkens. Kilderkin Barrels.	288 44 72 8 4 2 1 4 72 36 4 2 1 36 18 9 1 4 2 1	250 128 64 8 128 64 32 4 64 32 16 2 32 16 8 1	Measures of Wheate,&c.

See for Corne, Beere, & Ale, more fully in that which followeth:

33. Wheate cornes taken in the midst of the care, weigheth j.d.sterling.

Twentie pencesterling maketh the ounce Troy.

12. Ounces maketh in weight j.li. Troy. measure, j. pinte.

Two pintes, or pounds, maketh the quart.

Two quarts maketh the pottle. 8.pints 2
4.quarts 2 maketh the Gallon. 2.pottles³ Eight quarts maketh the peck. 64 pintes 7 CBufhell. 32.quarts(maketh the 8. gallons Troy CFirkin. 4.pecks weight, 12. CKilderkin. Sixteene gallons. 3 maketh the 3 halfe Barrell. H.7.15.6 51.H.3. Two firkins. ^CRondlet. 256.pintes 128,quarts Coombe, 32.gallons maketh the 4.firkens ∠Barrell. 2.kilderkins 4.bushels 512.pintes 256.quarts CQuarter, 64.gallons maketh the 8.firkens CHogshead. 4.kilderkins 2.barrels 8.bufhels Pinte, and pound So the Firkin, and bushell are of like content.)Barrell, and coombe CHogshead, & quarter

Measures of Corne.

All kind of corne and graine, is measured by Troy weight.

By Statute, the Bushell must conteine eight gallons, or fixtie foure pounds or pintes of wheate, 31. Ed. 1. 12. H. 7.5. P. weight 12. Bushell. Rastal. 34. div.

And yet by the booke of Asile, imprinted Anno Dom. 1597. the Bushell is to containe 56 pounds or pintes of Auerdepois weight, (which is three pounds or three pintes, and eight ounces Troy more then the stat.or Troy weight.) For 56 pounds or pintes Auerdepois weight, and 67 pounds, 8 ounces Troy weight, doc in sty agree.

Also 8 bushels stricken, make the quarter of corne, 11. H.7.4.

Also euerie measure of corne shall be striked without heape, 25. E.

P.1.

34E.3.6.

3.10. And all Purueyances shall be by such measure.

Water

Bookeof

Assifes.

Two

Water measure (fold within shipboard) shall conteine fine pecks $_{P,g}$. (stricken) to the bushell.

No person shall buy or sell with a Bushell, except it be sealed, and P.9. marked by the officer, and according to the kings Standard.

But note, that in manie places and countries, the measure of corne doth much differ; and the bushell in one place, is greater then in another; and it feemeth, Confuetudo loci est observanda: see her catterin 9 11.6 fgc. this title. Tamen quare, for it is contrarie to the stat. of Magna Charta, 30 all pli 52 cap. 26. and divers other statutes, as you may see before in this title. And custome or prescription against a statute seemeth not good. See Br. Prescrip. 23, 50.

Bread.

For the Affile of Bread, I referre you to the bookes made for the affile thereof, and will fet you downe onely two or three observations therein.

1 All forts of bread ought to be weighed by Troy weight.

2 Post septem dies, panis non ponderetur.

3 The Bakers shall not sell to any victualler &c. to be retailed, but only thirteen peniworth for twelue pence, as well mans bread, as horsebread.

For the punishment of the Baker, for their vnlawful breads, quare whether they shall only be amerced &c, after inditement and conuiction of their faid offence; or that the Inflices of peace (or fworne officers in Leetes) may take away their vnlawfull bread, and give it amongst the poore, as officers in corporate townes are enabled to doe (as it feemeth) in the end of the booke of Affife, imprinted Ann. 1507. And all luftices of peace are there willed and required to be aiding and assisting to the said officers therein: But by the statute 51.H.3. Bakers, and Brewers, being connict for not observing the Affise, the first, second and third time, they shall be amerced according to the offence (if it be not over grievous) But if the offence be grieuous, or often, then shall they suffer punishment of the bodie, without redemption, fex. a Baker to the Pillorie, and the Brewer to the Tumbrell (now called the Cuckingstole as it seemeth by Master Lambt. 62.) Or to some other correction: See another statute concerning Bakers and Brewers and their punishments, and to the same effect, made incerto tempore cap. 2. or cap. 6. Poultons flatutes at large, fol.III.

Measures of Wine, Beere, and Ale, &c.

Wine, Stheir mea-Barrell, 31.&di. S Oyle, and Gure is all Hoghead, 63. sgallons, Honey: 126.2

18 H.6.17. P.Wine.13.

Yet for hony the affise is altered to 32 wine gallons the barrel, 16 gallons the kilderkin, &c. 23. El. 8. P. Wine 6. .cFirkin,9. Beere, the measure thereof, Kilderkin, 18. Sgallons. 23.M.8 4. P.Coopers, is as followeth, fe the CBarrell, 36. And so beere measure containeth in the barrel four gallons more than Wine, or any other veffell. Ale, the measure thereof is CFirkin,8. P.Coop.2. Kilderkin, 16. Sgallons. as followeth, fe.the Barrell, 32. Yet it seemeth by M. Cromp. that it was agreed by the Iu.that the Crom.94.b. measure of wine & ale should be all one; but now by the stat. of 1. 14. ca.9. Ale and Beere shalbe fold by retaile by one and the same mea-P.Alch.7. fure, so by the ale quart. Sope, the barrel, halfe barrel, & firkin, shalbe of the same content 27.H.S.4. that ale is, sethe barrel, 12 gallons or about, & the empty vessell not P.Sope I. to be in weight about 26 poud, the empty firkin not to weigh about 6.pound & a half, & to contain 8.gal.or aboue of ful & infl measure. Butter also shalbe of the same measure that sope is of. Cheefe: A weigh of cheefe must contain 32 cloues, & enery cloue Cheefe. Breights 7.li.of auerdepois weight: fee the stat. 9. H. 6.8. Raft. 28.diu. and the booke of affile imprinted 1597. And yet by the booke of affile, the weigh of Suff. cheese must containe 256.li. of Auerdepois weight: (and the barrell of butter is of like weight with the foilt:) But the weigh of Essex cheese or butter, is 200. li. weight, after the rate of 112 li.to the hundred, which is 336. li. of Auerdepois weight. Beefe, & other fleth are 16. ounces Auerdepois to the pound, and Flesh. 8. of them pounds to make the stone, except where the vsage of the country require more pounds to the stone. Booke of Asife. Herring the barrel half barrel, & firkin, shalbe of the same content Fife. that ale is, fe the barrel 32 gallons &c. 13. El. 11. P. Fish 9. Also 120 herrings shall goe to the hundred, ten hundred to the thousand, and ten thousand to the Last, 3 1.E.3.64.2. Salmon and Eeles: see the contents of their vellels, Stat. 11. H.7.c. 23.P.Fifb 8.10. Wooll, 14, pound weight goeth to the stone of wooll, & 26. stone Weell; 25.E.3.9. goeth to the lacke, II.H.7.4 P.3. Hemp, 20.11 weight, maketh the stone, P. Cables 2. Sugar, spices, and wax, 8.1i. maketh the stone, & 13. stone & a half, or 108.li. maketh the hundred; fee the flat. de Composit ponder. Raft. Weights 8.

Hops 112. pound maketh the hundred.

Weights 8.

I cad, the content of the pound, the stone, and the load: see Rastal,

Leather,

Fuel.

Leather, the content of the dicker, & the last : see Rastal. weights 8. The contents of yron, glasse, linnen cloth, & divers other things: fee the stat. de Composit. ponder. Rast. 8.

All other commodities of tale, or number, are fold by the hun-

dred, whereof

Cattel, and Fish are fold six score to the hundred: and yet the Shundred of hard fish must containe eight score. Rast. 8.

Also all other headed things, as nailes, pins, &c. are sold six score

Sito the hundred.

(a All other things have but five score to the hundred.

For the affife of fuel, fe. of cole, talwood, billet, and fagor, see the Effect. stat, of 7. Ed. 6.7. 43. El. 14. A sacke of coles is soure bushels.

Tymber well hewen, and pertectly squared, fifty foot therof maketh the load.

Lath shall containe in length 5. foot, in breadth two ynches, and in thicknes halfe an ynch.

Tyle, the affife therof, (fo.the length, breadth, and thicknes thereof.) See the stat. 17.Ed.4.ca.17.P.Tyle 2.

A bale of paper, is ten realm; a realm is 20 quires; a quire is 25. fheeres.

A roule of parchment, is finedozen, or 60 skins.

Measures of Three barley corns measured from end to end makethone ynch. P. weight 4 Length. Foure ynches maketh a handfull, 27.H.8.6.

Tech. Twelve ynches make a toot. Handfull,

Three foot make a yard. Foot.

Three foot and nine ynches make an Ell. Tard.

Senen foot maketh a fadome. E₽.

Fine yards and an halfe (which is 16, foot and an halfe) maketh a Fadome.

pole, rood, or pearch ibid.

And yet by the viage of many countries, the Pole doth vary; for in some places it is 18. soot, & in some places 20. soot goeth to the pole: & there if a man shall sell a certain number of acres of wood, &c.it shalbe measured according to the vsage of the country there,& not according to this stat; for Consuetudo loci,est observanda.

The same reason may seeme to hold of measures of corne, by the

bushel: see a little before.

Forty pole in length maketh a furlong.

Furlong. Eight furlongs(or 320 pole)makethan English mile. 35.Elica.s. Myle.

Note that our English mile containes 280. footmore then the I-

Forty pole in length, and foure in breadth, do make an acre. Stat. P. weighte. Acre. Composit. vlnarum. of Stat. 24. Ed. 1.

And (by M. Cambden fol. 339. & Holling fled pag. 13 impress. 1586) Co. 9. 1141

one hundred acres is an hide of land; but yet it seemeth that a hyde of land(or plow land, or carue of land, which are all one) are not of any certain content. See hereof before, in the title High-waies.

Now that I have let you down the contents of most weights and

measures, you must further observe.

First, that in enery county (sein the principal or shire town there) there are (or ought to be) standards of brasse, for weights and meafures (according to the K. standard of his Eschequer) there to remain with the chiefe officers (of the fame town,) according to which, enery city, borough, & market town, within the same county, ought to make them common weights and measures, to be marked by him that keepeth the standard.

8.H.6.5.

P.7.

Also in every city, borough & market towne, there ough to be a common ballance, & weights lealed, & according to the standard in their shire town (as aforesaid) vpon pain to every city x.li, to everie borough v.li. & to enery market towne xl.s. for their deaults.

11.H.7.4.

Alsono man (within any city, or market town) ought to buy or sel with any weights or measures, except they be sealed and marked in forme aforefaid (fe. according to the K. standard, & by the officers in whose possession the K.standard remaineth:) nor any other person out of a market town, except their weights and measures be like and equall with the standard. See Raft. fo. 531 c. din. 33.

See Ra,diu.

And yet it seemeth by the statutes 31. Ed. 1. & 8. H. 6. 5. (Raft. din. 5,15,26,29, 3.426.) that no man(though out of a market town) (hal vie weights 32,E3.c.to or measures, nor other thing in the place of weight or measure, that \$H.s.ca.5. is not fealed, according to the K.standard, vpon paine to forfeit the value of the goods weighed or measured, & 2. yeres imprisonment, and to be fined and ranfomed, & yeeld quatreble damages. See Raft. tit Weights, & Cromp.94.

1 LH.7.4.

The officer that keepeth the flandard (in the shire towne) shall marke and feale other weights and measures, to all other the K. subicces that shall require it; & they shall take for the marking of the buthel but 1.d. & for all other measures but a halfe peny; & for weights, for every hundred weight 1.d. and for halfe a hundred weight a half peny, and for every weight vnder, but a farthing.

Lavit. 19. 35. 36.

Tee shall not do uniustly in indgement, in line, in weight, or in measure: yee hall have suft ballances and true weights.

PROV. 11.1. & 20.10.

False Ballances, or diners Measures, are all an abomination unto the Loap.

N₂

Here

Plow-land.

Here also I will give a short view of such particular and private Statutes (made onely for some particular Shires, Cities, or Townes) as do giue some power alfo, unto two (or moe) Instices of Peace out of their Sessions.

Algate. Cardiff. Chefbire. Chepftow. Chichefter.

London.

Nonsuch.

Norfolke.

Suffolke

Norwich.

Oxford.

Shepey.

Wales.

Willen.

Northumb.

Or pauing of Algate street. 13. El. 23. Gr 23. El. 12.
For the repayring of Cardiff Bridge. 23. El. 11. For Iustices of peace in Cheshire,&c.27.H.8.5. For repayring of Chepstow Bridge. 3. 146.23.

For Chichester Hauen. 27. El. 22.

For pauing Drury Lane neere London.3. Iac. 22.

See more here before titulo London.

For repaying the Hygh-way at Nonfuch. 3. Iac. 19. For recovery of Marth grounds in Norst & Suff. 7. Iac. 20.

For making Couerlets and Dornicks there. 5. Ed. 6.24.

For Recognifances to be taken of Leslees in Northumberland. 11.H.7.9.

For amending Bridges within 5. miles therof. 18. El. 20.

For repayring a ferrie in the Isle of Shepey: fee 18.El. 10.& 27.

Suffex. H.8.7. Kent.

For laying out new High-waies in Suffex and Kent, 14.H.8.6.26

See before tit. Purueyors.

Vniner fities. For repaire of Vpton Bridge. 3. Iac. 24. Vpton.

For wages of their Knights of Parliament, 35.H.8.11.

For establishing Justices of P.in Wales. 34. H.S.

For making of the Bridge at Wilton ouer Wye, in the county of Hereff. 39. El. 24.

Thus much concerning fuch statutes as the Iustices of P. out of

their sessions of the peace are to meddle withall.

Now for a conclusion of these statutes and of the services of the Iust.of peace therein, I wish them, that in all cases where the whole matter is (by the stat.) committed to the lustices of peace, (to one alone, or to two Iustices or moe) out of their sessions, to Heare and determine &c. as where, vpon his, or their owne view, or by confesfion of the offendor, or vpon examination and proofe of witneffes;

(and without any Indictment found or preferred) they may commit, or punish an offendour as conuict by such view, confession, or examination and proofe; as also wherethey may proceed by Enquirie and Indictment; that in every such case of such their indicial proceeding, they be led by no affection, but adulfedly to examine and confider of, aswell the fact it selfe, as of the circumstances, and then (in the feare of God, and according to Law) to proceed, and to fee, or cause due & diligent execution of the punishment to be done vpon the offendors, according to the quality & quantity of their offence, and as the flat. themselves do direct; for law without due execution, and punishment of offendors, is as a sheathed sword without any vie or profit.

And here I will shortly point you out some particular offences, which by the statutes are referred to the Justices of P.to Heare and determine (our of their Sellions) at aforelaid, and will leave the relt

to your owne fearch.

1 Some particulars where one Iu. of P. vpon his own view (of the One Iuffice. offence) may punish the offendors.

Alehouse-keepers &c. suffering townsmen to continue drinking in their houses contrary to the statute. 1. farobi cap. o. wide antea tit. Alchouses.

Townesmen tipling in Alchouses, &c. contrary to the stat. 4.14c. cap. s. ibidem.

Persons that shall ride, or go armed contrary to the star, 2, E. 2, ca. S.Vide antea tit. Armour.

Persons that shall have any Teinters &c. for the deceitful stretching of cloth, Vide antea tit. Cloth.

Offendors in Forcible Entries or Dettyners, contrary to the statutes : sec antea tit, Forcible Entry.

Keepers of places for valuavful gaming, Anteastt. Games valuavful Players in such places, ibid.

Players at vulawfull games wherefoeuer contrary to the statutes; See as before.

2 Where one lt. of Peace may punish offendors as connict vpon their owne confession.

Sherifes &c.entring plaints in their courts, vinduly. Videantes tit. Sherifes.

Persons not repayring enery Sunday to Church. See anteatit. Re-

Trespassers in Corne, Orchards, or Woods, &c. contrary to the Stat. 42. El. 7. Vide anteatit. Trespasse.

Offences in Tyle-making, contrary to the stat. Vide antea Tyle.

N 3

Offences

Offences in watermen, contray to the statute. Vide antea Water.

3 Where one Iu. of P. may punish offendors as conuict vpon examination, and oath of witnesses.

Alehouse-keepers &c. suffring townsmen in their houses contrary to the stat. I . Iac. Vide autes tit. . Alehouses.

Alchouse-keepers &c. selling lesse beere or ale, than according to the stat. 1. lac. ibid.

Townsmen tipling in Alehouses &c. contrary to the stat. 4. Inc. ca. 5. ibid.

Persons not repairing every Sunday to church, they may be conuicted upon the oath of one witnesse Vide antea tit. Recusants.

Transporters of corne, &c. Vide anteatit. Transportation.

Trespassers in corne, or chards, or woods, &c. they also may bee connicted upon the oath of one witnesse. Vide antea tit. Trespasse.

4 Where one Iust of P, may punish offendors, as conuict vpon examination generally, the statutes not shewing what persons shall be examined; in which cases it seemeth the Iu. of P. may thereupon examine as well the offendors themselves, as other witnesses.

The defaults of the Collectors of the sherifes amerciaments: as also of bailifes of hundreds. Vide antea tit. Sherifes.

Offences in tyle-making. Vide antea tit. Tyle.
Offences in Watermen. Vide antea tit Watermen,

5 Where one Iu of P.may punish offendors, vpon accusation, or proofe, generally; which accusation, or proofe, must be by examination of witnesses only, as it seemeth.

Offendors in keeping, or vling guns, or croffe-bowes, &c contrary to the flat. Vide antea tit. Guns.

Disturbers of Preachers. Vide antetit. Preachers.

Souldiers that have purloyned their hories or harneis. Vide antea tit. Souldiers.

Nore, that in these former cases, and in all other cases where the Iush. of P. is to take such examination of witnesses, or such other accusation or proofe, as aforesaid, though the stat. doth not expressly fer downe that it shall be voon oath, yet it seemeth sit, that the sundoth it voon oath. for M. Brooke sometimes chiefe sush. of the Common Plees) was of opinion that euery examination ought to be evpon oath: and M. Lamb. 517-was also of opinion, that these examinations taken by the sushies of P. ought alwaies to be voon oath, the rather because the triall in these cases dependent wholly voon these examinations. Vide poster its. Examination.

Also

Plow. 13.2. Also where the matter is to be tried by witnesses only, it is fit that there be two witnesses at the least (except where the stat. doth expresses 19.3. It is allow the oath or testimony of one witnesses.) And so was the opiMar. 18.16. nion of M. Brooke, that in such case there ought to bee two witnesses 2. Cos. 13.1. at the least; and agreeable thereto also is the booke and word of God: otherwise it is, where the trial is by a Jury of twelve men, there one witness sufficeth, year there many times witnesses are not necessarie. See Plo. fo. 12.2.

Where two Iu. of P. (out of their Selfions for the P.) may punish Two Inflices. offendors, as conuich before them, upon the confession of the offen-

dor, or vpon examination of witnesses.

Clothiers, refuling to pay the wages affelfed, &c. See antea tit. Cloth.

Spinsters,&c.which shall imbesil any part of their wooll contrary to the stat. 7. Iat. 7. (v pon proofe of one witnesse.)

Servants or Labourers affaulting their Master. See antea tit. La-

bourers,P.12.

Servants departing, refuling to lerue, ortaking excelline wages &c. See tit. Labourers, P.4,6,14.

Persons restrained from Maulting, &c. See antea tit. Mault.

Destroyers of partridges, or other fowle, or of their egges; or of hares; or keeping hunting dogs, contrary to the stat. 1. Jac. 27. See antes tit. Partridges.

Deliroyers of felants or partridges, contrary to the stat. 7.146.11.

vpon proofe of one witnesse, ibidem.

Such as shall put out of their parish (as poore persons) that those be not to be put out. Vide antes its. Poore.

Also the defaults of the Onerseers of the Poore ibid.
Disturbers of Preachers Fide antea tit. Preachers.

Offendors which shall disturbe the execution of the statute for Rogues; and Officers which shallo remisse or negligent therin, &c.

Vide antea tit. Roques.

The defaults of Officers and others, touching weights and meafures. Vide antea tit. Weights.

But note, that this maner of trial by examination of the offendors or witnesses, is not permitted to Inflices of P. but only in cases where either the statutes do generally refer the tryal to their discretions, or else do specially authorise them to take the examinations.

In all these former cases, where the Iustices may hear cand determine, or may punish offendors as conuctivo on their owne confession, or upon examination of witnesses (it seemeth, in congruitie) the Iustices of peace may graunt out their Warrants against such offendors, to appear e before them, to answer to their said offences;

and

and thereupon may proceed to examine, heare, and determine the offences.

Where one or two luffices of Pimay heare and determine, by enquiry and Indict mentraken before them, out of their generall fellions as it feemeth.

Defaults of Sherifs and Bailifes, in not returning fufficient Jurors to enquire of Forcible Entries, &c. Vi.ant.tit. Forcible Entrie.

Offendors in Ryots. Vide antea tit. Ryot.

Transporters of Corne, &c. Vide antea tit. Transportation. Offences committed in Tyle-making Vide anteatit. Tyle.

Defaults aswel of Officers, as of buyers and sellers, with vnlawful

weights or measures. Vide tit Weights &c.

And in these cases, the offence being found upon such Enquirie, See Lam. 3. these In have authority not only to make out Proces against the offendors, vinder their owne Teffe, but also to commit the offendors to prison, till they have payd their fine, and to deliver them vpon payment of the same, or vpon sureties given for it: or otherwise it seemeth the luftices may receive the Traverse of the offendors &c. for to all these effects, the words (in those stantes) Heare and determin, do seeme to leade and inable the said lustices.

Suretie for the Peace.

Vretie for the Peace, is the acknowledging of a Re- Lamb.77. cognisance(or bond) to the King (taken by a compotent ludge of Record) for the keeping of the peace.
And it is called furery, of the word Secarities, because the partie that was in feare, is thereby the more

fecure and fafe.

This surerie for the peace, enery Iu. of P. may take & command F.N.B.79.h. in two maners, or by a two-fold authority.

1 First, as a minister (commanded thereto by a higher authority) as when a writ of Supplicanit, directed out of the Chancery, or kings Bench, is delinered to his hands: vpon this writ that luft of P. onely (to whom such Writ is deliuered) is to direct his warrant to cause the party to be brought before him(alone,) to find furcties for the P. And therin the faid luis to do in enery behalf, according as the fame writ doth direct him.

See more concerning this writ of Sapplicanit &c. Poffea Jub hoc tit. Surery for the Peace.

2 Secondly, as a Judge, (and by vertue of his office, and of his owne power deriued from his Commission) hee may command this furety of the peaceto be found; and that either of his own motion and discretion; or else at the request or prayer of another.

The Iu. of P. vpon his own motion and discretion, may (if hee see Vpon differen cause) command surery of the P.to be found, or may bind a man to tien. the peace (and that against all the K. subjects if the In.shall so thinke meet) in these cases following.

one that maketh an affault, or affray, vpon the Juft. of P. him-(.H.7.6. felfe, the luftice may commit him to prison, til he hath found sureties

for the peace.

2 So of fuch as in his presence shall make an affray vpon ano-PR.18.19. ther, or shall strike, or assault, or offer to strike another, vide antea tit. Affray, & Br. fx.imprif.12.

3 So of fuch as in his prefence and hearing, shall threaten to kill,

beat, or hurt another, or to burne his house.

4 So of such as in his presence, shal contend only in hot words; PR.18. for from thence oftentimes do enfue Affraies and batteries, & fometimes maimes, yea man flaughters and murders.

5 So of fuch as in his presence shall goe or ride Armed offenfluely, or with an vnufuall number of fernants or attendants; for 76,142. PR.4 these are accompted to be in affray and seare of the people, and a meanes of the breach of the peace: so of servants and labourers, that shall beare any weapons, contrary to the statute of 12.R.2. Vide antea tit. Armor.

6 Also he may bind to the peace any other person to him suspe-9.Ed.4.3. PR 18.

And to be inclined to the breach of the peace.

7 If (out of the presence of the Iu. of P.) any man shall threaten Crom.tar. to kill, maime, or beate another, or do attempt, or go about to do it: PR. 22. then any Constable (being present, or at the prayer of the other par-Fit Bar.202. ty)may arrest such offendor, to come before a In. of P. to find sureties for the peace : and the Iu, may bind him to the peace.

8 If any Constable shall perceive any other persons (in his 1.H.7.7. presence) to be about to breake the peace, either by drawing weapons, or by striking, or assaulting one another, or by assaulting the Constable himselfe, hee may take affistance, and carrie them all before the Inflice to finde furcties for the peace: and the Inflice may bind them.

o If the Constable shall learne that certaine persons bee fighting PR.33. or quarrelling in a house, he may breake open the doores and arrest them, and carry them before a Just of Pito find furety of the peace: and the Iustice may bind them.

> 10 Yea, the Iustice of peace (either vpon his owne discretion, or vpon any mans complaint) may make his warrant, for any fuch as have made an affray (though out of his presence) and may bind them to the peace, Vide antea tit. Affray.

11 If

11 If one hath received a wound, it seemeth the Iu. of P. may take See Br. furery of the peace of the one, & the other (by his discretion) vntill the wound be cured, and the malice be over. Popham late Lord chief In. of Eng. (an honourable & grave Judge) did accordingly between Iames & Benton at Cambridge Affifes 3. lac.

12 All fuch as shall go or ride armed (offensively) in Faires, Mar- 2. B.3.6.7. kets, or elsewhere; or shall weare or carry any guns, dagges, or pi- Commission ftols charged; it feemeth any constable feeing this, may arrest them, and may carry them before the Iustice of Peace: And the Just. may bind them to the peace, yea though those persons were so armed or weaponed for their defence; for they might have had the peace against the other persons: and besides, it striketh a seare and terrour into the Kings subjects.

See more hie antea tit. Affray, and Armour.

13 Also the Iu. of P. (vpon his discretion) may bind to the peace a common Barretter. Vide tit. Barretter.

14 So of Ryotters. Vide tit. Ryotters, & Lamb. 79.

17 He that flandeth bound to keepe the Peace, if he hath broken at Easte (or forfeited) his Recognifance, the Inflice of Peace may and ought of differetion to bind him anew; but that must not be done vntil the party be connicted of the breach of the peace, vpon his Recognifance: for before his conniction, it resteth indifferent whether the Recognisance be for feited or no. But after that he is thereof conui-Eted, and that the forfeiture be leuied, the Recognif, is then vtterly Cromp. 142 determined; and then he is to be compelled to find new furety, or elfe to be fent to the Gaole.

So it feemeth, though the forfeiture be not leuied, yet if the partie be conuict for breaking the peace, he shall be bound of new. Cromp.

141.67 Br. Recog.21. 16 Also he that standeth bound to keepe the peace, if his sureties be infufficient, the same Iu or another Iu. of the P. may compell him to find better fureties.

And in many of the former cases, the Iustice of peace ought (of dutie, or at least in good discretion) to commaund this surety for the peace, although the same bee not required by any other person: And if any such person shall refuse to give such surety, the lu. of P. ought to fend him to prison, ther to remaine vntill he shall find such

If a lu. of P. (vpon his own difcretion) shall cause one to be arre- 9.E4.43sted to find sureties for the P. & shall after let him go without taking furery, or binding him to the P. yet the party hath no remedy: for an action will not lye against the Iu. of P.he being a Judge of record. See 9.H.6.f.60. & 9.E.4.f.3. Br. Indges 2.10.

A Inflice of P.may perswade a man to require the furety of peace

against another, and he himselfe may grant a warrant for it, because it is no more than he might have granted of his own authority, without any demaund made; and it shal be presumed that he saw cause to do all this.

Also at the request or prayer of another; the Iust. of P.may com- Vpon request.

mand this furery of the P. & may grant his warrant for it.

But here the Iustice of Peace must and ought first to take an oath, Lam. 8, 25. of the party that demandeth the peace; which oath must bee to this purpole, /c. That he standeth in seare of his life, or of some bodily hurt to be done to himselfe, or to have his houses burned, (and that he doth not craue the peace for any private malice, or for vexation, but of very feare, and for the needfull safety of his body, or houses.) for the words of the Commission herein are, Es adomnes illos qui alicui, vel aliquibus de populo nostro, de corporibus suis, vel deincendio domorum suarum, minas fecerint, ad sufficientem securitatem de pace de inneniendam de.

So as he that shalbe threatned to be hurt in his body (se. to be beaten, wounded, maimed, or killed) the party fo threatned may craue

and have the furety of peace against the other.

Also if a man do feare that another will kill, maime, beate, asfault, or hurt him in body, he may craue the peace against such other person.

So if a man do feare that another will burne his house.

So if a man do feare that A. will procure or cause any such hurt to be done him by another, either in his body, or in his houses; for the words of the Recogn be, Non faciet, nec ficri procurabit.

So if a man lyeth in wait to beat, kill, or hurt another, it is good

cause to require this surety. Cromp. 135.

If a man be threatned to have his goods burned, it feemeth by the Lamb. \$4. opinion of M. Fizh. that he may demaund furetie of the peace for this, quere tamen.

But where a man shall threaten to imprison another, it is holden 17.Ed.44. that the peace shal not be granted; for the party wronged may have his action of falle imprisonment, or a writ de Homine replegiand, and so shall recouer damages for his imprisonment.

Yet inquire hereof; for to threaten imprisonment, is within the words Minas de corporibus: and like harme may happen to a man by hardimprisonment, as by cruell beating of him: And to threaten imprisonment scemeth cause to avoid a deed, as well as to threaten to kill, or maime one &c. 39, H.6, Br. Dureff.9.

F.N.B.tog. Where a man is in feare, that another will hurt his fernants, or his cattell, or other goods, this furetie of the Peace shall not bee graunted by the Iustice of Peace: But in this case Master Fitzherbert faieth, the party may have a speciall Writ out of the Chauncery

directed to the sherife, that hee shall cause such person to finde suretie, that hee shall doe no hurtor dammage to the other man in his body, or to his servants or goods. And if he will not finde suretie, that then hee shall arrest and detaine him in prison, vntill he shall sinde surety: and that the sherife shall certificall that he shall doe thereupon, into the Chancerie, &c. And it seemeth the sherife ought to take such suretie, by Recognisance. And yet if a man shall threaten to hurt my servant, or my wise, or child, I see no cause, but that in their behalte I may craue the Peace at the suffices hands, by the words of the Commission; and that the suffice ought to grant it.

If a man will require the Peace because he is at variance, or in suite with his neighbour, it shall not be graunted by the Instice of

Peace.

Note also, the suretie for the Peace shall not be graunted but where there is a seare of some present, or future daunger; and not prides meerely for a battery, or trespaile that is past, or for any breach of PR.14 the Peace that is past; for this suretie of the Peace is only for the security of such as are in seare: Now Mesus est present well futuri periculic ausa, mentius repidatio: so this surety is, provider e presentia, or suctura, or nonpreservita.

And as for a battery, or other like trespasse, that is pass, the party wronged may have his action of trespasse of battery, &c. or may punish the offendour, by Indictment at the Kings suit: and yet in such case the lustice may (if he see cause) bindeouer the Astrayor.

Vide antea

If the Iustice of Peace shall perceive that this suretie for the Peace is demaunded meerely of malice, or for vexation onely without any just cause of feare, it seemeth he may safely deny it. As in common experience we finde it, that where A. shall vpon just cause come and craue the peace against B. and harh it graunted to him; when B. Shall come before the Justice, B. likewise will craue the peace against A. (and will perhaps surmise some cause) but vet will neverthelesse be content to surcease his suite and demaund against A.fo as A.will relinquish to have the peace against him: here the Iustice of peace shall do well (as I thinke) not to be too forward in graunting the Peacethus required by B. but to perswade with him, and to shew him the daunger of his Oath which hee is to take; but yet if B. will not be perswaded, but will take his oath that he is in fearet where indeed he neither doth feare, nor hath cause to feare) this oath shall discharge the lustice, and the fault shall remain vpon fuch complainant.

For

For whom, and against whom this Suertie of the Peace shalbe granted.

The Law hath conceived such an opinion of the peaceable distribute. Noblemen. position of Noblemen, that it hath bin thought enough to take one of their promises upon his Honor, that he would not breake the peace against a man. Br. Contempts 6.24. Ed. 3.3. & 17. Ed. 4.4.

And therefore if a man shall have cause to have the sucrite of the peace against a Lord of the Parliament, or such great and noble personage, he shall not have a warrant from the Justices of peace to that purpose; nor yet have a Supplicant out of the Chauncerie, directed to the Justices of peace therefore: but if there be cause, he may have Fire. Subp. a Subpara out of the Chauncerie (of common right, as it seemeth,) and there such Lord or Nobleman shall be bound to the peace. And yet if such Lord will not appeare upon the Subpara served, quare, if an Attachment will lie against him upon such his default. Mr Gromp, fol. 13 4.b. saith that it was holden in the Case of the Lo: Gromwell in the Chancerie about 18. Eliz. That an Attachment lyeth not against a Lord where he maketh default upon a Subpara against him out of the Chauncerie, Dyer 3.15. seemeth to accord.

But though it be true that the person of a Baron (who is a Peere of Co.6.53354 the Parliament) shall not be arrested (for, or in cases of debt or trespectations). Bt. Repl. 19. passed by his bodie, first in respect of their dignitie, secondly in respect that the Law presument that they have sufficient lands and tenements wherein they may be distrained, yet in cases of contempt it seemeth they may be arrested by Capias, or Attachment &c.

Or else (it. seemeth) that the partie may craue the peace in the Firz. Subp. Chauncerie against such Lord or Peere (see to have a Supplicauit directed to the Sherisse) and that the Sherisse may and ought to execute the same: and that if the sherisse shall not doe his office therein, an Alias, Plur, and Attachment lieth against him. And if the sherisse shall retorne, That such Lord is so puillant that he cannot at rest him, youn such retorne the sherisse shall be grieuously amerced (for he might have taken Pose Comitatus, see he might have levied 300 men by his discretion if there had been eneed, to have ayded him in such case.) And if such Lord or Peere who is by the sherisse so arrested, shall resusce to obey the arrest, and shall make a Rescous, whereupon the sherisse shall retorne a Rescous, hereupon shall there he an Attachment granted out against such Lord, to arrest and take his bodie, for such his contempt.

The fame law and remedie seemeth to be where a man hath cause Co. 6.52, 53 to have the sucrey of the peace against a Duchesse, Countesse, or Barronesse, for they are Peeres of the Realme, and shall be tried by their Peers, although in respect of their sex, they cannot first Parliament:

O

and

and they are in the same degree (as concerning their Nobility, & the priniledges incident to their dignities) with Dukes, Earles, and Barons. But here note this divertitie, fe. if fuch a woman being a Counteffe, or Baroneffe &c. by mariage only, shall marry againe under the degree of Nobilitie, the hath thereby loft her name of dignitic (together with the priviledges of her said Nobilitie also, as it feemeth) for in such a case, Si mulier nobilis nupserit ignobili, deserit esse nobili, and that which was gotten by marriage, may also be lost by marriage; for Eodem modo quo quid constituitur, dissoluitur; But if she be Noble by birth or discent, whomsoeuer the shall marrie, yet the remaineth Noble; for birthright est character indelebilis.

And yet by the curtesic of England, if women get to any degree of estate, they never lose it by marrying after more meanely, but doe still take place according to the estate of their first husband.

Suertic of the peace may be graunted by the Justice of peace, against a Knight, and against all other Lay persons, being under the degree of a Baron or Peere of the Realme, and they shall be bound with fuerties.

Ecclesiasticall persons (if they be not attending upon Divine Seruice) may be arrested for the peace, and they shall be bound with fu-Br. Moigne erties: But whill they are doing any Divine Service, in the Church, 11-8 15-1 Churchyard, or other place dedicated to God, they may not be arrested: 50.Edw.3.5. P. Arrests 1. See Stat. 1. R. 2. cap. 15. 6 1. Ma. capit.3.

Suertie of the peace may be graunted against the Sheriffe, Coroner, Escheator, and other such officers of suffice; but M. Marrow aduiseth that fuch persons be not bound, versus canctum populum, but only against such person, as shall demand it, lest otherwise it should argue them vnworthy of their faid offices.

One Iust of P. may graunt this fuerty to any man, against one of his fellow Inflices; but great discretion is herein to be ysed.

One Inflice of peace may demaund this fuerty of the peace (at the hands of his fellow Iustice) against another man.

If a man hath cause to have sucrtic of the peace against one dwel- Fitz.N.b.80 ling in the Cinque Ports, he must have a Writ out of the Chauncerie. directed to the Constable of Douer, and to the Warden of the Cing. Ports: the forme thereof fee in Fitz, N.B.80.

The wife may demaund this sucretie against her husband, (if hee shall threaten to kill her, or outragiously to beate her, or if the wife Firz, 80.5. harh any notorious cause to feare that he will doe so) and it shall be graunted her by the lu. of P. Or she may have it by Supplicanit in the Chaunceric, Fuzh. 238.f. Br. Peace 23.

The husband, for the like causes, may demand suertie of the peace against his wife.

Also the Iustice of peace, vpon his owne discretion, may in either of the aforesaid cases betweene the husband & wife (especially happening in his presence) graunt suerty of the peace.

An Infant under the age of fourteene yeares, may demaund this

suertie, and it shall be graunted him.

Also this suertie of the peace may be graunted at the prayer of any person, against a seme couert; or against an Infant though he be vnder fourteene years of age. (For it an Infant under fourteene hath discretion to demand the peace, &c. then hath he discretion to break the peace.)

But an Infant, and a feme couert, shall be bound by suerties onely, and they themselves shall not be bound; And if they cannot finde fuerties, they shall be committed to prison until they have found suerties. And yet if an infant shall be bound to the peace, &c. by Recognitaken by a luft of peace, it feemeth he shall be estopped to auoid such a Record, if he doth not avoid it during his minoritie, for

Co.1243. Crop.237.b it is not void but voidable, by Audita querela.

Sec Co.4.

But if a feme couert shall be bound, or acknowledge such a Recog. (though her husband ioine therein with her) yet it is meerely void, as to the wife, although the ouerlineth her husband.

A man of Non fane memorie; this suertie shall neither be graunted against him, nor to him vpon his request; And yet if there shall be cause, the lustice of peace (vpon his discretion) ought to prouide for his fafetic.

A man that is Lunatike (fex. who at some seasons hath the vse of reason, and at other times not) it seemeth this suertie of the peace may be graunted against him; and also that he may demaund the same against another.

And if one of non fane memorie, or a lunatike, be himselfe bound by 124.811. Recogn. before a lustice of peace, to keepe the peace, it seemeth, such Recogn shall bind them, and all others for ever.

But quare, if there be not a difference to be taken herein, where a Recog by an infant, or one that is non compos mentis, shal be acknowledged in a Court of record, and where before a luft, of peace out of the Sellions.

A man that is deafe, dumbe, and blinde, shall not have this suertie; for he hath no understanding to askeit, and yet such a person, (or any other person not having reason to demaund the peace) if there be cause, the Iustice of peace voon his discretion ought to prouide for their fafetie.

A man that is borne dumb & blintle, may have vnderstanding; & therfore it seemeth this suerty may be grated to him, or against him.

But a man that is borne dumb and deafe, can hardly have vnderflandings for though the fight be the chiefest sence, yet by hearing we

Wife.

come chiefly to knowledge, and therefore it seemeth not grantable to him, or against him.

And this suertie of the peace may be graunted against an impotent person, although he be such a one as is not like to breake the P. himselse; for he may procure another to kill, or beate one: And the common forme of Recogn. is to binde a man from procuring hurt, as well as from doing hurt.

This suertie of the peace may also be graunted to, or against, a man attainted of Treason, or felony.

A man excommunicate, may have this sucrete graunted to him, or Crom. 134. against him.

So also of a man that is abiured the Realme; for notwithstanding the abiuration, he oweth the King his legeance, and remaineth within the K.protection, and the K.may pardon and restore him againe; Qui abiurat regnum, amittit regnum, non regem, Co.7.9.b.

A man attainted in a Pramunire, may (at this day) have this soertiegraunted to him. P.R. 19.

An alien borne, who is made Denizen, may have this suerty; and Crom. 134. So of an alien borne who liveth in England under the Kings prote-P.R. 19. Ction (although he be not made Denizen.)

And so of an Alien, whose King is in league with our King; or if Co.7.17. there be no warres between this Realme, and that Realme whereof the Alien is; for by the Common Iaw, all these may get and have within this Realme, any personall goods, and may sue for the same, and so have the benefite of the K. Jawes and protection. But an Alien who is the Kings enemy (see. where there is open warre betweene Dyen., our king and his king) shall not have this suertie graunted to him, nor any other benefit of the Kings lawes.

Who shall be said to be an Alien, see Co. 7.16.17.

In Calnins case, 6. Iac. Reg. there is a difference taken betweene Ansensti, and Postnati, in Scotland, where it is holden that antenati in
Scotland, sex. sinch as were borne there before the kings happy comming to the crowne of England, are here aliens borne; the reason is,
for that at the time of their birth, they were under the legeance and
obedience of another king, and he could not be a subject born of the
kingdome of England, that was borne under the legeance of a king
of another kingdome: And yet it is manifest that Antenati being the
kings subjects, are herein prouided for, by the Comission it selfe; the
words whereof are, Es adomnes illos qui alicui vel aliquibus da populo
nostro Ec. of which number Antenati be; so as they may and ought
to have this suertie graunted them, as well as any other subjects. See
Deer fol. 304.

An Irishman borne, is a naturall born subject, and capable of and inheritable to lands in England, and therefore may baue this sucrey.

But it may be questioned, whether an Infidell, Pagan, or lew, shall have this securitie graunted them; For in law they are Perpetui inimici, There is betweene the Christians and them perpetual sensitie, and can be no peace; Neither can they get any thing within this Realme, nor maintaine any action at all, 12. H.8.4.

A Villeine may haue this suertie of the P.against his Lord, and the Lormay haue it against his Villein, & yet it maketh no manumission, although it were demanded by the Lorwithout any protestatio, &c.

How this Suertie of the peace may be commaunded, and how the fame Commaundement shall be executed.

The Iustice of peace may command this suertie of the peace, eyther by word onely, or by writing.

By word onely, the partie being in his presence; as if in the Byword.

presence, & hearing of the Just of P. one man doth threaten another

presence, & hearing of the lust of P. one man doth threaten another, or shall make an affray, or assault vpon another, or doe other like thing tending to the breach of the peace, the lust of P. may comand him by word to finde sucress for the peace.

Also if one shall demaund this sucrty against another, who is then in the presence of the Iustice of peace, and will be sworne that he is affraid of him, the lustice may by word command the same partie to finde sucries for the peace.

And the Iust. of P. (in such cases) may by word onely commaund the Constable, or any other knowneofficer (or his owne seruant) being then present, to arrest such partieto sinde suerties for the peace:

And if the partie shall refuse to find such sucreies, then the Justice of peace may committhin to the Gaole.

2 By Precept, or Warrant in writing, and under his seale; And By writing, this must be directed to some officer, or other indifferent person, & must conteine the cause, and at whose suit, to the intent the partie to be bound, may provide his suerties, and take them with him.

The forme of which precept, see postea tit. Warrants.

The Iust of P. may make his Warrant to bring the partie before himselfe (to find surrie for the peace) by the opinion of Wray, chiefe Lustice; for he that maketh the Warrant, for the most part, hath the best knowledge of the matter, & therefore is the fittest to do iustice in such case. And yet the most visual maner is, to make such a warrant, to bring the party before the same Iust or some other of the Iust of P. of the same countie &c. And Judge Fineux his opinion was, That where a lust of P. doth make any warrant for the P. ex officio, therethe party may choose to appeare before him, or any other Justice in that councie: And that the party may have his action of false imprisagainst the officer, if he do otherwise copell him; otherwise it is in the execution of the writ of Suppl. as you may see herepost sub her Tuulo.

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Who

Who may ferue this warrant; and whether the officer may make his deputie; and whether they need shew their warrant or no; and whether they may breake open the doores &c. see hereof titulo War-

The Constable (or other officer) before he arrest the partie, vpon How it stalbe such a warrant, ought first to acquaint him with the matter, & with- Lambrege. all to require or charge the partie in the kings name, to go (with him) Yet some before the Inflice to finde fuerties according to the warrant; And if Prefidents the partie shall refuse to doethis, fex. shall refuse either to goe before capiain or. the luftice, or to find fuerties, then the officer may arrest him, by vertue of that warrant, and may conuey him to the gaole, without carrying him to any luftice, and there the partie shall remaine vntill hee shall voluntarily offer and finde suerries.

> But if the party shall yeeld to goe and find suerties, then the Officer may not absolutely arrest him; But yet the officer is not bound to goe vp and downe with the partie, to find fuerties, but may keepe the partie vntill he can procure suerties to come to him: yet if afterwards the partic shal make any resistance, or shall offer to go his way, then the officer may arrest him, and by vertue of that warrant, may carrie him to the gaole, and may also imprison him him in the stocks vntill he can prouide aide to conuey him to the Gaole.

When the partie commeth before the Iust. of P. by force of this 14H7.fo. warrant, (or by force of any other like warrant for the peace, good 10.a. Behaulour, for a Riot, or the like) the partie must offer suerties to the Br. Peace 7. Iuffice of P. or else the Iuffice may commit him to the prison; for the Iustice needeth not to demand suertie of him.

Also after that the partic shall be brought before the Iustice if beforehim he shall refuse to finde sucrities, the officer without any new warrant or commaundement, may carriethe partie to prison, & that Co.5.59. by the words of the first warrant: and if he shall refuse thus to doe, that then &c. see the forme of the Warrant.

If the officer do arrest the party, and do not carry him before some 5.Ed.4.6. Iust of peace to find sucrities &c. or vpon the refusall of the partie, if P.R.io. the officer shall arrest him, and doe not carrie him to the gaole; in both these cases, the officer is punishable by the Iustices of peace for this neglect (by fine at their Seffions:) And also the partie arrested may have his action of falle imprisonment for the arrest: for where the officer doth not pursue the effect of his warrant, his warrant will not excuse him of that which he hath done, 21. H.7.23.4. See 3. H.7. fol. 2 b. Bryan.

And if the partie be imprisoned for default of sucreies, and after he that demaunded the peace against him happen to die, or shal release the peace, it seemeth in these cases, the Justice of peace may make his Liberate or warrant for the deliverie of such prisoner; for after such

death

death, or releafe, there seemeth no cause to continue the other in prifon: Also any luft. of P. may (vpon the offer of such prisoner) take fuerty of him for the peace, &c. and may thereupon deliver him.

It feemeth (by fome opinions) that if the partie imprisoned for 4.E.a.4.10. not finding fuerties, bath a fuit depending in the common place, he Br.Prim. may by the course of that Court by a writ of Primiledge, be discharledge 35. & ged of his imprisonment, if the other partie be not ready in the court Lambigo. at the day of the return of the Writ, to pray there new fuerties of the peace: But quare, for it may be he which demaunded the peace, hath no notice of the remoting of his body, and then how can he be readie in the court of common place at the day? and therefore it may feeme a hard cafe, fo to be defeated of this fuertie,

If the partie hath gotten fuerties, then if the warrant proceed ex officio, (and not vpon the Writ of Supplicanit) and be a general! Warrant (fez. to come before me, or fome other Iustice) the partie may goe before any other Iust of P.to offer his suertie; yet hee shall not Co.5.59. inforce the Officer to trauell to a Iuflice out of the Division or Limit Br. Ex.imp. where they be dwelling, without good cause: Nay, it is at the electi-Br. Peace, on of the officer (who is the minister of Iustice) to carrie the partie attached, to any other luftice of peace that he will; for it is more reafon to give this election to the officer (who in presumption of Law is a person indifferent, and is sworn to execute his office duely) then to give the election to the delinquent himselfe, who by presumption will feeke shifts, and to wearle the officer. If the other Iust. of peace (before whom the partie so attached shall

come) shall refuse to accept and take such suertie being offered to him, this is punishable in the Starre-Chamber: for such Justice of P. ought to take of him such suertie, and to binde him by Recogn, but yet that must be done in such fort, in all points, as the forme of the former precept doth require: And thereupon the same other lustice of peace (having so taken suertie for the peace) may and ought vp-

on request, to make his Superfedent, to all officers, & to all other the Superfedent luftices of peace of the same countie, and thereby the said party shal by a lm, of P. be discharged from finding other suertie, and from any other arrest Cromp. 145 for the same cause: But by such Supersedent that other suffice cannot

discharge the first warrant of the first lust, vntill the partie be bound indeed; nor can give any other day to the partie to appeare at any

other Sessions &c.

Alfo a Just of P. of the countie, by a Supersedens cannot discharge a warrant awarded by his fellow Inflice, by force of a Supplicanit to him directed out of the Chancerie, or Kings Bench, to take the fuertie of peace of one relident in that countie.

Also when a man doth feare, that sucrice of the peace will be demaunded against him in the countrie, or doth heare that such a war-

rant for the peace is alreadic graunted out against him, by a Instice of peace; it seemeth, in either of these cases, he may go eand give survive of the peace before any other Iust. of peace of the same county where he dwelleth, and thereup on may have a Supersedent from that Iustice of peace &c: But in such case it is fit that such partie be vrged by such lustice to put in sufficient sucreties; and that he be bound towards the king, and all his people, & to appear at the next sessions.

If any officer having a warrant from a lust, of P. to arrest a man to find suerie of the peace, shall receive a Supersedeas (out of the Chancerie, or kings Bench, or from any Justice of the Kings Bench, or from any Justice of the Kings Bench, or from any Justice Profithat counties to discharge the same suerie of peace, and yet neverthelesse will vrge the partie (by force of his warrant) to find (new) suerie for the peace, The party may result to Lamb, 1012 give it; and if he be arrested or imprisoned for such resultall, he may have his action of falle imprisonment against such officer; for such Supersedeas is a discharge of the former precept or warrant.

The forme of a Super fedeus graunted by a Iust of peace; see posted

tit.Warrants.

And this Supersedent is sufficient, though it neither name the suer-Lamb.99. ties, nor containe the summes wherein they are bound; but yet it is

the better forme to expresse them both. See 2.H.7.1.

If the partie shall inflike to be (or stand) bound to the peace, by the lustices of peace in the countrie, then may he (either before, or after, that he is bound in the countrie) goe, or send vp to London, 31.28.238. from abone. and there give survive for the P. (either in the Kings Eench, or in the continuous from abone. Chauncerie;) And thereupon the partie may have a Superfedens (out of the court, where he hat higher such survive for the peace of him: And then the Institutes of P. of the countrie, from taking any survive of the peace of him: And then the Institute of peace of the country after the receipt of such Superfedens, must sorbeare to make any warrant for the peace against that partie: And if any Institute of P. have graunted out anie such warrant against the said party, the said Institute must make his Superfedens to the officers, thereby commanding them to succease to put his former warrant in execution, and so to discharge it, & to discharge the party of any arrest, or imprisonment therupon. See more poster subscription.

The forme of a Superfedens for the peace out of the Kings Bench.

Sec lib. Intr. 454.

The forme of a Supersede as for the peace, out of the Chauncerie. See Fitz. 238.e. & Register 89.

Note, that this Supersedens out of the Chancery, may be procured at any time in the vacation, and out of terme. Fitz. Nat. Br. 236.a.

If the Iustices of P. shall not surcease, after a Superfede as (out of the Lamberteze Chauncerie or Kings Bench) to them deliuered, an attachment will

Suertie for the Peace.

lie against him or them for such contempt, and besides they may be

lie against him or them for such contempt, and besides they may be fined and imprisoned for it.

Yea such a Supersedem comming out of thosehigh Courts, to the Instices of peace, they ought thereupon to surcease, although such a Supersed should be awarded against law.

If such Supersed. shall be directed to the suffices of P. and sheriffe, that suffice to whose hands it shall be delivered, may keepe it, and

may deliner the labell to the partie.

And in these and the like cases the Instice of peace shall doe well to send to their next general! Sessions of the peace, as well the said Supersedens (if it come to his hands) as also the Recognisance which he had formerly taken of the partie, if he hath taken any; For peraduenture the Recogniss was forseited before the Supersed was purchased, or if it were not forseited, yet the conusor is not endammaged thereby.

If the partie shall procure such a Superfed. (out of the Chauncerie, or Kings Bench) after that he is bound (by Recognisance) before the Iustice of peace, to keep the peace exc, and to appeare at the next Sessions, quere whether the partie sending (by his servant) such Superfedent to the Iustices of peace at the next Sessions, be thereby discharged of his appearance there, (the recognisance also being certified.

Crom. 139- fied thither by the Iustice:)

It seemeth to somethis difference is to be holden therein fez if the partie were bound (before the lustice of peace) to keepe the peace against all men &c. and shall after procure such a Superfedeas, testifying that he hath found fuertie in the Chancerie &c.against all men for ever, and shall fend this to the Sessions, this shall discharge his apparance at the fessions: Otherwise if the Superfed. shaltestiffe that he hath found suertie, but till a certain day (which is after the next fessions.) But yet it seemeth safest in both cases, for the partie to appeare to faue his recognif. lee to the like purpole the case in 28. H.S. Dyer 28.H.S. Dy- f.25. where a man being arrested by the sheriffe vpona Capias, found Crom. 140. fuerties for his appearance at the day, and after there came a Superf. to the sheriffe, and it was moved whether it were necessary for the defend to appeare or not, or that this appearance and fuertie were discharged by the Sapersedows, And the opinion of that Court was, That he ought to appeare for the fauing of his bond: Alfo the Prefi-Lib.lat 453 dents or Entries are, that the partie bound did shew his Superfed. in court, & prayed allowance thereof, and was thereupon discharged.

Now concerning the Recognifance for the peace ...

This Recognisance which the Iustice of P. taketh for the keeping Recognisance of the peace, is rather of congruence, then by any expected authoritie given them. Fizz. 82.4.7. H.4.34 accord.

And

lie

And this Recognif. for the peace, if the Iustice of peace doth take it, by force of the writ of Supplicauit, then he ought to execute it, and to doe in all things, as the Writ directeth him; but where such Writ prescribeth not the summe &c. or such like, that resteth in his owned is different on.

But if he take the Recognifance ex officio, & by force of the Com-Lamberto3: million, (and so as a ludge, not as a Minister) Then it restethin the discretion of the same Lu. of P. wholly to appoint & allow the number of suerties, their sufficiencie in goods or lands, the summe of money wherein they shall be bound, and to simit the time how long the partie shall be bound, and such other circumstances.

In the booke 7. H. 4. fol. 34. a. you shall finde the principall to be 7.H.4. bound in 1000. L. and foure sucressenerie of them in one thousand markes, before suffices of peace, and for the keeping of the peace.

Quareif the Iust. of P. may not examine upon their oathes, the suerties concerning their sufficiencie: it seemeth to be the usage in the Courts at Westminster: and M. Crompton saith that the Iustices of P. Brimp 18. in their Sessions may doe it, Cromp. 194.

The most vsuall maner, and safest way for the Instice of peace, is to take two suerties at the least, (and those Subsidie men) besides the party himselfe, and to binde them by recogn to the K. via. domino regi. And it must alwaies be for the keeping of the peace.

And yet by the opinion of Master Marrow (who was in the time Lamb, 104) of king H.7.) a Justice of peace might hauetaken this suertic by a gage pawned onely to him.

Also (by his opinion) a Just of P.might haue taken this suertie by an obligation made to himselfe by the name of Justice of peace.

Yet if a Iustice of peace had enjoyined a man vpon paine of xx.li, to keepe the peace, this had bin nothing worth. But in this, and the former two cases, & the like, this one generall ground or reason may Fitz. Nat. be given for all, see, that a man cannot be bound to the king, but on-Bit ind. If by matter of record; and therefore such sucretic taken by gage or obligation, or such enjoying of the peace seemeth nothing worth to binde the partie.

The forme.

Besides by the statute 33. H.8 Lap. 39. there is a plaine law made (in p. Accompthese and the like cases,) which willeth, That all obligations &c. tants: which shall be taken in any wise for the king, shall be made in the kings name, and by these words, Domina regi: And if any person shall make, or take any obligation (or Recognisance) to the kings vse, in any other maner, hee is punishable by imprisonment at the kings pleasure &c.

A lust of P may take a recogn. (and thereby may bind the partie) Martlett. to keep the peace for one year, or for a longer time (by his discretion) yeahe may bind the party during his life vpon reasonable cause.

If the Recognif. be made to keepe the peace (generally) without any time or day limitted, it shall be construed to be during the parties life. Lambert 113.

Suertie for the Peace.

A lust of P intending to take a Recogn for the peace, and yet maketh no mention therein (nor in the condition thereof) that it is for Lambt 105, the preservation of the peace, it seemeth to be voide, as being taken coram non Iudice: for a suffice of peace hath no authoritie to take a Recogn generally, but for matters concerning his office specially.

If the Recognisance be, that the partie bound shall not beat, nor maime A.yet it is not good, because it ought to be for the keeping of Lamb, 106, the peace (generally), and the peace may be broken by burning the house of A.or the like.

If the Recognisance doe not limit any time of apparance, but be generally to keepe the peace, yet it is good; for the time of apparance is referred to the discretion of the Justice; and the chiefe scope is, the keeping of the peace. Marrow.

Also (by his opinion) if the Recog. do limit a time of apparance, but therein is no person named, before whom the partie so bound shall appeare, then may he appeare (where he will) before that lust of peace which tooke the Recognis. Ibidem.

But in the two last cases, if a recognisance should be taken in such manner at this day, I should thinke it safe for the partie to appeare at the next settions for the peace, and there to record his appearance. See more poster sub hoc titul.

If the Recognisance be to appeare at any other selfions after (and not at the next selfions) yet the recognisance is good: And yet by P.I.oft. 106. the statute 3.H.7.cap.1. it is now enacted, that eueric recognisance taken for the peace, by the Iustice of peace, and ex officio, shall be certified (see fine, or brought in) at the next selfions of the peace, & there deliuered to the Custos Rotulorum: whereby it may seeme that eueric recognisance taken for the peace now, ought to be, to appeare at the next selfions.

If the Recognisance be in twentie pound to be leuied of his lands conely, or of his goods onely, yet it is good; And these words (one-ly) may seeme voide: for the acknowledgement of the Recognisance (before a compotent ludge) both maketh it a debt, and implies the ordinarie meanes of Law to come vnto it. See hereof postea tut. Recognisance.

If the recognifibe, to keepe the peace towards the king, and all his people, but not towards any person certaine, yet it seemeth good.

So if the Recognisance be to keepe the peace towards A. onely, it feemeth good; or to keepe the peace towards A. and his seruants, without being bound toward the king, and all his subjects; it seemeth good.

But

But the best forme is to binde the partie, to keepe the peace towards the king and all his people; for first the words of the Commission are to finde suertie, Erganos & populum nostrum; And againe the common vsage is so: And besides it may otherwise proue dangerous to the party who hath cause to craue this sutrry of the peace. For the other partie who shall give me inst cause to crane this fuerty against him (because he will not be bound to the peace towards me) he will perhaps pray to binde himselfe to the peace to A, who is his companion, And then if the Iuflice of peace shall so bindhim, then may he and A. goe before another Iullice of P. (and that peraduenture within one weeke) & there A may release him of the peace; and fo I (trufting that he is still bound) may be after beaten, maimed, or flaine by him, or by his procurement.

So then though the recognibeing taken in any manner or fort aforelaid, may proue sufficient to bind the partie to the king, yet peraduenture it will not excuse the Just of P. from blame, and therefore it is fafest for the Just of peace to follow the received forme.

The forme of the Recognif. for the peace, see post. tis. Recognifance. The Recognisance for the peace being thus taken; if it were by vertue of the Writ of Supplicanit, the Iustice ought to return the writ, and to certifie (*nder his scale) his doing therein into the court from whence the Bupplicanit proceeded: And he may also send such Recognifance (for taken by him) with this Certificat; or elfe he may keep the Recogn in his hands still, vntill he shall recente a Certiorari out of the Chauncerie directed to hith for remouing of this Recogn. See more sub hoctit postea.

But if this recognisance for the peace were taken by the Inflice of 3.147. ca. 1. peace ex officio, then the Iustice of peace ought to certifie (fend or P. Iust. 106. bring) the Recognisance to the next Sessions of the peace, so that the partie bound may be called thereupon: and that if the partie make default of appearance, the same default may be then and there recorded.

Note, that the faid Recogn, it selfe, with the record of such default Lamb. 196. Recogn. forf. shall be sent and certified into the Chauncerie, Kings Bench, or Ex- 3.147.621. chéquer, that from thence processe may goe out against the partie: And so ought it to be (as it seemeth) if it be presented that the partie hath forfeited his recogn by breach of the peace, Lambe. 5 70.

If the Justice of peace shall not certific such recognisance at the next sessions, the said stitute 3. H.7. cap. I. limiteth no penaltie; And vet see Brooke tit. Peace it. That the lustice shall forfeit xili if he doe not certifie the recognif. of the peace at the next festions: But Mast. Brooke there mentioneth the flattite 3. H. 7. Lap. 2. which flattite of 3. H.7.cap.3.was onely for baylement of prisoners; and certifying the same, and so seemeth to mistake the statute.

Cromp. 169 If he which demanded peace shall release the peace, before the faid next fellions, then it feemeth, though the luft of P. shall not certifie the recogn. that the flat is not transgressed or offended; for the party shall not be called in such case vpon his recog. And yet it is better to certifie the recog for peraduenture it was forfeited before therelease made.

2.HL7.1.

30.H.6,16.

Br.Surery

Also he that demanded this surety, may by a Certiot ari, remone Recognisance Br. Peace it such recog. into the Chauncery before the Iustice hath certified the removed. fame to the fessions; or in case the lust shall not certifie the same thither. Fitz. 81.c. See here postea the forme of the Iustices retourne of fuch Certiorari, and of the recognisance.

> If the Iu. of P. were deceived in the sufficiencie of the sureties, the fame In. of P. or any other In. of P. may afterwards compell the party to find and put in other more fufficient fureties, & may take a new recog. for the same; for that the precept is, ad inveniendum sufficientem securitatem. But if the sureties die, the party principall shall not be compelled to find new furetics. See more postea sub hoc tit. or postea tit. Bailement.

What thing shall discharge this recognisance (of the peace) or the party of his apparance at the Sessions.

 \mathcal{W} Hether a *Superf* out of the Chancery &c. Ihal discharge the party of his apparance. See antea sub hoc tit.

He which is bound to the P.& to appeare at a certain day, he must appeare at thatday, and record hisappearance, although he who craued the P. commeth not in to desire that it may be continued, otherwife the recog. shalbe for feited.

And if a man be bound to keepe the P. towards the King and all his people, but not towards any person certaine, and to appeare at fuch a fellions, the court at that lessions may make proclamation &c. And if no person commeth to demand the P. against him, then the court may discharge him: But if a man be bound as aforesaid, and especially to keepe the P. towards A. there though A. commeth not in, to delire that the P. may be continued, yet the court by their discretion shall do well to bind him ouer till the next sessions; and that may be, to keepe the P. against A. only if they shal thinkegood, For it may be that A.who first craued the P. is sicke, or otherwise letted, fo as he cannot come to that fellions, to demaund the continuance of the peace further: And in some places in such case, they ordinarily vseto bind him ouer for two or three sessions together, by Lamb. 112 order amongst themselves.

And yet by the course of the common place, one that was imprisoned for the peace (being remooned thither by a wrt of priniledge) was there discharged, for that he which demanded the peace

Releafe.

came not at the day (of the returne of the writ) to pray continuance thereof. See more antea (ab hoc tit.

If the Iultice of P. shall not certifie the recog, to the sellions, yet the party ought to appeare, and to record his apparance. See such a matter of a therife, who tooke bond of one to appeare in the common Banke at a certaine day &c. although the sherife return not his writ &c. yet the party must appeare to sauchisbond. Vide 18.Ed.4. 18 for this last cale.

If the party that is bound to appeare, be so sicke as that he cannot Cromp. 134 appeare, nor by any meanes trauell, at the day, yet it seemeth his recog in strictnes of law is forfeit, & so it is by the course of the courts at West. ot dicitur, yet in this case, ypon due proofe of such his sicknes. I have known the Iustices of P. (in their discretion) have forborn to certifie or record such forfeiture or default, And that they have taken sureties for the P. of some friends of his present in court, vntill the next fellions, for that the principall intent of the recog, was but the preservation of the P. But quare how this is warrantable by their oath; Belides the party fo bound might (by a Certiorari) have remoued his recog, into the Chancery, or K. Bench, before the day of his apparance, other he should not have needed to appeare at the session ons, for that the Iustices there should have no record, whereupon to call him.

If the husband be bound that he and his wife shal appeare at such Crom, 144a sessions, and that they shall keep the P. in the mean time &c. and at the day the husband doth appeare, but not his wife, Here M. Cromp. faith the recog. is not forfeit; for if there shall bee cause to continue this furety of the P. against the husband and wifestill, the husband shalbebound, and not the wife, & therfore the wives apparance see-

meth not greatly materiall.

If a man be bound to the P. during his life, or generally, without 21.E.440. any time or day limited, it seemeth that neither the K: the Su. of P. nor Lamb. 123. the party, can discharge this recog. during the life of the party so bound, by release or otherwise. Br. Peace 17.

The Iu. of P. who vpon his own discretion hath compelled one to find furcty of the P. vntilla certain day, & hath taken recog. for his appearing &c. may upon the like discretion releasthe same before that day: and fuch a releas will discharge the recog. taken by that In if it were not forfeited before, & will also discharge the party so bound, of his appearance: for here all this businesse depends onely vpon the discretion of this Iu. of P. who bound him.

If a lustice of P. shall grant the peaceat the request of another, (seat the suit of A.) and the recognisance be taken to keep the peace against A.only, then (before the next sessions) may A onely release it, and none other; And that release being certified at the next quar-

21.E.4.40. Br.Peace17

Lamb, 116. any were before.

The death of the furcties, shall not discharge the recog. neither fhall the party principall be compelled to finde new fureties, after their death, for if the peace be broken after their deathes, their executors shall bee charged therewith; and so there is no mischiese by

ter sessions, will discharge the party so bound of his apparance, so as he shal not be called vpon his recog, for that release being so certified, is now become of record, as well as the recognisance. If the recog were to keepe the peace versus canctum populum, &

Br.Peace 17 pracipue versus A. yet may the same A. release it; for although this may seeme popular, & that all others should have interest therein aswell as A.yet as it appeareth by the word Pracipue, it was especially taken for his fafety: but the contrary was holden by all the Iu. 21. Ed. Lambt. 114. 4.48.& M. Lam. alloweth best of that opinion, neuertheles the vsage

now is, and long hath bin, as is first before said.

But (in those former cases) although this surety of the P.be releafed, yet the recog. shall not be cancelled by the Iu. of P. for peraduenture the recog, was forfeited before such release made: And therfore the lu. of P. shal do best to certifie such recog. with the release, together, to the next quarter feffions.

The forme of the releas of the Iu. of P. See postea sit. Release.

The forme of the release of the party. See ibid.

Note that the party that first demanded the peace may release the same, beforethe same Iu.of P.that tooketherecog, or before any other Iu. of peace.

Note also that to release such surety of the P. by deed under his

hand and feale, is nothing worth.

Note also the K. can in no case releasor pardon the surery of the P. nor such recog. (taken in the behalfe of any of his subjects) vntill it be forfeited, for the mischiefe that may come to the party thereby; but being forfeited, then the K. and none other may releas and pardon the forfeiture.

But the death (or refignation) of the king dischargeth this suretie Bullence 15 of the peace, taken by his subject : for the recognisance is to keepe Death. the peace of the king then being, and when he is dead &c. it is not

Also the death of the recognisor (se. of the party principal) that is Lamb. 116. bound) dischargeth this surety of the P. and the recognisance.

Also the death of the party, at whose suit the peace was taken, dischargeth the recoglifit were to to keepe the peace against him alone.

But yet in these three former cases, such death shall not discharge the recog. if it were forfeited before: And therfore it shalbe best for the luft of peace to fend to the next fellions, fuch recog. (notwithstanding such death) else the K. may be defrauded of a forfeiture, if

porteth as much, faying, that this furery of the peace is not broken,

their deaths, yet alij e contra ibidem sexthat the principal shall be compelled to find new fureties.

If the King and the recognisor be at illue vpon the breach of the 11.E.446 peace, and the king waites the issue; yet is not this recog. discharged, 10.H.7.11. but remaineth in force, and may be fued againe vpon a new breach Br. Recontr of the peace afterwards.

What act shall be (or makes) a forfeiture of the recogni-Sance taken for the peace.

Hatsoeueractisa breach of the peace, the same is a forfei-Lamb. 117. ture of this recog.

And first this breach of the Peace may be committed by vsing a- Br. Peacers ny fearefull or threatning speeches to another: Therefore all menacing or threatning to kill, or beat another, to his face, is a forfeiture of this recogn otherwise if the party so threatned, be absent; and yet if the party so bound, shall threaten to kill or beat A. who is absent, and after shall lye in wait for him to kill or beat him, this is a forfeiture of his recognisance.

So assaults, Icz. to strike at, or offer to strike at, a man, although he neuer hurt, nor hit him, is a forfeiture of this Recognisance : see Cromp.137.b.

Much more all affraies, or violent and malitious batteries, strikings, beatings, woundings, or other milintreatings of the person of another, are forfeitures of this recognisance.

The difference of these 3 are, menacing beginneth the breach of the peace, affaulting increafeth it, and battery accomplisheth it.

For breaches of the peace without word, or blow giuen, as to go with weapons, or company vnusually, which be in effrey del pais. See pag. sequente.

If he that is bound do but command or procure another to break the peace, and that it be done indeed, this is a forfeiture of this recog. Br. Peace 20.

Allimprisonment, or arresting of another, without warrant, is a Lambt. 130. forfeiture of this recognisance.

So to thrust another into the water, whereby he is in danger of drowning.

So to rauish a woman against her will.

So to commit any burglary, robbery, murder, or manslaughter, all which are to the person of another,) or to procure the same, all and enery of these are forfeitures of this recognisance.

So to do any treason against the person of the king.

Note that the act which must make a forfeiture of a Recogni- Mar.Left.7. fance for the peace, must be done or intended to the person of another, (by the opinion of Master Marrow.) And the booke 2.H.7 importeth

without an affray, fighting, beating, or the like. Also to be riotoully allembled, is a breach of the P. and a forfei-Lamb. 311. ture of this recog. Nay if two Iu. of P. shall record a ryot vpon their view(against a man so bound to the peace) although it were no ryot &c.yet hee cannot plead not guilty, in a Scire facias vpon his recog-

nilance.

Alfo to weare armour, or weapons not viually worne; or to goe with an vnufuall number of attendants, seeme also to be a breach or meanes of breach of the P. and a forfeiture of this recog. for the P. for these strike a feare & terrour in the people, and be in effray del pais See Br. Surety 12.

He that is bound to the P.ought to carry himselfe wel in his behaniour, and company. See antea fub hoc tit. Et postea tit. Surety for the

good Behaulour.

Yet the having of weapons or company vnufual, are in some cafes allowed, and lawfull, and are no breach of the P. See hereof post-

eatit. Posse Comitatus, & posteatit. Ryots.

Also though Assaults and Batteries bee for the most part contra- Batterie inrie to the Peace of the Realme, and the Lawes of the same, yet stifiable. fome are allowed to haue a naturall, and some a civile power (or authority)oue others; fo that they may (in reasonable and and moderate manner onely) correct and chastice them for their offences, without any imputation of breach of the peace; yea they may (by the law) inflifie the fame.

And therefore the parent (with moderation) may chastice his

child within age.

So may the mafter his fernant, or apprentice.

So may the scholemaster his schollers.

So may a gaoler (or his feruant by his commaundement) his vnruly priloners.

So may any man his kinfmanthat is madde &c. And none of these shall bee in perill therefore to forfeit any recognisance of the

Note that the mafter may strike his servant with his hand, fish smal staffe, or sticke, for correction; and though he do draw bloud thereby, yet it seemeth no breach of peace, as appeareth by the statute of 33.H.S.ca.12.

And where the feruant shalbe negligent in his seruice, or shall refuse to do his worke &c. there the master may chastice his servant for fuch negligence or refufall; so as he dothit not ourragiously.

But if the servaunt shall depart out of his masters service, and the master happen after to lay hold of him, yet the master in this case may not beate, or forcibly compell his faid sernant, against his

P.Fight.

will to returne, or tarry with him, or doe his feruice, but either hee 1E14. must complaine to the lustices of peace for his servants departure; or he may have an action of covenant against his servant, if being required to doe his service he shall refuse it. See antea tit. Labourers.

And as the M', without the breach of the peace, cannot by beating or force, compell his feruant to ferue him against his will: no more can a Lord, or Gardian in chiualry, compell his ward, by beating, or by force, to come vnto him. or to tarry with him against his will.

Also the scholemaster, with a rod, may chastise his scholler, which 31.E.4.6. is carelesse and negligent in learning, or that shall abuse his schoolefellowes, or for other the like occasions.

Also it is lawful for the parents, kinfmen, or other friends of a man 22. E. 45. that is mad, or frantike (who being at libertie attempteth to burne 23.Aff.p.56. an house, or to do some other mischiefe, or to hurt himself, or others) to take and put him into an house, to binde or chaine him, and to beat him with rods, and to do any other forcible act to reclaime him, or to keepe him so as he shall doe no hurt.

An Officer.

Alfo if a Constable, Sergeant, Bailiffe, or other officer of Iustice, Lib. Inst or any other being of their company, for the better executing of Stamfit 3. their office, shall be forced to strike any person, that will not yeeld to 14.7.39. their arrest, or that shall resist, or slye from their arrest, they shall not be in danger to forfeit any recog, of the peace by any fuch affault, or striking, but may well instifie such act.

Also it is no breach of the peace, for any private man to beate, LIL Inf firike, or wound another, in defence and lafegard of his owne per- 16.E. fon, from killing, wounding, or beating, but is a thing iustifiable: 11.E4.6. And yet it feemeth if another shall assault mee, if I may escape with my life, or without being wounded, may med, or hurt, it is not lawfull for me to beat or wound the other, who first made the assaut, but I must first flye, or goe from him so farre as I can. 25.E.2.42.2. H.4. 8. 33. H.6.18. Br. Trn's. 28.71. Cro. 137.

If two or more do agree together to play of Barriers, back-fword, Bucklers, Foot-ball, or such like, and one of them doth wound or hurt another, the party hurt shall not have an action of Trespasse therfore against the other, for that it was by consent, and to trie their valour, and not to breake the peace. Fitz. Barr. 244.

Yet if such a man were before bound to the peace, such act see- Lamber 1324 meth to be a forfeiture of his Recognisance: See Br. Coron. 229. for although fuch sports be suffered, yet they are not lawfull.

In desense of others.

Also it is no breach of the Peace for a man to beate him, that doth affault and would beate, wound or cuill entreate his wife, father, mother, or master, but is justifiable.

So if the wife shall beate him that shall assault, and would beat or euillintreate her husband.

So if the father, or mother, shall beate him that doth affault, and would beate or cuil entreate their childe, being then within age, and not able to defend it selfe.

But though the servant may lawfully beate him that doth assault, and would beate, or enill intreate his master, or mistris; yet the feruant cannot inflifie the beating of another in defence of the father, mother, brother, fifter, some or daughter of his master or mistris. for he oweth no obedience or duetie to any of them.

By some opinions the master cannot justifie the beating of him that doth affault, and would beate his feruant; but the mafter with a Lamb. 142. fword, staffe, or other weapon may defend his feruant assaulted from Cromp. 136 being beaten, in respect of the losse of his service: Yet master Lambert, and Master Crompton are of opinion that the Master may beate another in defence of his feruant.

Lamb. 132. Neither can the Fermour or Tenant instific such an act in desence of his Land-lord: Nor a Citizen, &c. in defence of the Major (or Bayliffes) of the Citie, or Towne corporate, where he dwelleth.

Also the law doth tollerate a man to beate another for the preser- In defence of 39.H 6.31. uation of his goods: And therefore hee that shall attempt by force my goods. and violence, to take away my goods wrongfully from me, whether they be goods whereof I have a lawfull propertie, or fuch goods whereof I have only a possession by the bailement of another, I may iustifie to defend the same by force, and if I shall hurt or beate such person, it is no breach of my Recog, for the peace; But if I kill him,

it is felony, and then a breach of the Recog.

11.H.6.33.

9.E.4.18.

Lib. Ingf

The same Law is in enery case, where another shall attempt by In execution force to take away my land, Freehold, Coppihold, or Leafe; or to of Inflice. ftop or turne my lawfull High-way, or my ancient River, or watercourse leading to my Mill; in these and the like cases, if I shal disturbe him therein, whereupon he doth affault and attempt to beate mee, I may inflifie to beate him againe, as well in defence of my person, as of my pollellions, but not to kill him.

The same Law is also in every case, where an offender is by order of Law punished with whipping, stockes, pillorie, or otherwise, for any offence by him committed contrary to the Lawes or Statutes of the Realme, there is no peace broken, nor any Recog. of the Peace forfeited, by him or them which shall lawfully execute any such punilhments.

Note further, that there are divers offences, for which an Inditement Contra pacem, will lye, and yet the committing of fuch offence, shal be no forfeiture of the Recognisance for the Peace; for that the afte that shall breed a forfeiture of such a Recognisance, must bee done or intended vnto the person, as aforesaid, or interrorem populs.

Therefore

Therfore to enter into lands, where he ought to bring his action, or to diffeile another of his lands:

Or to enter into landes or tenements with force, being without Marow. offer of violence to any mans person; and without publique terror. Cromp. 136.

Or to do a trespas in another mans come or graffe:

Or to take away another mans ward:

Or to take away another mans goods wrongfully, (so it bee not from his person:)

Or to steale another mans horse, or other goods feloniously (be- 1614) ing not from his person:)

These will make no breach of this Recognisance.

Note, that if a man be bound in such a Recognisance for himselfe 4.14.7.8. and his seruants, if any one of them breake the P. the whole recogis for seited. Et sie in similabus.

Note also, that the sureties may pleade, that the party principall hath not broken the peace, although vpon issue the same shall bee found against the said principall; for they are estrangers thereto. Fitz, Auerment 46.

Now concerning the Writ of Supplicauit.

The formes of this writ, out of the Chancery, are of divers forts, as you may fee, Fitz. N.B.80.d.

By which formes of the writ, it appeareth, that it may be directed to the Iu. of P. or to one of them, or to the Sherife, or to every of the, to cause the party that is to be bound, to come before him or them, to finde surety of the P. And this writ may be that the principal shall be bound in such a summe, & the sureties in such a summe certaine, (and that may be in what certain summes the demandant will:) or the summes may by the writ be referred to the Iu. of P. &c. with this clause therein contained, pro quarespondere volueris: And the said writ is surther, that if the party shall refuse &c. that they shall commit him to the gaole, quous & co. & that when they have taken such surety, they do certific the recog. (which they have so taken) vnder their seales, and returne the writ into the court from whence the same was awarded, and that without delay.

And for that this writ is of divers formes, the lust of P. must have a care that he do execute the same in every behalf as the same writ shall direct and appoint him.

When the writ doth refer the summe (wherein the principall, and his sureties shal be bound) to the Iu.&c. Then it resteth in their discretion; but yet it is then safe for them to take good sureties, and to bind them in good summes; and the rather when that clause is in the writ, pro qua respondere volueris.

When this writ is directed to the therif, and to all the Inflices, and is delinered to any one of them, he only to whomit is first delinered, ought to execute the same writ (in energy behalfe) fex. he onely shall make a warrant, &c. returneable before himselfe, and shall take sureties, and make returne thereof (only) without any other.

The forme of a warrant for the peace, vpon a Supplicanit: fee po-

steatit.Warrames.

Also the same Iu. of P. after such surery taken, may make the party a Superfedeas to discharge him from any other arrest, or to deliuer him being in prison, for the peace, (at any other mans suit as it seemeth) Cromp. 237.b.

The forme of fuch Superfedeas : fee after tie, Presidents.

The party who is attached vpon this writ of Supplicanit, cannot go to be bound before any other Inft. of P. but only before him from whom the warrant proceeds vpon this writ; neither can another Inft. of P. by a Superfedent) discharge such a warrant made by his fellow Inft. by force of this writ.

The Iustice, or Sherife, to whom this writ shall be deliuered, may make a deputy herein; so may make his warrant to the Constable or other person indifferent, to apprehend the body, or to cause the party to come beforehim (the said Iustice or Sherise) to find sureties &c. And that if he shall refuse, that then the Constable &c. shall carry him to prison, there to remain until he shall find sureties; and yet the writ of Supplicauit is to commit the party to the gaole if he shall refuse before the Iustices (Sicoram unbia, ruel te, recusamerit, cre.) But the lu. or sherif cannot give their power to another, to take this surety; for that is a iudicial power, which cannot be assigned ouer, neither can they make any deputy therein; but they must take this suretie themselves. Br. Office 39.

If the party that make relifance upon the execution of this writ, it feemeth the Officer may take poffe Comitatus, to aide him to arrest fuch party: for talketic Poffe Comitatus.

fuch party: fee posteatit. Posse Comitatus.

F.N.B.2.d. He that is to be bound to the P. by force of this writ of Supplicanit, out of the Chancery, is to be bound against him onely, that such out the writ (as appeareth by the forme of the writasforesaid.)

But yet at this day it is vied otherwise: And I once received out of the chancery a special writ of Supplicanis, directed Custodibus pacis, at vic. of eor il cuilibet, commanding vs to take sureties of the party to be bound, quod ipse damnum vel mali, aliquod alicui de popula nostro, or inprimis eide Ioh. or . (that sued out the writ) non fac. nee sieri procurabit or.

P.N.B.To.d. Also by this writ of Supplicanit, the party (against whom the writ is sued forth) shalbe bound to the P. for euer, (if he be taken) for the writ containeth or mentioneth not that he shalbe bound to keep the

peacevntill any certaine time; but generally (ad sufficientem securitatem inveniend. Sub pana (c.) And therfore to prevent this, the party (before he be attached) may come into the Chancery, and there find fureties, & be bound vntil a certain day, that he shall do no hurt &c. vnto the party that fued forth the Supplicauit; and therupon he shall haue a Supersede as out of the Chancery, directed to the Inflices of P. and to the sherite, commaunding them to surcease to arrest the said party, or to compell him to find any furcties, &c. And that if they have arrested him for this cause, & none other, that then they deliver him &c.Fitz.St.a.

And if the party against whom this writ is sued forth, cannot tra- Cromp. 146 uel, (or elfe will not trauel) to bind himselfe in the Chancery, then he may cause some of his friends to be bound, or to find sureties in the Chancery for him according to the Supplicanit, & therupo they may purchase a Supersedeas out for him, directed to the lustices of Peace and to the sherife, and by this Superfedens the lust, and sherife shall bee commaunded to take also suretie of the party himselfe in the countrey(according to the Writ of Supplicauit) that hee shall keepe the peace &c.

Also if the party happen to be arrested, and imprisoned upon this writ, yet if he can procure a Superf. out of the Chancery, it seemeth (by the words in the end of the Supers.) that this will discharge him of the arrest, or imprisonment.

Now after the party is arrested and imprisoned (vpon this writ) the meanes for him to procure a Supersedeas out of the Chancery, must be:

1 Either to get some of his friends to be bound in the Chancery for him, and they to get a Superf. vt supra.

2. Or else to get a Certificat to the Lord Chancelor, from 3.or 4. Iu. of P. in his behalfe, vs hie pag. Sequente.

This writ of Supplicauit, is granted (or to be granted) in the Chan-F.N.B.70h. cery, or K. Bench, vpon great cause shewed and proved there, and is Lamb. 86. (or ought to be) granted vpon oath, that the party is in feare &c. of fome bod:ly hurt &c.

And it is to be wished, that in the granting thereof great care bee Co.8.47. taken; For oftentimes this writ of Supplicanit is procured and gotten out rather of malice and for vexation, then vpon any needfull and just cause: And six Edward Coke speaking of such as malicioufly shall purchase out any speciall Supplicanit, or Latitat of the peace, (and that by fraud and malice to inforce the other party, ad redimendam vexationem, to give them money, or to yeeld them other composition) brandeth them as Barrettors, and notable oppressors of their neighbours, oppressing thereby the poore and innocent by colour and countenance of Law, which was ordained to protect

the innocent from all oppression & wrong: Neither is this 2 wrong only to the party thus maliciously vexed, but also to all the Iu. of P. relident in that county, taxing them (tacite) as though the demandant could not have inflice at their hands in fuch case, whereas perhaps the demandant neuer so much as defired the same at any of their hands: And besides the said Iustices of P. (hauing in all likelihood. knowledge of each party, and of their behaulours) or any one of them, might and would no doubt, yea and ought to have yeelded the demandant upon request and full cause thewed to them, as sufficient and good fecurity in the countrey, every way (as I conceive it) for his fafety; as namely, as many and able fureties, & better known; and to have bin bound in as great fummes; and for as long time, if the case should so require; So as what should move them to seeke (with more trouble, charge, and delay to themselves) that securitie abone, which they may have (more speedily, & with lesse charge, and trouble) at home, I see not but onely or chiefly the vexing & oppresfion of their neighbours as aforefaid: And for that this manner of oppression beginneth to grow ouer common, therefore I thought it not a misse, here to observe what remedy the lustices of P. in the countrey (by some opinions) may by their discretion yeeld to their innocent neighbours, against whom for vexation only, such a writ shalbe maliciously procured fe.

Where one hath procured a Supplicanit out of the Chauncery or K. Bench, against another, if he hath not before demanded this suretie of the peace at the hands of fome luft. of P, in the countrey: Or that the party against whom he hath procured the Supplicauit, bee one of fuch condition and fort, as that in likelihood the Iustices of P.in the Countrey, will not deny to graunt fuch furety against him ; Then if three or foure of the next Iuft of the P in the Countrey shall certifie to the Lord Chauncelor (if the Supplicanit proceeded out of the Chancery) that the party plaintife neuer demanded the peace in the countrey, and further that the plaintife is a contentious man, and the other party of good fame; vpon fuch certificat (it is faid) they will discharge the party, or grant him a Supersedeas.

Now to conclude this bulinelle: If the surerie of the peace be taken, by vertue of a Supplicauit, then must the Iustice of P. make returne of the writ, and certificat of his doings under his feale into the Court from whence the Supplicauit did proceed, which may be done in this manner:

First, let him write vpon the backe of the Supplicanic, thus,

Executio istius breuis patet in quadam schedula huic breui annexa.

Then may the Certificat or Schedule be thus, and be filed to the backe of the Writ.

before in

The returns of the Suppl.

Egø

The Certifi- D Go Iohannes Cotto miles, unu Custodu pacis Domini regis in comitatu Lantebridgia certifico in Cancellariam dicti domini Reg. me virtute istius breuis (mihi per A.B.in codem breui nominatu, primo deliberati) perfonaliter coram me (tale die & loco) venire fecisse T R.in dielo bresi nominatu, ac cundem T. ad sufficientem securitate Jo manucaptores pacis inueniendu (ccundu formam dicti brenu, viz Ge. (as the writ shal appoint) sompulisse: In cuius reitestimonium huic prasenti certificationi mea sigillum meum apposui, datu apud C. pradictam, in comitatu predicto 16. die January, Anno regni Domini nostri Jacobi Dei gratia regis (rc.

Theretourne of a Cercio-And of the Recog.

The Id. of P. may also therewith send the recog, if he will, or may keep & stay the recog. vntill a Certiorari come to him for it.

And if a Certiorari be directed out of the Chancery to the Iust.of P.for remouing of this recog. (because it was not sent up together with the certificat, as there was no necessity that it should) Then that writ also may be thus answered.

Write vpon the back of the Certiorari, thus;

Virtute istins breuis ego Ioh. Cotton miles unu rustodu pacu domini La Intias? regu in com Cantebr' tenorem securitatis pacis, unde infrafit mentio dicto dom regi in Cancellar Suam Sub figillo meo distincte & aperte mitto prout paget in Schedula huic breui consucta.

And then write the recog. verbation, in this maner hereutider folor cartificat. lowing, and thereto fet your scale.

Memorandum qued 16. die Ianuarij Ge. (reciting the whole recog. to the end) In cuius rei testimonium ego predictus Iohan. Cotton figillu meum appolui. Datum eyc.

And file this schedule (or note of the Recog.) to the backe of the Certiorari.

The forme of the Certierari you may see F.N.B.81.c. Vide postea tit.Certiorari.

Also this forme of Certificat, may serue where a Certificat is F.N.B.B.C. brought to a Just of Pito remoue a recogn, of the peace taken by him ex officio, without any writ of Supplicauit. See more antea fub hoc tit. Surety Gc.

And if the lu. of P. shall not returne the Supplicanit, nor Certificar of his doings therein, untill a Certificationne to him for it, it feemeth F.N.B. 11. 1.

no danger to him.

Also if the Supplicauit be against divers, and the demandant will Lamburgi release his prayer of the peace against one of them, then that release ought to be certified for him; and the writ must bee served and executed for the reft : or elfe, Non est insentus, may be certified for him, and the writexecuted for the rest.

By the Booke 30. Asifarum placito 14. it appeareth that a man

Brillierty 11 may be compelled to finde Sureties both for the good Behaniour, and for the Peace: and yet it feemeth that the good Behaniour, includerh the peace, and that he that is bound to the good Behaviour, is therein also bound to the peace. See the vsuall formes of both Recognisances.

But if the Recognifance taken for the good Behaulour, be only quod bene segeret, frc. Quare how farre those words will extend. See

2.H.7.2.b.

Suertie for the good Behauiour.

P.IuR.is.

His fuerty for the good Behauier, or good abearing, is granted by the luft of Peace, as wel by authority is granted by the Init. or reace, as well of the Commission of the P. the first Asign. as also by force of the stat. of 34.E.3.4.1.

And this fuerry for the good Behaulor is of great affinitie with that of the peace; and is provided and

ordained chiefly for the preservation of the peace (as that other is,) as you may observe out of the vsuall formes of the Recognisances, yea, by some opinions it differeth in little or nothing from that of the P. but that there is more difficulty in the performance therof, and the partie so bound, may sooner fall into the danger of it, and of his Recogn. For the peace, fay they, is not broken without an affray committed, battery, affault, imprisoning, or extremity of menacing; whereas the good Abearing may be broken (and the parties Recog. forfeited without any of these, as namely:

1 By the extraordinary number of people attending upon the particbound:

2 Or by his wearing of harnesse, or other weapons, more then vfually he hath done, or more then be meet for his degree:

3 Or by viling wordes or threatnings, tending or inciting to the

breach of the peace: 4 Or by doing any other thing which shal tend to the breach of the peace, or to put the people in dread or feare, although there bee

no actuall breach of the peace. Yet note, these foure last matters, as they are breaches of the good Abearing, to are they also causes to binde a man to the peace; yea, they are breaches of the peace, and a forfeiture of the Recog, for the

peace. Videtti Suretie for the peace. The booke 2.H.7 fol.2. concludeth, that the Iuflices were not all certainly aduised how those words, de se bene gerede, should be taken. M. Bro. abridging thereof tit. Surry 12. faith, Thatit was holden that he who is bound to the peace; ought to demeant himselfe well in his

Release.

may