

Commonwealth, *sc.* if the party be nocent or guilty; and he clears him by false Witness.

His own Soul; for it is Perjury in him, at least in the presence of God and good men.

And though he be not presently sensible of the sore, yet, as one well saith, It will fester, and he shall then feel it most, when no Plaister shall be found to cure it; yea, a Hell will come to them, before they come to Hell; for a Conscience is,

1. *Testis*, a Witness, accusing them.
2. *Judex*, a Judge, judging and condemning them.
3. *Carcer*, a Prison.
4. *Tortor*, an Executioner; yea, no Tongue can express the Torture of a troubled Conscience.

*Whether Information, Evidence or Proof of Witnesses shall be taken against the King.* C H A P. CLXV. V. 112.

**I**T seemeth just and right, the Justices of Peace, who take Information against a Felon or person suspect of Felony, should take and certifie as well such Information, Proof and Evidence, as goeth to the Acquital or Clearing of the Prisoner, as such as makes for the King, and against the Prisoner: for such Information, Evidence, or Proof taken, and the certifying thereof by the Justice of Peace, is only to inform the King and his Justices of Gaol-delivery, &c. of the truth of the matter.

And Sir *Edw. Coke*, (at Lent Assizes at *Bury*, 5 *Jac.*) advised a Coroner, that he ought to have done accordingly, (as I have heard.)

But *quere*, if the Justices of Peace, or Coroner, may take upon Oath such Information, Evidence or Proof, as maketh against the King. It seemeth no.

Upon Trial of Felons before the Justices of Gaol delivery, the said Justices will often hear Witnesses and Evidence which goeth to the clearing and acquital of the Prisoner, yet they will not take upon Oath, but do leave such Testimony and Evidence to the Jury to give credit or to think thereof, as they shall see and find cause.

*Popham*, Chief Justice (at *Cambridge Assizes tempore Eliz.*) committed one to Prison, who, upon the Trial of a Felon, called out, That he could give Evidence for the Queen; and when he was sworn, he gave Evidence to acquit the Offender.

But by the Statute of 31 *Eliz. cap. 4.* it was Enacted, That such persons as shall be impeached for any Offence made Felony by that Statute (being against imbezelling of Armour, &c.) shall be admitted to make any lawful proof that they can, by Witness or otherwise, for their discharge and defence.

In 7 *H. 4.* We shall find, that one of the Serjeants, as *amicus Curie*, and to inform the Court, (that they should not err) did shew his Opinion to the benefit of a Prisoner, upon the insufficiency of the Indictment. The like is to be seen in *Brooks Case*, 28 *Eliz. in Banco Regis*, Co. 4. 39.