

chief Inhabitants there, and to supply the necessary wants of their Poor;) and then Kanikets (only to sell to the Poor, and out of their doors) would suffice, if they were enabled by a Law.

C H A P. VIII.

Affray.

Affray is in our Law a Skirmish or Fighting between two or more: and is derived of the French word *Effrayer*, which signifieth to terrifie, or bring fear; and which the Law understandeth to be a common wrong. And therefore I will shew you what every man may do in such cases.

Every private man being present before, or in and during the time of any Affray, ought to stay the Affrayors, and to part them, and to put them afunder: but may not hurt them if they resist him; neither may he imprison them, for that he is but a private man.

An Affray being in the street, if any other shall come with harness or weapon to joyn with either party, every person present, or that seeth it, may stay them till the Affray be over.

Also every private man (being present) may stay the Affrayors until their heat be over, and then may deliver them to the Constables to imprison them till they find surety for the Peace: But yet it seemeth the Constable may not imprison the Parties, except the Affray were in the Constables presence. *Hic. cap. 1.*

Lamb. 134. If any person be dangerously hurt in an Affray (or otherwise) every person may arrest the Offender, and carry him to the Gaol, or to a Justice of Peace, (who is either to bail him until the next Gaol delivery, or to commit him to the Gaol, until it be known whether the Party hurt will live or die thereon.) *Br. Faux impris. 35. 44.*

H. 7. c. 1. Br. Coron. 225. 10 H. 7. 20. The Constable in such Cases is armed with a more large Authority within his Jurisdiction; for he may and ought in the Kings name to command the Affrayors, or such as are about to make an Affray, to avoid or surcease, and to depart (upon pain of imprisonment:) and if the Constable (being present at an Affray) doth not his best endeavour to part them, it being presented by Enquest at the Sessions of the Peace, such Constable shall be deeply fined for it. *See more chap. 1.*

But where the Affray is made out of the presence or sight of the Constable, and one cometh to the Constable and telleth him of it, and wisheth him to go and see the Peace kept, and the Constable doth nothing, but neglecteth his duty therein, it seemeth he shall not be fined by the Justices at their Sessions, upon Presentment thereof by the great Enquest; *Cro. 146. Quære tamen & vide hic, cap. 1, & 5. the Commission, & 121. the Form of the Constables Oath.*

H. 7. 10. Lamb. 135. If the Affrayors will not depart, but shall draw Weapon, or give any Blow, the Constable may command assistance of others for the pacifying of the Affray, and may justify the hurting of them, if they make resistance.

Lamb. 135. The Constable may in the Kings name make Proclamation (if the Affray be great or dangerous) that the Affrayors shall keep the Kings Peace and depart, &c.

Lamb. 139. Also if the Affray be great and dangerous, then the Constables may command the Affrayors to Prison for a small time, till their heat be over; yea, they may imprison the Affrayors till they find Sureties for the Peace. And if any of the Parties have received any dangerous hurt in the Affray, the