

C H A P. I.

Of the Common Law, and of such as had, and still have, the Conservation of the Peace by the Common Law.

§. 1. *The Law of God is the Law of the Land.* 34 H. 6. 40. Prif. Doct. & St. lib. 1. cap. 6. Fitz. 3. Co. 340. † *Common Law is common Reason.* Vide Pl. 36. a. 67. a. 107. b. & 465. a. Co. Li. 142. Co. 3. 8. & 9. Part, Preface, Fortescue c. 17. Lit. 209.

THE Common Laws of this Realm of *England*, receiving principally their Grounds from the Laws of * God and Nature, (which Law of Nature, as it pertaineth to man, is also called the Law of † Reason) and being, for their Antiquity, those whereby this Realm was governed many hundred years before the Conquest; the Equity and Excellency whereof is such; as that there is no human Law within the circuit of the whole World, by infinite degrees, so apt and profitable for the honourable, peaceable, and prosperous Government of this Kingdom, and so necessary for all Estates, and for all Causes, concerning Life, Lands or Goods, as these Laws be: These Laws, (I say) even from their beginning, have continued a special care for the Conservation of the Peace of this Land. And, to that purpose, at the Common Law (long before Justices of the Peace were made) there were sundry persons to whose charge the maintenance of this Peace was recommended; and who, with their other Offices, had (and yet still have) the Conservation of the Peace annexed to their charges, as a thing incident to and unseparable from their said Offices. And yet nevertheless they were and are called by the names of their Offices only, the Conservation of the Peace being included therein.

§. 2. 20 H. 7. 7. a. Co. 11. 85.

First, The King's Majesty (by his Dignity Royal) is the principal Conservator of the Peace within His Dominions, (and is *Capitalis Justiciarius Angliæ*) in whose hands at the beginning, the Administration of all Justice and all Jurisdiction in all causes first was; and afterwards by and from him only was this Authority derived and given to others.

And yet so, as that whatsoever Power is by him committed over unto other men, the same nevertheless remaineth still in himself; insomuch that he may himself in person sit in Judgment, as in ancient times other Kings here have done, and may take knowledge of all cases and causes, unless they concern himself; for in such cases wherein the King is a party, the King cannot properly sit in Judgment, but must perform that by his Justices, Commissioners, or the like, as in cases of Treason, Felonies, or such other. The King also, as he is the principal Conservator of the Peace himself, so he may command all others, and may award Process against them to conserve the Peace; but he cannot take a Recognizance for the Peace, because the Recognizance is made to himself, &c.

§. 3. *Officers.*

The Lord Chancellor, (or Lord Keeper of the Great Seal) the Lord High Steward of *England*, the Lord Marshal, and High Constable of *England*, the Lord Treasurer of *England*, and every Justice of the King's Bench, as also the Master of the Rolls, have inclosed in their said Offices the Conservation of the Peace over all the Realm; and every of these may award Precepts, and take Recognizances for the Peace, by virtue of their Places and as incident to their Offices; yea, every one of these, upon prayer of Surety of the Peace made to them, or any of them, against another, hath authority to award or grant their Precept or Warrant to the Sheriff, Constables