

Statute of 17 R. 2. c. 8. But that Riot was notorious, for there were a great number assembled in the Mannor House of *Drayton Bassett*, who did detain the same forcibly,

§. 6.
Ex. Officio.

And therefore if the Riot, &c. be great and notorious, whereof by common intendment every person may take knowledge, it is not safe for the Justice or Sheriff, &c. to expect and stay till complaint thereof shall be made unto them, or that they shall have information or notice given them thereof, lest they incur thereby the said penalty of 100 l. Dyer 210.

If any one other of the Justices of the Peace of the County (besides those two which are next) shall execute this Statute, that shall excuse the two next Justices, for that the Statute giveth power herein to all Justices. P. R. 30.

§. 7.
Sheriff.

If one, or the two next Justices shall come, and not the Sheriff or Under-Sheriff, such Justices as do come, shall be excused of the forfeiture of 100 l. but though the said Justices shall be excused of the said forfeiture; yet if there cometh but one Justice of Peace, he ought to Arrest the Rioters, and to remove the force, and commit or bind over the Rioters; otherwise he is finable, &c.

And if there shall be two Justices present, and neither the Sheriff nor Under-Sheriff; yet those two Justices are finable, if they shall not do all that, which (without the Sheriff or Under-Sheriff) they are authorized to do by the Statute. Lam. 322.

But no Justice of Peace that dwelleth in another County is bound upon the said penalty of 100 l. to execute the said Statute of 13 H. 4. although he dwelleth next to the place where the Riot is, and although he be in Commission of the Peace for the County where the Riot is, as it seemeth: For the words of the Statute are, The Justices which dwell nearest in every County where the Riot shall be, and not which dwell nearest to the place where the Riot shall be; and yet it seemeth safe, that such Justice dwelling out of the County, upon notice of such Riot do come into the County, and do his indeavour to suppress the same Riot, and to execute the Statute, for that he is one of the Justices of the County. Lam. 321. P. 50.

If the Sheriff or Under-Sheriff do not come, the Justices ought to send for them, as Mr. *Marrow* thinketh.

And some seem to be of opinion, That if the Sheriff or Under-Sheriff shall not come to the Justices, being sent for to assist them, that then all the Justices of Peace dwelling near or remote, shall be excused of the same penalty of 100 l. or of any other penalty or fine; for that the said Statute doth give the Sheriff or Under-Sheriff equal Authority, and as it were joyn him in Commission in the copulative with the Justices of Peace, But others seem to be of another opinion, viz. That if the Sheriff or Under-Sheriff shall not come, yet the Justices of Peace shall be fined if they come not, and Arrest the Rioters, and do not moreover proceed to do therein all that which (without the Sheriff or Under-Sheriff) they are in any way authorized to perform. P. R. 30. Lam. 322. Cromp. 61.

§. 8.
What the
Justices
may do
without the
Sheriff.

Now what the Justices of Peace may or ought to do therein (by force of this Statute of 13 H. 4. 7.) without, or in the absence of the Sheriff and Under-Sheriff, is worthy consideration, as being needful for the Justices of Peace to know, and safe for them to perform, as well for the speedy preventing of such present mischiefs as may happen to the Commonwealth by such dangerous Assemblies, as also for their saving of the penalty of the Law otherwise like to lie upon them.

But herein I dare not determine, finding that others (of good judgment and experience) that have written hereof, have seemed to doubt hereof, and have written sparingly hereof. Lam. 322.

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