

Persons going armed with such dangerous and unusual weapons as will naturally cause terror to the people, are guilty of an affray; which is said to have been always an offence at common law, and is strictly prohibited by several statutes. 1 *Haw.* c. 63. § 2. 4.

A constable is not only empowered, but bound, to suppress an affray which happens in his presence; and he may demand the assistance of others to enable him to do so, which if they refuse, they are punishable by fine and imprisonment. *Ibid.* 3. 13.

A justice of the peace may, by his warrant, authorise the arrest of any person for an affray, and may compel the offender to find sureties of the peace. But he cannot do this without a warrant when the affray is out of his view. 1 *Haw.* c. 63. § 18.

This offence is in general punishable by fine and imprisonment the measure of which is to be regulated by the discretion of the judges, according to the circumstances of the case. 1 *Haw.* c. 63. § 30.

Affidavit to ground a Warrant to apprehend Affrayers.

A. B. of —, hatter, maketh oath and saith, that on the — day of — in the year of our Lord 18—, C. D. of — labourer, E. F. of — labourer, and G. H. of — yeoman, did in a tumultuous manner, and with force and arms, make an affray, to the terror of His Majesty's subjects then and there being, wherein the said A. B. was assaulted, beaten and abused, by the said C. D. E. F. and G. H. without any just or reasonable cause.

Sworn, &c.

A. B.

Warrant to apprehend Affrayers.

To the Constable of —.

Home District, } Whereas complaint hath been made before me,
to wit. } S. P. Esq. one of His Majesty's justices of the
peace in and for the said district, upon the oath of A. B. of —
in the said District, that (*here state the substance of the complaint,
as set forth in the Affidavit.*) These are therefore, in His Majesty's name, to charge and command you, forthwith, to apprehend the said C. D. E. F. and G. H. and bring them before me, or some other of His Majesty's justices of the peace for the said district, to answer the premises, and to find sureties, as well to keep the peace towards the said A. B. as to appear at the next general quarter sessions of the peace, to be held at — in and for the said district, to answer such indictments as shall be preferred against them by the said A. B. for the said offence.

Given under my hand and seal, this — day of — 18—