

5 E. 6. 25. Two Justices may take Recognizance of Ale house keepers for keeping good Orders, &c. according to their discretions.

Two Justices may appoint Overseers of Woollen Cloth by the year, or *Cloth.* for shorter time, by their discretion.

Clothiers, their Work folks imbeziling any part shall be Punished, &c. by the discretion of two Justices.

Two Justices may grant their Warrant to call before them any person or persons which in their discretions shall be thought fit to discover any offence in the making of deceivable Woollen-cloth, &c. 21 Jac. chap 18.

Servants, &c. assaulting their Master, may be imprisoned for one year, *Labourers.* or less, at the discretion of two Justices.

Two Justices may (by their discretion) compel Women to serve, and for such wages, and in such sort, as they think meet.

Two Justices may tax others of the County (by their discretions) towards the relief of places infected, &c. *Plagues.*

43 El. 2. Two Justices may tax any in the Hundred (by their discretions) towards the relief of the Poor of any Town that is over-charged. *Poor.*

Two Justices may dispose of all Forfeitures to grow upon the Statutes of Rogues, at their discretions, &c. *Rogues.*

Two Justices may assess (according to their discretions) proportionably all the Parishes within the Hundred, towards a Contribution for the parties charged upon a Robbery, &c. *Robbery.*

Two Justices shall take order (by their discretion) to set poor Souldiers, &c. to work that cannot get work; and, for want of work, may tax the Hundred (by their discretions) for the relief of such Souldiers, &c. *Souldiers.*

Two Justices may fine (by their discretions) the head Officers in Boroughs and Market-Towns that do not view, &c. all Weights and Measures, or do not break and burn the defective. *Weights.*

Two Justices may fine (by their discretions) all Buyers and Sellers with unlawful Weights and Measures.

There be some other Statutes, and some other Cases, wherein the discretion of the Justices of Peace (out of their Sessions) is tolerated: but the counsel of *Cicero* herein is to be observed, *Sapientis est Judicis cogitare tantum sibi esse permissum, quantum sit commissum ac creditum.*

§. 5. Also the sayings of the Right Honourable, and late Reverend Judge  
Co. 5. 101. and Sage of the Law, (in his Fifth part, in *Rook's Case*, and in his Tenth  
& 10. 140. part in *Knighlie's Case*) are worthy of observation: *sc.* That discretion is a Knowledge or understanding to discern between truth and falshood, between right and wrong, between shadows and substance, between equity and colourable glosses and pretences, and not to do 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 word in the Commission of Sewers do give Authority to those Commissioners to do according to their discretions, that yet their Discretion ought to be limited and bounded with the rules of Reason, Law, and Justice, and their proceeding must be *secundum Legem & Consuetudinem Angliæ*; and so of other like Commissioners. Again, Discretion, saith he, is *scire vel discernere per Legem quid sit justum; viz.* to discern by the right line of Law, and not by private opinion, *Co. L. 227.* And therefore every Judge, Justice (or Commissioner) ought to have *duos Sales viz, Salem Sapientiæ ne sit inspidus; & Salem Conscientiæ, ne sit diabolus.*

And (as *M. Lambert* well said) no way better shall the Discretion of a Justice of Peace appear, than if he (remembering that he is *Lex loquens*) shall contain in himself within the lists of Law, and shall not use his discretion,