

Wherein it is only the Consequence of the Conviction
Judgment against him, and not an Express part of the
Judgment. For one Convicted of Perjury, is incapable to
bear Witness in any case, *C. 15; Gry. 66.* Even tho he hath
pardon *Id. 52. 5 Mod. Rep. 15. 16.* Ventr. 349 partly, for
that Disability to bear Witness is an Express part of
the Judgment of perjury; partly, because it would be an injury
to the people in general to make them subject to such a
persons testimony. The *Principles* *Notat quod*
liberat: Nec Infamiam Criminis tollit, Sed pena gratia mfac
l. ult. 6. de Generali abolit. Penam licet tollat, Semper la
ra Manet *Id.* Tho this Matter seems not to be fully
settled *Hawkins pl. Br. lib. 2 chap. 37 552 chap. 46 522.* But
it is not sufficient to cast a Witness, to Allege that he
foreswore himself in a former trial, unless he be convicted
5 *Id. Gry. 69. 70.* For it is one thing to be perjured, and
another thing to be proved so; and he is only proved so
by a Record for that purpose. Wherefore a simple Indictment
of perjury, doth not bar a Man from giving Evidence 1
Robt. Rep. 239.

A person who hath been branded, or by Judgment lost
his ears, is not admitted as Evidence *Coke 1 Inst. 6. b. Hol. Rep*
37. Nor can one who hath been Pillorized or stood in the
Pillory by sentence of a Competent court, be a Witness
Lough. Gry. 28. Hale pl. Br. 263. Hol. Rep. 37. Whatever
was the cause for his being adjudged to that Infamous
punishment 5 *Mod. Rep. 15.* For quæ Minoris sunt culpe,
sunt Majoris Infamia. But a Pardon takes off the Disabi-
lity, and Restores such a Man to his Good it for the future
5 *Mod. Rep. 16.* It is no good Exception Against a Witness
that he had formerly the Benefit of Clergy, and was
burnt in the hand for felony *Hol. Rep. 37. Godbolt App.*
238. Styled Rep. 548. Raym. Rep. 370. 386. Hawkins
pl. Br. lib. 2 Chap. 16 521. Because that doth not, like

Stigmatizing, Make one Infamous, but comes in place of
the purgation at Common law, which supposed that he
Might be Innocent Notwithstanding of the Verdict. Besides
Burning in the hand is a quasi statute pardon, whereby
the offender is purged and the offender Reasonable to bear Wit-
ness.

A man may give Evidence tho he is sworn of the Jury,
Readings Gry. 11. Hawkins pl. Br. lib. 2 chap. 46 517. It is
no Exception against a persons giving Evidence, either for
or against a person, that he is one of the Jurors who are
to try him. And if any of the parties to a Trial Desire a
Juror to Evidence to his Companions some thing of his
own knowledge, the Juror will examine him upon oath
openly in Court, for he ought not to be examined privately
by the Rest of the Jury *Styles Rep. 232.* Two of the
Commissioners for the trial of the Murder of King Charles
the first, came off from the Bench, and were sworn
and gave Evidence against Hacker. But did not go up to
the Bench again during his trial *Hol. Rep. 12.* A witness
to the Indictment may be also witness at the trial *Hol.*
Rep. 152.

Some persons, tho other ways of good find it and Repute,
are by the Rules of law hindered to give Evidence upon
the Account of their Interest in the cause, or partiality,
presumed from by Aspects, of gain or loss by the Event
of it whether such advantage be Direct and Immediate
or Consequential only *Coke 1 Inst. 6. b. Hawkins pl. Br.*
lib. 2 chap. 46 524. Thus a Wife Regulariter cannot in felony
except treason bear Witness either for or Against her husband.
Nor can a husband give Evidence against his Wife *Hale pl.*
Br. 263. Raym. Rep. 1. Hawkins ibid. 516. Because they being
one flesh, or one and the same person in Affection and Interest
can No more give Evidence for one Another in any case
what so ever, than for themselves. Besides the murthering the
One to give Evidence Against the other, or Making up