

Wheresoever the Justice of Peace hath power or authority given him by any Statute to bind over any Man, or cause a Man to do any thing, if such person (being in his presence) shall refuse to be bound, or to do such thing, it seemeth such Justice may send such person to the Gaol, there to remain till he shall perform the same. See hereof, *antea tit. Recognizance.*

In what cases the Kings Officer may break open a Mans house for to arrest an Offender; see hereof, *tit. Forcible Entry.*

All men being required ought to assist the Kings Officers, to pursue and arrest Offenders against the Peace, &c.

§. 8.  
Resp.

If the party against whom any lawful Warrant is granted shall make resistance, or shall make an assault upon the Officer, or shall fly; the Officer may justify the beating and hurting of him, and may also imprison him in the Stocks for the same; But if the party resisteth or flieth before he be arrested, the Officer cannot justify the beating of him, 2 Ed. 4. 7. a. *Br. Tresp.* 296. 2 E. 4. 6.  
21 Pl. 7.  
37.

If the Warrant were to arrest or take one that standeth indicted of Felony, then may the Officer justify the killing of such a person, if he shall resist or fly, or that he cannot otherwise be taken. See *hic antea, Homicide tolerated.*

§. 9.  
Gaols.  
Imprisonment.  
The place.

None shall be imprisoned by any Justice of Peace, but only in the common Gaol, by the Statute of 5 H. 4. & 23 H. 8. cap. 2. 5 H. 4. 101  
P. Prison r  
Co. 6. 119.  
b.

And therefore Justices of Peace cannot commit Felons to any of the Counters in London, nor to other Prisons which be no common Gaols; nor make a Gaol of their own houses.

And yet Justices of Peace may commit to the Stocks some Offenders against certain penal Statutes; as Towns-men Tipling in Ale-houses, &c. See hereof *antea, tit. Alehouses.*

Persons refusing to work in Hay and Harvest-time. See *antea, tit. Labourers.*

And in some cases the Justice may commit an Offender to safe custody by his discretion. *Vide antea, tit. Preachers.*

Also in some cases the Justices may send Offenders to the House of Correction, there to be continued for any reasonable time, at the discretion of the Justice. *Vide antea, tit. Rogues.*

The Sheriff or Gaoler may imprison a Felon or other Prisoner in their own house, or in the common Gaol, at their pleasure. *Tamen quere & vide Cromp.* 184. that the Gaol is the Kings Prison, and that for causes touching the King Offenders shall be sent thither. Lamb. 136  
Crom. 169

The Constable (or other such Officer) cannot imprison any Man in his house (as it seemeth) but in the Stocks; and that not above such a reasonable time, as he may provide convenient aid safely to convey the prisoner to the Justice or Gaol. *Finch.* 20 E. 4. 6.  
22 E. 4. 35.  
3 H. 4. 9.

And yet in case of an Affray, &c. the Constable may for a time imprison the Offender, being a Man of quality, in the Constables own house, or may commit him to some other safe custody. *Vide hic cap. 1.*

§. 10.  
County.

If a Man commit Felony in one County, and be arrested for the same in another County, he shall be imprisoned in that County where he is taken. *Vide antea, tit. Felony, & 11 E. 4. Br. Faux Impr.* 25.

The Justice of Peace, Constable, or other Officer, pursuing a Felon into another County, takes him there; the Felon shall be committed to the Gaol of the County where he was taken: For the Justice of Peace or Officer, being out of his County, hath no more Authority than 13 E. 4. 9.