

till King James the sixth time: the Charge of Maintaining the publick peace of old here being annexed only to particular publick offices; whereof it continued yet a Summative Part. But at length for Extirpating the heathenish Barbarous custom of deadly feuds, and Controversies of Neighbourhood in Scotland, which were frequently attended with fatal Consequences; that Prince introduced and settled Justices of peace and Constables among us after the Model of England. Where their first being is dated from the year 1327 the first of King Edward the third reign: And their Authority being much enlarged during the Civil wars of the houses of York and Lancaster, from what it was at first, till not at that just pitch of Constancy, as if duly executed, no part of the world can boast of the like Subordinated Government the Justice Ship of peace, after its first Establishment here void in Disuse for want of due execution tho' upheld with all its powers in the parliament 1633. But Oliver Cromwells Instructions to the Justices of peace and Constables in the Year 1655 did inspire the office with more life and Efficacy than ever it had before. Which Instructions for the Reasonableness thereof were all most Copied after, Mutatis Mutandis in the act of Parliament 1661 and the office was in a Manner kept up since then, tho' to very little purpose, till the Union. For Commissions of the peace here before that time were tied down to such Dimensions in the Exercise of their Authority, as that they could not proceed against Delinquents, till after Expiring of 15 days from the Commission ordinary to exercise his power and Jurisdiction. Nor yet could Justices of peace call or Compell any person whose Debt Exceeded ten Shillings of Victual or other Merchandise to compare before them; but believed to apply to the privy Council of Scotland to get Satisfaction of such a Valuation fined. But now our Justices

Justices are got rid of these limitations by a late act of the British parliament, 6 A. cap. 6 Authorising them to do, use and Exercise over all persons within their several Bounds, what ever pertains to the office and trust of a Justice of peace, by virtue of laws and acts of Parliament made in England before the Union, in Relation to the publick peace: over and above the powers and Authorities they are vested with by the laws of Scotland. And so have got in effect transferred to them, a part of the power formerly lodged in the Privy Council, who Judge all Riots pursued before them, how ever Recently Committed.

Justices of peace are either hereditary or temporary. Several Royal Burghs in Scotland, as Edinburgh Aberdeen &c. are by their Charters Ratified in Parliament, constituted perpetual Justices of peace within their Bounds and Liberties. Temporary Justices of peace are so many lawful men (that is men not attainted or outlawed, who as they phrase it in England stand recti in Furia; or who as we say, have personam standi in iudicio) as the King thinks fit to Name from time to time by Commission under the great Seal 27 R. 2 cap. 24. 6 A. cap. 6 for keeping the peace in the County or District where they live. But all Noblemen and Lords of session are Justices of peace every where within Scotland. Some of these temporary Justices of peace, who the sovereign doth most respect and Confidence, are called Justices of the Quorum, from these words in the Commission, quorum A. B. C. D. unum esse volumus, without whose Concurrence several affairs of Importance cannot be done.

Some persons are Incapable to Exercise any part of the function of a Justice of peace by the Nature of their office; as one cannot be a Justice of peace of that County where he is Sheriff; Mar. sess. 2 cap. 8. Others are Debarred only from Exercising some part of the function; as Commissioners or farmers of the Excise, who cannot Act as Justices of peace in Matters of the Excise 15 Car. 2 cap. 11. Every Justice of peace must, before he enter upon the office, take the following oath so Jurati: You swear, that as a Justice of peace in the shire of B. in all the Articles of the Kings Commission to you Directed, you shall do equal right to the poor and rich after your duty.