

Recognisance is not forfeit; for if there shall be cause to continue this Surety of the Peace against the Husband and Wife still, the Husband shall be bound, and not the Wife; and therefore the Wives appearance seemeth not greatly material, *Tamen quere & vide Fitz. Forfeiture 17. 8 E. 2.*

S. 5.
Release.

If a Man be bound to the Peace during his life, or generally, without any time or day limited, in such case neither the King, the Justice of Peace nor the party can discharge this Recognisance, during the life of the party so bound, by Release or otherwise. *Br. Peace 17.*

21 E. 4.
Lamb. 113

Also it hath been holden, that the Justice of Peace who upon his own discretion, hath compelled one to find Surety of the peace upon a certain day, and hath taken Recognisance for his appearing, &c. may upon the like discretion release the same before that day; and that such a Release will discharge the Recognisance taken by that Justice, if it were not forfeited before, and will also discharge the party so bound of his appearance; for that here all this business depends only upon the discretion of the Justice of peace who bound him. See *Fitz. Just. de P. fol. 9. Lamb. 113. & Cromp. 139.*

Again, it hath been holden; if a Justice of peace shall grant the peace at the request of another (*sc.* at the Suit of *A.*) and the Recognisance be taken to keep the peace against *A.* only, then (before the next Sessions) may *A.* only release it (and none other) and that Release being certified at the next Quarter Sessions, will discharge the party so bound of his appearance, so as he shall not be called upon his Recognisance; for that Release being so certified, is now become of Record as well as the Recognisance.

If the Recognisance were to keep the peace, *Versus cunctum populum* & *præcipue versus A.* yet may the same *A.* release it: For although this may seem popular, and that all others shall have interest therein as well as *A.* Yet as it appeareth, by the word *præcipue*, it was specially taken for his safety: But the contrary was holden by all the Justices, *21 E. 4. 48. sc.* That the party at whose Suit the same was granted, cannot release the same. And Mr. *Lambert* alloweth best of that opinion, nevertheless the usage now is, and long hath been, as is aforesaid, as appeareth by Mr. *Brook tit. Peace 17.*

Br. Peace
17.

Lamb. 111

But (in these former cases) although this Surety of the peace be released, and the parties agreed, yet the Recognisance shall not be cancelled by the Justice of peace, for peradventure the Recognisance was forfeited before such Release made: And therefore the Justice of peace shall do best, nay, ought to certify such Recognisance, together with the Release, the next Quarter Sessions.

The Form of the Release of the Justice of peace, See *postea, tit. Release.*

The Form of the Release of the party. See *Ibidem.*

Note, it hath been holden that the party that first demanded the peace, might release the same before the same Justice of peace that took the Recognisance, or before any other Justice of Peace.

Note also, that to release such Surety of Peace by Deed under his Hand and Seal, is nothing worth.

But yet it is now holden, That neither the Justice of Peace, nor the party can discharge the Recognisance of the peace by their Release out of the Sessions. For first the Recognisance is made to the King, and therefore none but the King can release or discharge the same. Secondly, the Recognisance is taken for the appearance of the party, &c. (as well as for his keeping of the peace) and the Release of the Justice, or of the party, cannot discharge the appearance of the party bound. And therefore notwithstanding that the Justice of Peace, out of Sessions, shall make or take any Release of the Peace,

Peace,