

Liber N N the said agreem^t did take the bill of the Said Blizard & discontinue the action of the aforesaid John, thereby utterly excludeing & debarring the said John from the benefitt of his Said writ, by which fraud and decept of the Said Robert Carvile the said John Creycroft is dampnified & hath losse to the value of foure thousand pounds of tobacco, And thereupon he bringeth his Suite.

And the Said Robert in his proper person cometh & defendeth the force & injury when &c & saith that the plaintiff his action aforesaid against the Said Robert ought not to have for that he being a sworne Attorney of this Court did without any fraud or decept & by the plaintiffs order discontinue the said action & of this he puttts himselfe upon the judgm^t of the Court whether the p^lt his action aforesaid against him ought to have.

And the said John Creycroft Saith that the aforesaid plea of the Said Robert Carvile above in barr pleaded is altogether insufficient in Law to barr him the said John from haveing his action aforesaid neither is he by the Law of the Land thereunto bound to answer, & for cause of demurrer according to the forme of the Statute Saith that the Said plea before by the Said Robert pleaded containeth only matter of fact & therefore for tryall ought to have been putt upon the Country but the Said def^t by his Said plea puttts himselfe upon the Court, who are only judges of matter of Law for ad questionem facti non respondent judices, ad questionem Legis non respondent juratores. Co: lii^b.

And the defend^t Saith that the matter is properly tryable & to be judged by the Court being an Officer of the Court & not proper for a jury & of this he prayes judgm^t. Which being over-ruled by the Court the partyes put themselves upon the Country. whereupon comānd is given to the Sheriff that he cause to come here twelve &c. Now here at this day to witt the 27th day of April in the yeare 1677 came the parties aforesaid & the jurors of that jury came also to witt Edward English Thomas Spinke Marmaduke Semme Samuel Raspin Thomas Russell Ninian Beale Jn^o Darby Jn^o Barnes Jn^o Waghop John Hyland ffrancis Swinfen & James Rumsey who being impannelled Sumōned and sworne to Say the truth in the premisses upon their Oathes doe say Wee find for the plaintiff.

p. 264 W^m Cannaday
ag^t } Johanna ffarrer Executrix of the last will &
Johanna ffarrer ex^x } testament of Robert ffarrer dec^d was attached
Rob^t ffarrer } to answer unto W^m Cannaday of a plea of tres-
pas upon the case.

And whereupon the Said W^m Cannaday by Robert Ridgely his Attorney complaineth that whereas the Said Robert ffarrer the first day of April 1675 in consideration that he the Said W^m Cannaday at the Speciall instance & request of the Said Robert had bargained Sold & delivered unto the Said Robert in the life time