

by, and have no remedy (as it seemeth) and therefore the Justices shall do well to be advised what they Record. See 9 H. 6. f. 60. Br. Judges 2. Fitz. Just. of P. f. 17.

And again, for that this Record of the Justices and Sheriff, is a sufficient Conviction in it self against the offenders, therefore it ought to be formal and certain as well 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 Traverse, or deny it in any point.

The Form of the Record, *vide hic postea*.

This Record ought to remain with one of the said Justices of Peace; and shall not be left amongst the Records of the Sessions of the Peace, it being made out of the Sessions, and not appointed to be certified thither.

§. 18.  
Imprison-  
ment.  
Gaol.

4. Also the said Justice of Peace (and none other Justice of Peace) shall commit such offenders to the Gaol, there to remain Convict by their View, Testimony, and Record (as in Case of Forcible Entry) until they have paid a Fine unto the King.

Also such commitment of the offenders to the Gaol ought to be done presently.

And the power of the County ought to be aiding to the Sheriff, or Under-Sheriff, for the conveying of them to the Gaol.

If the Justices of Peace, and Sheriff, or Under-Sheriff, shall Record the Riot, and shall not presently commit the Rioters to Prison; or if they shall commit them to prison, and shall not Record the Riot, they shall forfeit every of them 100 l. by the Statute of 13 H. 4. for that they have not done execution of the same Statute: For by the Statutes they shall Record and commit; and again, by the same Statutes, the offenders must be as well imprisoned as fined.

§. 19.  
Fines.

5. Also the said Justices of Peace (and none other) shall assess the Fines upon the said offenders; for they have best knowledge of the matter, &c. Co. 8. 40. a. Which Fines by the Statute of 2 H. 5. 8. ought to be of good value, that out thereof the charges of the said Justices and other Officers may be born, *sc.* their charges in going, tarrying, and returning, &c. about the Suppressing and Inquiry of such Riots; of which charges, payment shall be made by the Sheriff, by Indenture thereof made between him and the said Justices.

Fines.

And yet such Fines must be reasonable and just, and *Secundum quantitatem & qualitatem delicti*, and not unreasonable and excessive (for *excessus in re qualibet jure reprobatur communi*, Co. 11. 44.) And so it is commanded by the Statutes 9 H. 3. 14. 3 E. 1. 6. 18 E. 3. 2. & 34 E. 3. 1. P. Just. 1. & 18.

And the reasonableness of the Fine shall be adjudged by the discretion of the same Justice of Peace. Co. 11. L. 56. b.

Note also, that the Fine assessed in this, and such like Cases, must not be imposed upon all the offenders joyntly, but must be assessed upon every offender severally. Co. 11. 43. 44.

And yet note, that in some Cases a Fine or an Amercement shall be imposed upon divers joyntly; (*sc.* sometimes upon a whole County, sometimes upon a Hundred, and sometimes upon a Town, as for an escape of a Murderer, &c. whereof *see hic post.*) but that is by reason of the incertainty of the persons, and for the infiniteness of their number. Co. 11. 43.

§. 20.  
Estreat.

And the said Justice shall cause the said Fine to be Estreated into the Exchequer, that so the said Fines may be levied to the Kings Majesties use; and then they are to deliver the offenders again, as it seemeth: Or else the said Justices may Record such Riot by them viewed; and commit the offenders, and after certify the Record to the Assizes or Sessions, or into the Kings Bench, as in Case of Forcible Entry.

6. But