

But witnesses cannot be tried of perjury in the substance of their oaths whom they are counted and censured, by the contrary oaths of other witnesses 25 July 1667 Henry Lawrence and James Skinner. For if that word allowed, both oaths by Depositions might be so argued by others, and the farther pursued in a cause then to declare the writs would be exposed to the trouble of Evidence suits of perjury. Sir George Mackenzie (Crime part 1) p. 293. says whether one witness may not be pursued for perjury upon the Depositions of others, this two cannot, because the joint Depositions only, make full proof.

Falsities or wilfuls may be committed of perjury by writ, as by Depositions subscribed by themselves, but not by Extracts signed by the Clerk of Court 2 August 1665 & 21 November 1666. Mr James Row Man's case mentioned. Nor can this Crime be suspended, from Evidence of Contradictory oaths under a Clerk's hand, without producing the original Depositions which are for and against 13 Feb. 1710. Locke of May contra Robert Jones that the Judges might not be put to answer a supposititious Criminal, nor be abridged of the Reason naturally arising from Inspection and Comparison of the writs themselves. One Evidence of perjury, is that which he could not be put to the knowledge of an Englishman because neither the papers whereupon the Libel is given, nor full and Authenticated Doubts thereof were given out with it to him, that he might have prepared a Debate against the Relevancy, Nulity or falsity of the writs. It was replied, if the Libel being found on Acts of Parliament, the Letters and oaths subscribed therein which are Matters of fact needed not their Doubts thereof to be given out in initio litis, but only to be produced in Medium probationis before the Judges who are Judges of the proof. 29 The Act of Parliament would not appoint such writs to be given out to the Jannal, but only Lists of the Witnesses and abusers, that he may come prepared with his objections considering in Matter of fact as to the

Character &c. which cannot be known by their Counts named at the Bar. And as it word Dangerous to give out the writs to the Jannal himself who might Destroy them: so there is no necessity for so doing, in respect objections against writs may appear by regular Inspection or the bare Reading of them when produced. Implied these papers cannot be considered only as an Instruction to the assizes, seeing they are Libelled as a part of the Relevancy, and the Conclusion of the Libel craved to be pursued from them accordingly, which Relevancy might be determined before any thing is committed to an Assize. This Bill long proposed was Reported 11 March 1687 John Birchamman of Long. And so that where writs are used in Evidence of perjury, those writs not to be given out with the Judgment to be seen by the Judge; but it sufficed to libel upon them as lying in the Clerk's hand, and to put them there some reasonable time before the trial.

No person being presumed both so mean as to lie, and so wicked as to call upon God to bear witness to it, Interpretatio facienda officiali delictum perjurium, dicitur per. 5 Perjurium n. 5. Prosp. Graviss. de falsitat. & simulat. duff. 160. 11. 142. Expressions in oaths are to be favourably interpreted and words are not to be fastidied to infer perjury.

Where one hath judicially upon oath sworn or contradicted a promise formerly made by him; that promise may be proved by witness, in order to convict him of perjury 40 January 1716. George Montgomery of Warr. For in Criminal Matters Promises are allowed to prove the Emphasis of Words: and the Crime thereof not consist in the promise, but in forbearing the promise.

Tit. 3.

The Punishment of Perjury. Barthal makes a false oath, oath in office either look upon the all being God as ignorant of it; or by Condonancy and turning a false hood with his sacred Name, makes the God of truth a party.