

do oftentimes procure themselves to be bound to the Peace or Good behaviour, in the *Chancery* or *King's Bench*, upon insufficient Sureties, or upon colourable prosecution of some person, who will be ready at all times to release them at their own pleasure;—whereupon his Majesties Writ of *Superfedeas* is often directed to the Justices of Peace, &c. requiring them to forbear to arrest or imprison the parties for the causes aforesaid; by means whereof the said contentious persons do greatly disturb their Neighbours, and affront the Justices of Peace, to the evil example of others; therefore it is enacted by the Statute made 21 Jac. cap. 8. That all Writs of *Superfedeas* to be granted by or out of either of the said Courts of *Chancery* or *King's Bench* shall be void; unless such Process be granted upon motion in open Court, and upon such sufficient Surety as shall appear unto the Court, upon Oath, to be assessed at 5 l. Lands, or 10 l. in Goods in the Subsidy-book at least, &c. And unless it shall also appear first unto the said Court, that the Process of Peace or Good behaviour is prosecuted against him or them, desiring such *Superfedeas*, *bona fide*, by some party grieved, in that Court out of which such *Superfedeas* is desired to be so awarded and directed.

“*Mes coment le Superfedeas serra void per ascun des defectis ou raisons avantdits, uncore les Justices de Peace en Pais doient surceaser sur delivery de ces al aux.*”

“*Si garrant pro pace soit grant vers un que ne osa appeare al Sessions pur feare de auter arrest, &c. son remedy poit estre in deux manners.*”

1. *Devant que soit lye per le Justic' de Peace en pais, il poit doner Surety pur les peacé in le Chancery ou in Banco Regis, & dilongues avera Superfedeas ut supra. Et donque il ne serra lye per les Justic' de Peace.*

2. *Après que est lye per les Justic' de P. en pais, semble n'ad auter remedie, mes daver Certiorari (hors del Chancery) ou Banco Regis) de remover la Recognisance prise per le Justic' de Peace, &c.*

CHAP. CXIX.

Now concerning the Recognisance for the Peace.

THis Recognisance which the Justice of Peace taketh for the keeping of the Peace is rather of congruence than by any express authority given them, *Fitz. 82. a. 7 H. 4. 34. accord.* §. 1. *Recognisance.*

And this Recognisance for the Peace, if the Justice of Peace doth take it by force of the Writ of *Supplicavit*, then he ought to execute it, and to do in all things as the Writ directeth him. But where such Writ prescribeth not the sum, &c. or such like, that resteth in his own discretion.

But if he taketh the Recognisance *ex officio*, and by force of the Commission, (and so as a Judge, and not as a Minister) then it resteth in the discretion of the same Justice of Peace wholly to appoint and allow the number of Sureties, their sufficiency in Goods or Lands, the sum of money wherein they shall be bound, and to limit the time how long the party shall be bound, and such other Circumstances.

In the Book 7 H. 4. f. 34. a. you shall find the Principal to be bound in 1000 l. and four Sureties, every of them in one thousand Marks before Justices of Peace, and for the keeping of the Peace. §. 2. *Sureties and sum.*

Quere, If a Justice of Peace may not examine upon their Oaths the Sureties concerning their sufficiency; it seemeth to be the usage in the Courts at *Westminster*: and Mr. *Crompton* saith, That the Justices of Peace in their Sessions may do it, *Crompt. 194.*

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