

So upon a *Certiorari* out of any of the Higher Courts at *Westminster*, directed to the Justices of Peace (or to any of them) to certify any Recognizance, Indictment, or other Record taken before him, or them, or any of them; or in his or their hands, Of which see more, *Postea*.

§. 2. But in all other cases within their Authority, the power of the Justices of Peace seemeth to be absolute, (in some manner) so as they, and every of them, may of their own power proceed *ex Officio*, and as a Judge: yet in this also their power is limited; for they may neither hang a man for a Trespass, nor fine him for a Felony, but must proceed in all things according as they are prescribed by the Commission, and by the said several Statutes.

Discretion. And yet for that all considerable circumstances can neither be comprehended in the Commission, nor foreseen at the time of the making of the Statutes, therefore oftentimes some things are referred to the consideration of the Justices of Peace, and left to be supplied by them in their Discretion.

The Commission of the Peace (in it self) doth leave little or nothing to the Discretion of the Justices of Peace, but doth limit them to Proceed *secundum Leges, Consuetudines, Ordinationes & Statuta*: And indeed to leave too much to Discretion, were to open a gap to corruption.

But by some late Statutes some things are (therein by special words) referred to the Discretion of the Justices of Peace; some out of Sessions, and some at their Sessions.

I will here only set down some particulars of such things as are referred to their Discretions out of their Sessions.

§. 3. *Some things referred to the discretion of one Justice of Peace out of the Sessions, which you may more fully see hereafter in this Book; in the several Titles here under written.*

1 Jac. 29.
5 El. 4. **F**lesh killed in Lent, one Justice of Peace may give to the Poor at his discretion. But this Statute is expired. *5th days.*

One Justice may compel any person meet (in his discretion) to be bound an Apprentice.

3 El. 4. One Justice of Peace may cause all such persons as be meet to labour, (by his discretion) to work in Harvest and Hay-time. *Labourers.*

2 E. 6. 10. Málts that be deceitful may be sold, &c. at such resonable prices as one Justice of Peace (in his discretion) shall think expedient. *Malt.*

1 Jac. 31. One Justice of Peace (as seemeth) may (by his discretion) give directions to the Searchers, Watchmen, and Keepers, &c. of persons infected with the plague. *Plague.* *Vide Cromp. i 22. b.*

43 El. 7. Trespassers in Corn, Orchards, Hedges, or Woods, which (in the discretion of the Justices) are not thought able to give satisfaction, shall be whipped. *Trespass.*

17 E. 4. 4. It seems that one Justice of Peace may hear and determine by examination, or otherwise, by his discretion, the Offences committed in Tile-making. *Tiles.*

§. 4. *Some things referred to the discretion of two Justices of Peace out of the Sessions.*

5 E. 6. 25. **T**wo Justices may allow and discharge Ale-house-keepers, as they shall think meet. But they ought to allow none but such as be capable and needful for the place. *Ale-house.*

Two