The practice of providing sureties to keep the peace is an ancient one, already found in the frankpledge system of ‘compulsory, collective bail fixed for individuals not after their arrest for crime but as a safeguard in anticipation of it’. However, it seems rather unlikely that the institution presently under review developed out of that system. Although also preventive in character, the differences between the two are obvious: while frankpledge was compulsory for every unfree person over the age of twelve and the pledging was mutual, surety of the peace had to be found only by an individual when called on to do so by another individual or ex officio, and the pledge was one-sided. Rather, the origin of surety of the peace may be traced back to those individual grants of peace by which the king took into his special protection subjects who had been openly threatened and were in imminent danger.

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This institution has not received much attention over the centuries. The early thirteenth-century treatise Bracton does not mention it, while at the end of the century Britton recommended that in every homicide case, enquiries should be made whether the victim had ever demanded surety of the peace of one of the accused by virtue of the king’s writ de minis, suggesting that by that time it was a well-established institution; its author also criticized sheriffs who took bribes in order not to act on such writs. Fleta, on the other hand, mentions only the obligations of sureties found in the county court. Apart from legal treatises, the institution was discussed in readings, for instance in 1486 by Thomas Kebell in his lecture on the Statute of Westminster I, chapter 1, or by Thomas Marow in 1503. Both concentrated in particular on the question of who could demand and who had to provide surety of the peace. A generation later, Anthony Fitzherbert devoted a chapter in his New Natura Brevium to writs de minis and of supplicavit under the heading ‘Writ de Securitate Pacis’, and Blackstone discussed them (and sureties of good behaviour) in a chapter entitled ‘Of the means of Preventing Offences’. In the twentieth century, interest lay with the origins of this institution, Carleton Kemp Allen in 1953 following Blackstone in suggesting Anglo-Saxon roots while considering the possibility that ‘it may lie in the original powers of the conservators of the peace’, while in 1991 Sir Thomas Skyrme believed it to be ‘probable from an examination of the proceedings of the earlier courts that the idea of providing sureties to keep the peace is an ancient

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5 Britton, 1:88.
6 Henry G. Richardson and George O. Sayles, eds, Fleta, 3 vols, (Selden Society 72, 79, 99) (London, 1955–84), 2:88 (pledges for keeping the peace found in the county court should be detained in prison unless they deliver the peace-breaker when required to do so). The discussion follows upon an appeal against an accessory in homicide.