

## NEALE V. CONINGHAM.

[1 Cranch, C. C. 76.]<sup>1</sup>

Circuit Court, District of Columbia.

March Term, 1802.

WITNESS—INCRIMINATION—OBJECTION BEFORE  
BEING SWORN.

Witness who cannot testify in a cause without criminating himself shall not be sworn.

Trespass, for assault and battery, and false imprisonment.

Mr. Peacock, for plaintiff, produced Richard Spaulding, to prove that the plaintiff was arrested and confined in prison upon a ca. sa. issued by the defendant as a justice of the peace for Washington county, on the 28th of March, 1801, on a judgment rendered by Amariah Frost, a justice of the peace of Prince George's county, on the 24th of September, 1800. The witness objected to being sworn because he was the constable who served the ca. sa., and also the jailor who kept the plaintiff in confinement, and his testimony would criminate himself.

THE COURT refused to compel him to be sworn.

CRANCH, Circuit Judge, contra. It is not an objection to his being sworn, but is a good reason for his refusing to answer any question which may criminate himself.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]