

to the service it self, by yielding it where it is not grantable; and for fear of danger to themselves in both cases.

For whosoever do detain Prisoners who areailable, after they have offered sufficient Sureties, shall be grievously amerced to the King; and he that doth take any reward for the deliverance of such shall be amerced to the King, and pay double to the Prisoner.

So on the other side, if one who by the Law is notailable, shall be let to mainprise, this shall be adjudged a Negligent Escape to him or them that do let him at Mainprise; and for such an Escape or Offence they shall be fined and punished as followeth.

If the Sheriffs, Constable, or any Bailiff of Fee who hath the keeping of Prisoners, shall bail any Person which is notailable, and be thereof attainted, they shall lose their Fee and Office for ever. And if the Under-sheriff, Constable or Bailiff, or such as have Fee for keeping of Prisoners, do it contrary to their Masters will, or any other Bailiff being not of Fee, they shall have three years Imprisonment, and make Fine at the Kings pleasure, *Doct. & Stud.* 135.

Note, That the Sheriffs and other Officers which do let to bail any persons forbidden (by the Statute of *Westm.* 1. made 3 E. 1. cap. 15.) to be bailed, shall be punished by the Justices of Gaol-delivery, according to the form of the same Statute; or else by the said Justices they may be put to their Fine, as for an Escape punishable at the Common Law, 25 E. 3. 39.

Quere, if it be not felony for them to bail Felons, or persons suspected for felony, for that these Officers have no Authority at this day to bail such Prisoners, *Et vide hic cap.* 117.

Bre. de Manuptione est, lou home est prise sur suspicion de Felony, ou est endite de Felony, pur que chose il est mainpernable per Ley, & il offer suffic. Sureties al un q' ad authority de luy lesser al mainprise, & il refuse de ceo faire. *Fitz.* 249.

Note, what persons be forbidden to be bailed by the said Statute of *Westm.* 1. see *postea sub hoc tit.*

Note also, that the Sheriff or Constable might at the Common Law have bailed a suspect of felony, (because they were Conservators of the Peace;) but now that power seemeth to be transferred to the Justices of Peace only. See the Stat 1 R. 3. c. 3. & 3 H. 7. 3.

By the Justices. If any Justices of Peace do let to bail or mainprise any person who (for any Offence by him committed) is declared not to beailable, or forbidden to be bailed by the aforesaid Statute of 3 Ed. 1. the said Justices of Peace so offending shall pay such Fines as shall be assessed by the Justices of Gaol-delivery where the Offence shall be committed, *Fitz.* 251.

i. See *hic postea.*

But the Justices of Peace and Coroners within *London* and *Middlesex*, and in all other Cities, Boroughs and Towns Corporate, have authority to let to bail Felons and Prisoners; as they have formerly accustomed, *P. Just.* 107.

If the Sheriff, Justices of Peace, or other Officers, shall bail one that is notailable, such Bailment being against Law, *quere* if the Recognizance or Bond taken upon such Bailment (for the appearance of the Prisoner) be not void. See the Opinion of *Moile*, 37 H. 6. 1. and of the Court there, that such a Bond taken by the Sheriff is void.

Now to shew farther the authority of the Justices of Peace in this behalf.

No

3 E. 1. 15.
P. Main. 6.
Sec 23 H.
6. c. 10.
P. Sh. 8. 11.
25 E. 3. f.
39.
Stamf. 33.
77.

3 E. 1. 15.
P. Malop.
3. 4.

27 E. 1. c. 3
P. Main. 4.

1 & 2 P. R.
M. C. 13.
P. Just. 108
P. Main. 4.

1 & 2 P. R.
M. C. 13.
Sec Co. 10
100. b.