

Writ of Error, that a Pippin-Monger is not within this Statute, for it requireth no skill to use it; so Ploughing or Digging is not within it: For in those Trades strength is more required than skill. Quære, Of Upholsters. Rolls 2 part. Rep. p. 10. The King against Tollin.

Every one bound an Apprentice according to that Statute, although under age, yet is compellable to serve his time out; as if he were of age, when he was bound, 5 Eliz. 4. But that is to be understood of a Compulsion, by the means prescribed by that Statute; for the Covenant is not good, so as to inable the Master to bring an Action upon it, as was resolved H. 5 Car. 1. Cro. p. 129. Gilbert verf. Fletcher,

§. 12.
Who be
compellable
to serve.

• An Apprentice must be retained by Indenture, and by the name of an Apprentice expressly; or else he is no Apprentice, though he be bound. Cromp. 17. 184. P. 15.

Who are compellable to serve, see in this Title before and after.

Every Justice of Peace (as also the Constable) in the time of Hay, or Corn Harvest, upon request shall and may cause all such Artificers, and persons as be meet to labor, by their discretion, to serve by the day for the Mowing, Reaping, Shearing, Getting, or Inning of Corn, and Hay, according to their skill and quality of the person; and may set the refusers in the Stocks by the space of two days and one night. 5 El. 4.

Every Justice of Peace may command vagrant persons to prison, if they will not serve. Fitz. 168h.

Every person who hath not sufficient Land to occupy, or live upon, nor other Art, is compellable to serve. See Br. 14. Fitz. 178. 168. 1. Fitz. 167. d. c.

If an Infant, Man or Woman, of Twelve years of age, or a Gentleman, Chaplain, Carpenter, or other person which is not compellable to serve; yet if they shall make a Covenant to serve in Husbandry, they shall be bound by their Covenant, and are punishable, if they then shall depart, &c. P. 3. 14. Br. Ley. 67.

*Yet by the Common Law such a Covenant or Retainer of an Infant under Twelve years of age was void, they neither having ability of body nor years to consent: For an Infant (by the Common Law) is not of age to bind it self by Covenant, *Ante annos nubiles*, which is Twelve years in a Woman, and Fourteen years in a Man child. Co. 7. 43. & 9. 72. Neither before that age are they accounted, *Potens in corpore*, which were the words used in the Statute made 23 E. 3. though those words are now left out of the Statute of 5 Eliz. And thereupon *Markham* in 21 H. 6. and Mr. *Br.* abridging that Case, seem to hold Fourteen years to be the age for Retainer of an Infant, but there the Case was of a Man-child that was retained. 7 H. 4. 5. 2 H. 4. 18. Br. 19. 20. 21 H. 6. 13. Br. 30.*

But now by the Statute of 5 Eliz. cap. 4. any person above the age of Ten years, their own Consent and Agreement, may by Indenture be bound as an Apprentice to Husbandry, or any other Trade or Art. P. 51. 53.

Also some of Twelve years of age by the same Statute, are compellable by the Justice to serve in Husbandry: So also it seemeth of other Trades, Arts, or Occupations. P. 3. 22. 21.

*Such Children, whose Parents are not able to maintain them, though they be under Twelve, yet, if they be under Twelve, they may be bound Apprentice by the Overseers of the Poor, with the assent of any two Justices of Peace, by the Statute of 43 El. cap. 2. See *Postea tit. Poor.**

If a Child use Husbandry till the age of Twelve years, and after be made an Apprentice to any Mistry, his Covenant shall be void. But this Statute of R. 2. seemeth to be repealed by the general words of 5 El. 4. See 1 Jac. 25. 13 R. 2. c. 5. P. 15.

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