

Arrest and Imprisonment. C H A P. CLXX. 7. 118.

§. 1.
what.

AN Arrest is the apprehending and restraining of a Mans person, depriving it of his own will, and may be called the beginning of Imprisonment.

Imprisonment is where a Man is arrested against his will, or is restrained of his liberty, by putting him into the Gaol, Cage or Stocks, or into some Houses, or otherwise by keeping him in the High-street, or open Field, so as he cannot freely go at liberty, when and whither he would.

If the Constable or other Officer, (upon a Warrant received from a Justice of Peace) shall come unto the party, and require or charge, or command him to go or come before the Justice, &c. this is no Arrest or Imprisonment. And upon a Warrant for the Peace, the Officer ought first to require the party to go before the Justice before he may arrest him. See hereof *antea tit. Surety for the Peace.*

A Bailiff or Sheriff says to a Man being present, I arrest you; although he touch him not: this is a good Arrest, and if the party go away it is a Rescue, 8 Car. B.R. *Sir James Wingfields Case.*

But this Arrest (being in Execution of the Commandment of some Court, or of some Officer of Justice) is expressed in their Writs, Precepts or Warrants, by these words or the like, *sc. Capias, Attaches, &c.* to attach, arrest, take, bring or convey, or cause to be attached or arrested, &c. all which words do imply the taking or laying hold of the person.

§. 2.
what Persons.

To this Arrest all Lay Persons (under the Degree of Barons or Peers of the Realm) be subject, and that by Warrant from the Justices of peace, as you may see here before *tit. Surety for the Peace.*

But the Justices of Peace are not to grant their Warrants for the Peace, or the like, against any Nobleman. And yet if a *Capias* or Attachment shall be awarded against a Baron or Peer of the Realm from the Kings Justices at *Westm.* for a Contempt, or in case of Debt or Trespas, the Officer without any offence of Law may execute the same, for that the Officer is not to dispute the authority of the Court.

Ecclesiastical persons may also be arrested, and that by Warrant from the Justices of peace, in some cases. See hereof *tit. Surety for the Peace.*

See P.
Arrest 1.

A Woman Covert may be imprisoned by the Justice of Peace for a Force or a Riot committed by her. See *antea tit. Forceible Entry, and Riots.*

But otherwise of Infants in such cases (as it seemeth.) See *Ibid.*

Infant.

Yet if an Infant cannot find Sureties for the Peace, being demanded against him, he shall be committed until he hath found Sureties. See *antea.*

An Infant (though of years of discretion, yet he) shall suffer no Imprisonment, nor other Corporal Pain, for any Offence committed or done by him against any Statute, except that an Infant be expressed by name in the Statute, *Br. Imprif. 101. Covert 68. Plo. 364. Doff. & Stud. 147, 148.*

§. 3.
For what cause and by whom.

The Liberty of a Man is a thing specially favoured by the Common Law of this Land; and therefore if any the Kings Subjects shall imprison another without sufficient Warrant of him, or his Law, the party grieved may have his Action, and shall recover Damages against the other; and the King also shall have a Fine of him. For Imprisonment of

Co. 9. 56.