

Servant for one year : The first Retainer by *A.* is defeated and become void. *Br. 51. Sec 11 H. 6. 1. Br. 46.* Fitz. 169.

Yet the Retainer of a Servant for a week, or for so long as the Servant or Master shall like, is a good Retainer. *Co. Instit. tit. Laborer.*

If a Servant, who is retained, shall depart out of his service, and wander, he may be compelled to serve another Man ; but yet the first Master may take him away again. See *Br. Notice, 2. 4.* And besides, it is safe to get the consent of his first Master, for now by the Statute, *5 Eliz. c. 4.* the Master retaining a Servant that is departed out of Service, without shewing before his Retainer, a Testimonial, shall forfeit Five pounds. Fitz. 168.

A Man that retaineth a Servant, ought to take notice of every former Retainer within the same County; otherwise it is of a Retainer in another County, *17 E. 4. fol. 7. Br. Notice 20.* P. 8.

And yet Mr. *Fitzh.* opinion was, That if one retaineth another Mans Servant (generally) not knowing that he was another Mans hired Servant, he was not punishable therefore, except he should detain him after notice thereof, but now the Master may and must take notice whether he hath a Testimonial, or no (as it seemeth). Fitz. 168. B. Br. 7. 29. 33 Dr. St. 149.

§. 14.
Departure
of a Ser-
vant.

If one taketh an Infant, or other Servant out of another Mans Service, this is punishable, though the Infant or Servant was not retained; but if an Infant being retained as an Apprentice or Servant, fall to be a Ward, the Lord may take him from his Master, for the Lords title is more ancient; yet here it seemeth the Lord ought first to give notice thereof to his Master, *50 E. 3. 22. Br. Labor. 17. See Br. Notice 24.* Fitz. 198. A. Fitz. 143. 1. Plo. 252.

If a Servant or Apprentice depart and flee into another County, the Justices of Peace may issue out a Capias against him into the County or place whither he is fled; and being taken thereon, shall be imprisoned till he give Surety to serve as he ought. *5 Eliz. 4.*

If a Servant depart, and be retained without a Testimonial, he departing shall be imprisoned until he procure it; and if he procure it not, within Twenty days, he shall be used as a Vagabond; and the person that Retains him without such Testimonial shewed, shall forfeit Five pound. And if any person be taken with a counterfeit Testimonial, he shall be whipped as a Vagabond. 5. El. 4.

Note that by the Retainer, the Servant is in service presently. by Law, although he cometh not into his Masters service indeed, *41 E. 3. 20. 46 E. 3. 4. 47 E. 3. 14 Br. 9. 11.*

If a Servant shall depart from his Master, his Master may take him again, and retain and keep him whether he will, or no. See the title *Surety for the Peace.* And the Constable may take and bring such Servant to his Master again, *Fitz Labor. 56.* Fitz. 168. P.

Any Artificer or Laborer that shall take any piece of Work in Great, in Task, or in Gross, or that shall take on him to make or finish such Work, shall not depart from the same (unless it be for non-payment of his Wages, or Hire, or otherwise taken to serve the King, or for other lawful cause) without License, upon pain of imprisonment for one Month without Bail, and Five pounds: For which, the party may have his Action and Costs. *5 El. 4.*

Putting a-
way a Ser-
vant, Vide
antea.

The Master cannot discharge his Servant, during his term, &c. without the Agreement of his Servant. And now by the Statute *5 El. 4.* it must be, for some reasonable cause to be allowed by one Justice of Peace, at least, &c. *Vide P. 5.* otherwise the Master shall forfeit Forty shillings. *Tamen quære.* For where the departure or putting away of the Servant, is by the joynt consent of the Master, and of the Servant, such putting away 16 H. 6. 30 Br. 27.

away