

## of Discretion

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### Abstract

Common people may think that a judge can do whatever he wishes. They do not know that a judge cannot change the track. He has to do everything within the track. He is not free. Rather he is chained with the freedom of discretion.

**Keywords:** Discretion, Freedom, Authority, Decision, Power, Judge, Discreet, Prudence

### Introduction

Creative writing is based more on manifestation rather than on expression. It does not inform, rather it reveals. So it bears no reference. The best creative writing is critical, and the best critical writing is creative. This article is an outcome of thinking about creative writing meant for a general readership. As such, I have adopted a free style methodology so that everyone can enjoy the pleasure of reading. As you might know, Francis Bacon (1561-1626), the immortal essayist, wrote many essays namely 'Of Love', 'Of Friendship', 'Of Ambition', 'Of Studies', and so on. The multiple-minded genius correctly pointed out that all the words of the dictionary can be used as themes for essays. But little has been done since his death to continue or finish his monumental task. Bacon's unique individual style of presentation ignited my imagination and encouraged me to write creative essays as a method of relieving a wide range of emotions through catharsis.

### Article

Discretion is the freedom or authority to make decisions and choices. It is the power to judge or act. It is the quality of being discreet, or careful about what one does and says. It is prudence. Archaeologically, it is the action or power of discerning.

Discretion is the power or right to decide or act according to one's own judgement. For example: Throwing all discretion to the winds, he blurted out the truth. Discretion is a trait of primary importance in a public official. I leave the matter to your discretion. It is discreet behavior e.g. treats confidences with discretion. It is self-preservation. It is the freedom to act and think as one wishes, usually, within legal limits e.g. it is within his discretion to leave. Discretion is liberty of deciding as one thinks fit, absolutely or

within limits, (use one's discretion is to make such decision) e.g. it is within one's discretion to.

It is good judgment. For example: She acted with considerable discretion. This is a secret, but I know I can rely on your discretion i.e. be completely certain you will not tell anyone.

It is the freedom to decide for oneself what should be done. For example: Don't keep asking me what to do – use your own discretion. An extra grant may be awarded in a few cases, at the discretion of the committee.

Use one's discretion is act according to one's own judgement. At one's discretion means as one wishes.

At discretion means as one pleases. It is according to one's own judgment.

Discretionary/discretionary is subject or left to one's own discretion. It is regulated by one's own choice. It is used, given, etc. when considered necessary e.g. the president's / director's discretionary powers/measures; discretionary payments to old people in winter. Discretion is the better part of valour means there is no point in taking unnecessary risks. It means reckless courage is often self-defeating.

Age or years of discretion is the especial legal age at which a person is able to manage his or her own affairs.

Be at someone's discretion is to be completely under someone's power or control.

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Surrender at discretion is to surrender unconditionally, that is, to another's discretion.

Legally, discretion is court's degree of freedom to decide sentence etc. It is liberty to act at pleasure. If the judge has pleasing personality then he can please all and everybody. Even if a person does not get favourable judgement he will be pleased for his good behavior which is very uncommon in this present era. The person will be satisfied thinking that he has been offered 'opportunity of being heard' at least. This 'opportunity of being heard' is the essence of any democratic set up.

Common people may think that a judge can do whatever he wishes. They do not know that a judge cannot change the track. He has to do everything within the track. He is not free. Rather he is chained with the freedom of discretion.

Discretionary power has its warm feeling. A person is honored for conferring this power upon him. He can be isolated from the mass. He may suffer from superiority complex. Such a person keeps safe distance. Lay person gazes at him with revered eye mingled with fear. He enjoys authority. Simultaneously he experiences psychological pressure lest he should be criticized for wrong judgement. For this reason a person does not want to enjoy discretionary power. He does not want to displease anybody. They say those who want to please everybody can please no body. If, for this risk or controversy of pleasing and displeasing, everybody declines to serve the society then only a Good Samaritan comes forward with optimistic vision.

Discretionary power is given to settle a qualitative judgement. In case of quantity or financial matter discretion power becomes dangerous and paves the way for corruption. For this reason vigilance is a must.

They say discretionary power may favour someone. Also it may not favour another one having equal merit in all respect. It may accept a person in the morning and may reject that very person in the evening of that very day for the obscure reason best known to them. Thus mood and motive of discretionary power are gloriously so uncertain. None or no law can explain or forecast its movement. Rather, it is stated that the authority reserves the right to change or cancel anything without showing any cause. It is simply dictatorship in the name of discretion.

Sometimes the jurisdiction of court is mentioned so that public may not or cannot harass the authority, rather authority may harass and actually harasses the applicant in the name of discretion.

Discretion implies unrestricted. It is on good judgment. It has no section. One need not mention under section (u/s) or any clause. It is quite a risk-free game thus played and enjoyed by the authority. All should not be given this power. It paves the way either for nepotism or bribery or corruption or altogether. It is good when it is done on good judgement. It is too bad if it is done basing on corruption. It becomes worst if it is handed over to a tyrant.

Discretion is offered to tackle the situation of future which was not thought while the rule was made. Contingency expenditure is an example of discretion. The work must have to be done through discretionary power. One must give explanation for deviation of rule. Deviation is alias and akin to discretion. Fund diversion should be pre-approved and if not done earlier then it must have to be post approved, just like pre-paid or post-paid bill of cell phone.

Discretionary decision may not be realized from outside. One must have to know the situation thoroughly. A wise never makes any comment or passes any remark without knowing the whole matter. In contrast a fool shouts first then tries to realize the matter. It has lack of knowledge and lacking in intellect. So it cannot realize any law or by-law. Also it is not interested to know anything. It has only a single agenda i.e. Self-interest. It shouts or applies muscle power till its personal interest is not fulfilled by hook or by crook or by any means fair or foul. It is not interested regarding the fate of others. It is least bothered for that. It seldom cares anybody. It never thinks for others.

If discretion power is not given then in each and every step clarification will be sought for. Then the authority will be badly engaged to clarify round the clock. So to overcome this practical problem discretion has come into existence. It is originated from good sense. But some dishonest persons misuse it. For this reason discretion should not be banned rather it should be kept under strict vigilance.

Authority i.e. government is a philosopher who is always optimist. Without optimistic mind administration cannot be run. Any discretion is done on good faith. If the discretion is misused thousand times yet there must be discretion for good use. For misuse of any rule government cannot be held responsible. The culprit is responsible. Authority can be vigilant and punish the criminal.

### Conclusion

There is bad. Also there is good. A good man considers everybody and everything as good. He lives with goodness, dreams with goodness and even dies with goodness. He is an optimist. In contrast, a bad man sees always bad. He is a pessimist. He always notices the dark side of life. It seems unguarded childhood coupled with unshaded infant offered him such a unique personality trait. The optimist thinks always for better. As such there should be discretion for better than best.

### References

No reference, since the present article is an outcome of Creative Writing

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