

feit, but the Owner may take them again wheresoever he findeth them, without any Restitution awarded. *Co. 5. 109.*

Also in the foresaid Book of Discovery of Witches, I observe one other thing, *viz.*

That Examinations taken by Justices of Peace in one County, may be (by them) certified in another County, and there read and given in Evidence against the Prisoner. *T. 2. 3.* And in such cases the Examinations would be taken upon Oath.

Crompt.
193.

The Offender himself shall not be examined upon Oath: for by the Common Law, *Nullus tenetur seipsum prodere.* Neither was a mans fault to be wrung out of himself, (no not by Examination only) but to be proved by others, until the Stat. 2 & 3. *R. & M. cap. 10.* gave Authority to the Justices of the Peace to examine the Felon himself.

Examina-
tion certi-
fied.

But it seemeth convenient, in cases of Felony especially, that the Information (of the Bringers and others) which the Justices of Peace do take against the Prisoner be upon Oath: otherwise upon the Trial of the Prisoner, such Information or Examination taken by the Justice of Peace shall not be read or delivered to the Jury, nor given in Evidence against the Prisoner upon his Trial. And so was the direction of Sir *Ed. Coke* late Lord Chief Justice, (*5 Jacobi* at *Cambridge* Summer Assizes) upon the Tryal of a Felon: but (saith he) in case of a Trespass to the value of two pence, no Evidence shall be given to the Jury but upon Oath, much less where the life of a man is in question. See *Lamb. pag. 210.* that he hath heard the Opinions of other Justices of Assize delivered accordingly.

§. 7.
upon Oath

Crompt.
194.

Also if the Informers be examined upon Oath, then though it happen they should dye before the Prisoner have his Tryal, or if they shall not appear upon the Recognizance, and give Evidence against the Prisoner (being laboured, perhaps, to absent themselves) yet may their Information be given in Evidence, as a matter of good credit.

Also it is found by experience, that without Oath many Informers will speak coldly against a Felon before the face of the Justice of Peace; yea, and will also speak very sparingly and coldly upon their Evidence given before the Judges of Assize; as I have observed in some, had they not been urged with their former Information taken upon Oath. For the labouring (by the Offender and his Friends) to such as are to inform and give Evidence (both before the matter cometh before the Justice of Peace and after) is now grown over-common and usual.

Lamb. 209

Also Mr. *Brook* (*tit. Examination 32.*) is of opinion, That every Examination ought to be upon Oath: And so also is the practice of the Justices in the higher Courts at *Westminster*; in all the Examinations of Summoners, Viewers, Sheriffs, Clerks, or other Officers, &c.

And here let me admonish all such as are to inform or bear Witness against a Prisoner, or any Offender, before a Justice of Peace, or other Magistrate, that they be well advised what they testify upon their Oaths; knowing that in such cases, if either they should not speak the truth, or should conceal any part of the truth, they should offend against God, the Magistrate, the Innocent, the Commonwealth, and their own Souls. *sc.* Against

§. 8.
Oaths.

God, in despising of him, taking his Name in vain, and belying the truth.

Magistrate, in misleading and deceiving him, and causing him to do Injustice.

Innocent, in spoiling him of his Name, Goods or Life.