

No person arrested for Man-slaughter, or Felony, or suspicion thereof, (beingailable by the Law) shall be let to bail or Mainprise by any Justice of Peace but in open Sessions, or by two Justices of Peace at the least, whereof one to be of the *Quorum*, and the same Justices to be present together at the time of the said Bailment. §. 6. *The man-ners.*

And this Bailment the said Justices shall certify in writing (subscribed with their hands) at the next Gaol Delivery, &c. *Vide ante tit. Examination of Felons.*

Also before the Bailment of such Prisoner, the same Justices, or one of them, shall take the Examination of the prisoner, and information of them that bring him, or of the Fact and Circumstances thereof; and so much thereof as shall be material to prove the Felony shall be put in writing, before they make the Bailment: which Examination, Information and Bailment, they shall certify at the next general Gaol delivery, *ut supra.*

But if any Justice of peace hath taken the Examination of the Felon, and Information against him, and after hath sent him to Gaol; now upon Bailment of him by other Justices, they need not take any new Examination of the prisoner or Information against him, but under their Recognizance (or together therewith) to certify by what Justice of peace the Felon was committed, to the end that at his hands those Examinations and Informations may be required, if he have not certified them.

By the Opinion of Mr. *Crompt.* a prisoner (taken for felony) before his Commitment, ought to be examined and bailed by two Justices of peace being together, (as before:) but after that the prisoner is examined and once committed, then he may be bailed by any one Justice of peace. *Quare* thereof.

The Justices of peace which shall send any prisoner to the Goal, ought to shew in their *Mittimus* the cause of the Commitment, to the end it may appear whether such prisoner beailable or no. §. 7. *Mittimus, the form.*

And if the Justices of peace shall commit one to the Gaol, with these words in the *Mittimus*, *sc.* without Bail or Mainprise, (shewing a certain cause in their *Mittimus*;) yet if such prisoner beailable by Law, other Justices of peace may bail him: (yet *quare*, seeing their Authority is equal:) but if the prisoner were committed without Bail or Mainprise, and without shewing cause in the *Mittimus*, then other Justices of peace cannot (or at least shall not do well to) bail him, without making the other Justices, who committed him, privy thereto; for he might be committed for such cause as that he is notailable, (as for Treason, &c.)

I have seen a Report of a Case, *Term Trin. 37 El.* That upon an Assembly of all the Judges and Barons at *Serjeant's Inn*; It was resolved and agreed by them to be put in ure in their Circuits, That if a Justice of peace should commit a man to the Gaol for felony, for which by the Law he is notailable, but by his *Mittimus* he commits him generally, not shewing any cause, if any other Justices of peace shall bail him, not knowing of the matter, &c. they shall be fined for the same; for they at their perils ought to inform themselves of the truth of the matter before they bail him.

Note where a man isailable, yet when he cometh before the Justices he must offer Surety to the Justices; otherwise they may commit him to prison. *Br. Peace* 7.