

Also the Justice of peace, upon his own discretion, may in either of the aforesaid Cases between the Husband and Wife (especially happening in his presence) grant Surety of the peace.

Lamb. 81. An Infant, under the age of fourteen years, may demand this Surety, *Infant* and it shall be granted him.

Also this Surety of the peace may be granted at the prayer of any person against a *Feme covert*, or against an Infant though he be under 14 years of age. (For if an Infant under 14 hath discretion to demand the peace, &c. then hath he discretion to break the peace.)

Co. 10. 43. Cromp. 239. 9. But if an Infant and a *Feme covert* shall be bound by Sureties only, they themselves shall not be bound, and if they cannot find Sureties, they shall be committed to Prison until they have found Sureties. And yet if an Infant shall be bound to the Peace, &c. by Recognizance taken by a Justice of peace, it seemeth he shall be estopped to avoid such a Record, if he doth not avoid it during his minority, for it is not void but voidable, by *Audita querela*, during his minority. *Dyer*, 232.

But if a *Feme covert* shall be bound or acknowledge such a Recognizance (though her Husband joyn therein with her) yet it is merely void as to the Wife, although she overliveth her Husband.

A man of *Non sane memoire*; this Surety shall neither be granted against him, nor to him upon his request; and yet if there shall be cause, the Justice of peace (upon his discretion) ought to provide for his safety. *§. 5. Non compos.*

A man that is Lunatick (*sc.* who at some seasons hath the use of reason, *Lunatick*, and at other times not) it seemeth this Surety of the peace may be granted against him; and also that he may demand the same against another.

Sec Co. 4. 114 & 115. 17. And if one of *Non sane memoire*, or a Lunatick, be himself bound by Recognizance before a Justice of peace, to keep the Peace, it seemeth such Recognizance shall bind them and all others for ever.

But *quære*, if there be not a difference to be taken herein, where a Recognizance by an Infant, or one that is *Non compos mentis*, shall be acknowledged in a Court of Record, or in open Session, and where before a Justice of peace out of the Sessions;

A man that is deaf, dumb and blind, be it naturally (*scil.* that he was so born,) or accidentally, he shall not have this Surety granted to him, for he hath no understanding to ask it, and yet for such a person, (or any other person not having reason to demand the peace) if there be cause, the Justice of peace, upon his discretion, ought to provide for their safety. *Natural Infirmities.*

A man that is born dumb and blind may have understanding; and therefore it seemeth this Surety may be granted to him, or against him.

But a man that is born dumb and deaf can hardly have understanding; for though the Sight be the chiefest sense, yet by Hearing we come chiefly to knowledge, and therefore it seemeth not grantable to him, or against him, See *Stamf. de Præroz. fol. 33, 34. Cro. El. 135.*

And yet a man that is dumb and deaf, or blind and deaf accidentally, may have understanding, and therefore this Surety may be granted to him, or against him.

Also this Surety of the peace may be granted against an impotent person, although he be such a one as is not like to break the peace himself; for he may procure another to kill or beat one: and the common form of Recognizance is to bind a man from procuring hurt, as well as from doing hurt.

This Surety of the peace may also be granted to, or against, a man attainted of Treason or Felony. *§. 6. Attaint.*

The like Law of him that is convicted of Heresie.