

§. 7.
Process.

be called thereupon; and that if the party make default of appearance, the same default may be then and there recorded. See 2 H. 7. fol. 11. v. 1. If a Man do forfeit his Recognizance (either for default of appearance or for breach of the Peace) the Justices of Peace may not award any Process for the Forfeiture thereof, but must certify the Recognizance, with the cause of the Forfeiture, into some one of the King's Courts at Westminster. sc. into the Chancery, Kings Bench or Exchequer.

Recogni-
fance for-
feited.

And note, that the said Recognizance it self, with the Record of such default of Appearance, or other Forfeiture, shall be sent and certified into the Chancery, King's Bench, or Exchequer, that from thence Process may go out against the party; and so ought it to be, if it be presented by the Jury or great Enquest; that the party hath forfeited his Recognizance by breach of the Peace. Lamb. 570.

Lamb. 506
3 H. 7.

Certified.

If the Justice of Peace shall not certify such Recognizance (taken for the keeping of the peace) at the next Sessions, the said Statute of 3 H. 7. r. limiteth no penalty; and yet see Brook tit. Peace 11. That the Justice shall forfeit 10 s. if he do not certify the Recognizance of the peace at the next Sessions; but Mr. Brook there mentioneth the Statute of 3 H. 7. c. 3. Which Statute of 3 H. 7. c. 3. was only for Bailment of prisoners, and certifying the same, and so seemeth to mistake the Statute. Vide Fitz. 25 r.

If he which demanded the peace shall release the peace, before the said next Sessions, then it may seem, though the Justice of peace shall not certify the Recognizance, that the Statute is not transgressed or offended; for it hath been holden that the party shall not be called in such case upon his Recognizance. *Tames quere inde & vide hic postea.* But howsoever, it is better to certify the Recognizance, for peradventure it was forfeited before the Release made.

Cromp.
169.§. 8.
Recogni-
fance re-
moved.

Also, he that demanded this Surety, or he that is bound to the peace, may by a *Cerciorari*, remove such Recognizance into the Chancery or Kings Bench, before the Justice hath certified the same to the Sessions. And so in case the Justice shall not certify the same thither Fitz. 8 r. And then the party bound, need not to appear. See *hic postea.* The Form of the Justices return of such *Cerciorari*, and of the Recognizance.

2 H. 7. r.
Br. Peace
11.
F. N. B.
81.§. 9.
New Sure-
ty.

If the Justice of peace were deceived in the sufficiency of the Sureties, the same Justice of peace, or any other Justice of peace, may afterwards compel the party to find and put in other more sufficient Sureties, and may take a new Recognizance for the same; for that the precept is *Ad inveniend. sufficientem securitatem.* But if the Sureties die, the party principal shall not be compelled to find new Sureties. See more *Postea; sub hoc tit. & postea tit. Bailment, cap. 114.*

What things shall discharge this Recognizance (of the Peace) or the Party of his Appearance at the Session. CHAP. CXX.

§. 1.
Supersede-
as.

W^Hether a *Supersedeas* out of the Chancery, &c. shall discharge the party of his Appearance. See *antea sub hoc tit. c. 69.* He which is bound to the peace, and to appear at a certain day, he must appear at that day, and record his Appearance, although he who craved the peace, cometh not in to desire that it may be continued, otherwise the Recognizance shall be forfeited.

30 H. 6. r.
Br. Surety
10. and
Def. 60.§. 2.
Proclama-
tion.

And if a Man be bound to keep the peace towards the King and his people, but not towards any person certain, and to appear at such a Sessions, the Court at that Sessions may make Proclamation, That if any Man can shew