

the Peace, and therefore may use such means for keeping of the Peace by taking Surety by Obligation. And that before Justices of Peace were, the Peace was preserved, and that by the Constables. And that the *Statute* which ordained Justices of the Peace, did not take away the Authority of the Constable. But the Constable hath no Authority to take an Oath of the Party, that is in fear, &c. Whereunto *Anderson* Chief Justice replied, saying, I doubt not but that at the Common Law the Peace was kept, but that was to be done in such manner as the Law appointed, and that is, by writ out of the Chancery or Kings Bench.

Bacon V.

5.

And yet I have seen another Author supposed to be Sir *Thomas Egerton* after Lord Chancellor; who writeth in these words: By the Common Law the Constables Office was, to arrest the parties that had broken the Peace, or were (*in a fury*) ready to break the Peace; *sc.* if either he had seen it himself, or were truly informed thereof by others, or upon the Confession of the party who had freshly broken the Peace: And that all such Offenders the Constable might imprison in the Stocks, or in his own House, as the quality required, until they had been bound by Obligation, with Sureties to the King to keep the Peace from henceforth; which Obligation was to be sealed and delivered to the Constable to the use of the King; and the Constable was to send it into the Exchequer, or Chancery, from whence Procefs should be awarded to levy the Debt, if the Peace be broken. *Quod nota. Vide etiam Finch, fol. 127.* 'agreeing herewith, for such as the Constable findeth breaking the Peace.

10 E. 4. 18.

21 E. 4. 35.

5. 2.

Every of these Conservators of the Peace are (by the ancient Common Law) to imploy their own valour, and may also command the meet help, aid and force of others, or arrest and pacifie also such who in their presence and within their jurisdiction and limits, by word or deed, shall go about to break the Peace.

'Now these Conservators of the Peace are only to meddle with Affrays, Assaults and Batteries, or Threatnings to break the Peace, done in their presence; but not with Riots, or Forcible Entries, or Detainers.

'And if a Conservator of the Peace, being required to see the Peace kept, shall be negligent therein, he may be indicted and fined for the same.

Also every of these Conservators of the Peace, if they have committed or bound over any such Offenders, it seemeth they are then only to send to, or be present at, and attend the next Sessions of the Peace or Gaol-delivery, there to object against such Offenders.

But for the High Constables and Petty Constables, although they have (by the Common Law) the Charge of the Peace, as incident to their Office; yet it seemeth that their Offices and Authority began not long before the time that Justices of the Peace were ordained: (See here *titulo Constable.*) Whereas the Sheriffs, Coroners, Stewards of the Sheriffs Turn, of the Leet, and of the Court of Pipowders, and the Justices of all higher Courts, were long time before the Conquest. See *Co. 9 Part.* the Preface.

There were sundry other persons who (by the ancient Common Law) had the ordinary keeping of the Peace, and were named *Custodes pacis*; whereof some were by Election (in full County) and some by Tenure, as you may see in *M. Lambert* 16, 17. There were others which were called to this Office by the King's Writ, to continue for the term of their lives, or at the King's pleasure, but these are now all ceased.