years Excomputed he. 4° No person hath any prejudice by the Pannal's Declaration, in Respect her Examination was only preparatory to a trial, and she is but to be his Ad=vocate who proves Not. Insomuch for the purpose 5° Witnesses may be called nothing without a Deponing place for to be a false witness and to swear falsely in Judgement Im=port the same thing. And the Pannal being Cited before the Council ought to have Deponed truely, even for Inform=ing that Sovereign Judicature. Against one may be a false witness without being sworn Jul. & Clar. Sentent. lib. 5 § Falsum n. 11. The swearing a witness not being Essential all to his Deposition and it being sufficient that it is made in Judgement by one Cited for that Effect. The Woman in some cases be cast or set as a witness that excuses her not from perjury, if she be Examined and swear falsely. 3° The Clearest Convection of false hood, is what is drawn from ones own Mouth. Nor can the pannal to be excused upon the account of her sex and hoor, because she is dole Capacissima. This case was pleaded but not decided 23 February 1631 Margaret Wood. For the Justice and assessors continued their In=terlocutor till 9 March thereafter, when in Respect of the Kings Advocates not appearing to Insist, the Diet was Deserted.

10° A Witness is guilty of false hood by perjury when called upon to tell the truth, be concealing part of what is truely or says More than is truely the be=wilds not bound to do it l. 16 § ult. Ff. ad L. Cornel. de falsis, Jul. Clar. Sentent. lib. 5 § Falsum n. 12. & Matth. de Crim. lib. 48 tit. 7 cap. 1 n. 12. Or who swears things plainly contradictory Jul. & Clar. Ibid. n. 5 § Quæst. 53 n. 13 & Legg. When the contradiction is pal=pable and not Morally Consequential M. Lowzid Crim. part 1 tit. 27 § 8 or who takes Money for bearing wit=ness, or Suborns others l. 151 § 2. l. 20 Ff. ad L. Cornel. de falsis. Altho the witness hire or suborne to swear truth 67. n. 2 but the truth Prosper Farinacius de Testibus Quæst. 238. 240 Carpzov. Crim. part 2 Tit. 93 n. 49 & seqq. Matth. Ibid. n. 12. & Lacks of Dangerous Consequence for a Witness to take Money or to be suborned upon any ac=count. As if an Instrument were forged to effect a fact truely done, the forger might be punished tho the Instru=ment doth approve a truth. Vide 4 January 1678 William Monteith of Carribber & his son & others. But a Witness is not held to be perjured for Denying what he formerly dis=covered upon oath, so long as the Denyal is not upon oath. Gr. Dec. 23. Nor yet for affirming upon oath what he formerly denied by a Nakedd Declaration Under his hand 13 Feb. 1710 James Robertson.

11° Subornation of Perjury by the Common law of England seems to be an offence in procuring a Man to take a false oath amounting to perjury, who actu=ally takes the oath. But if the person Incited to take such an oath do not actually take it, the person by whom he was so Incited is not guilty of Subornation of per=jury, tho she is liable to be punished not only by fine but also Infamous Corporal punishment. Mod. Rep. 122. 2 Roll. 39. 9. Hawkins pl. Cr. lib. 1 Chap. 69 § 10. L. George M. Lowzid Crim. part 1 tit. 27. § 8 & Infra. Instances that ought March 1615 Dunlop and some others were Cen=sured for offering themselves to be false witnesses, albeit they were not actually sworn, this accusation against them ha=ving come to Light before their Examination. But this is a Mistake for those were not only Convicted of offering them=selves to bear false witness in one case, but also of giving false=testimony in another case. Nor do the any law subjected one to the ordinary Punishment of perjury for Declaring them=selves Ready to swear falsely, if they do not actually for swear themselves. For it obtained only in some Most Grievous Crimes by the Roman Law, and seldom if ever taken place. Nowa=days, that an Attempt to Commit a Crime is punished in the same way as if it had been Committed Jo. Voet. Comm. ad Tit. Ff. de Iurisdict. n. 22.

Tit. 2.

The Manner of proving perjury.

A Witness may be Convicted of perjury in habilita=ting himself, or in the Initial Words of his oath Con=tradicting his dyes being Marked, purged of partial Con=bolt &c. by the other Witnesses

But