

then such Officer ought to be at the next Sessions of the peace, there to deliver in his said Warrant, and to certify all that he did thereupon.

But if the party shall yield to go and find Sureties, then the Officer may not absolutely arrest him; but yet the Officer is not bound to go up and down with the party, to find Sureties, but may keep the party until he can procure Sureties to come to him: and if afterwards the party shall make any resistance, or shall offer to go his way, then the Officer may arrest him, and by vertue of that Warrant may carry him to the Gaol, and may also imprison him in the Stocks, until he can provide aid to carry him to the Gaol.

When the party cometh before the Justices of peace by force of this Warrant (or by force of any other like Warrant for the peace, Good behaviour, or a Riot, or the like) the party must offer Sureties to the Justice of peace, or else the Justice may commit him to Prison; for the Justice needeth not to demand Surety of him. 14 H. 7.  
Br. Peace,  
7. &  
Mainp. 39.

Also after that the party shall be brought before the Justice, if before him he shall refuse to find Sureties, the Officer, without any new Warrant or Commandment, may carry the party to Prison, and that by the words of the first Warrant: and if he shall refuse thus to do, that then, &c. See the form of the Warrant. Co. 5. 50.

If the Officer do arrest the party, and do not carry him before some Justice of peace, to find Sureties, &c. or upon the refusal of the party, if the Officer shall arrest him, and do not carry him to the Gaol, in both these cases the Officer is punishable by the Justices of peace for this neglect, (by Indictment and Fine at their Sessions:.) And also the party arrested may have his Action of false Imprisonment for the Arrest: for where the Officer doth not pursue the effect of his Warrant, his Warrant will not excuse him of that which he hath done, 21 H. 7. 23 a. 3 H. 7. fol. 3. b. *Brian & Br. Faux. imp. 21.* 5 Ed. 4. 6  
P. R. 20.

§. 5.  
Dye or re-  
lease.

And if the party be imprisoned for default of Sureties, and after he that demanded the peace against him happen to dye, or shall release the peace, it seemeth in these cases the Justice of peace may make his *Liberate* or Warrant for the delivery of such Prisoner; for after such death or release, there seemeth no cause to continue the other in Prison. Also any Justice of peace may (upon the offer of such Prisoner) take Surety of him for the peace, &c. and may thereupon deliver him.

It seemeth (by some Opinions) That if the party imprisoned for not finding Sureties hath a Suit depending in the Common-pleas, he may by the course of that Court, by a Writ of Privilege, be discharged of his imprisonment, if the other party be not ready in the Court at the day of the return of the Writ, to pray there new Sureties of the peace. But *Quere*, for it may be, he which demanded the Peace, hath no notice of the removing of his body, and then, how can he be ready in the Court of Common-pleas at the day? and therefore it may seem a hard case so to be defeated of this Surety. 4 E. 4. 16  
2 H. 7. 19  
Br. Priv.  
leg. 35. 5  
Lamb. 59.

§. 6.  
Execution  
of Warr. imp.

If the party hath gotten Sureties, then if the Warrant proceed *ex officio* (and not upon the Writ of *Supplicavit*) and be a general Warrant (*sc.* to come before me or some other Justice) the party may go before any other Justice of peace to offer his Surety; yet he shall not inforce the Officer to travel to a Justice out of the Division or Limit where they be dwelling, without good cause: Nay, it is at the election of the Officer (who is the minister of Justice) to carry the party attached to any other Justice of peace that he will: for it is more reason to give this election to the Officer (who in presumption of Law is a person indifferent, and is sworn to execute his Office Co. 5. 59.  
B. & imp.  
11.  
B. peace 9.