

ment, as by cruel beating of him: and to threaten imprisonment, is a cause to avoid a Deed or Bond, as well as to threaten to kill or maim one, &c. F.N.B. 8c
Lamb. 8j.

39 H. 6. Br. Dureff. 9. Vide Co. L. 253.

Where a man is in fear that another will hurt his Servants or his Cattle or other Goods; this Surety of the Peace shall not be granted by the Justice of Peace: but in this Case Mr. Fitz. saith, the Party may have a special Writ out of the Chancery, directed to the Sheriff, that he shall cause such person to find Surety, that he shall do no hurt or damage to the other man in his Body, or to his Servants or Goods. And if he will not find Surety, that then he shall arrest and detain him in Prison until he shall find Surety: and that the Sheriff shall certifie all that he shall do thereupon into the Chancery, &c. And it seemeth the Sheriff ought to take such Surety by Recognizance. And yet if a man shall threaten to hurt my Servant, or my Wife, or Child, I see no cause but that in their behalf I may crave the Peace at the Justice's hands, by the words of the Commission, and that the Justice ought to grant it.

If a man will require the Peace, because he is at variance, or in suit with his Neighbour, it shall not be granted by the Justice of Peace.

Note also, the Surety for the Peace shall not be granted but where there is a fear of some present or future danger, and not merely for a Battery or Trespass that is past, or for any Breach of the Peace that is past: for this Surety of the Peace is only for the security of such as are in fear. Now *Mētus est presentis vel futuri periculi causa, mentis trepidatio*: and so this Surety is, *providere presentia & futura, & non praterita*. Br.F. imp
41.
I. R. 14.

And, as for a Battery or other like Trespass that is past, the party wronged may have his Action of Trespass or Battery, &c. or may punish the Offender by Indictment at the King's Suit: and yet in such Case the Justice may (if he see cause) bind over the Affrayer. *Vide antea, & Ex. 21. 19.*

§. 6.
Deny.

If the Justice of Peace shall perceive that this Surety for the Peace is demanded merely of malice or for vexation only, without any just cause of fear, it seemeth he may safely deny it. As in common experience we find it, That where *A.* shall upon just cause come and crave the peace against *B.* and hath it granted to him; when *B.* shall come before the Justice, *B.* likewise will crave the peace against *A.* (and will perhaps surmise some cause) but yet will nevertheless be content to surcease his Suit and Demand against *A.* so as *A.* will relinquish to have the peace against him; here the Justice of Peace shall do well (as I think) not to be too forward in granting the peace thus required by *B.* but to persuade him, and to shew him the danger of his Oath which he is to take; but yet if *B.* will not be persuaded, but will take his Oath, that he is in fear (where indeed he neither doth fear, nor hath cause to fear) this Oath shall discharge the Justice, and the fault shall remain upon such Complainant.

And when the Justice hath so granted the peace to one that (in the Justice's judgment) shall crave or require it only out of malice or for vexation, the Justice may presently in good discretion bind him to the Good behaviour that so required the peace.

For