

the matter in the same contained is not sufficient in Law to preclude the Court here from having cognizance of the plea of the aforesaid Giles and that he the same Giles to the plea of the aforesaid James in manner and form aforesaid Pleaded he hath no need nor by the Law of the Land is in any sort held to answer and this he is ready to verify wherefore for want of a sufficient Plea by the aforesaid James in this part the same Giles prays Judgment and that the Court here of the plea aforesaid will take further Cognizance and that the aforesaid James to the writ aforesaid may further Answer &c. And for Causes of Demurrer to the plea aforesaid the same Giles According the form of the statute in the like case lately and provided shews to the Court here that the said James should ^{have} concluded his plea his plea with a Hoc paratus et verificare that the aforesaid James (his plea being a foreign plea) he ought to have made affidavit or have shewn some probable Cause of the truth of the plea before the filing thereof that the aforesaid plea is altogether incertain insufficient and wants form.

Whereupon the said James Peterkin and Elizabeth pray Leave thereof to Impare here ⁱⁿ next Court to be held at dividing Creek the third Tuesday of August then next following and they have it and the same day is given to the aforesaid Giles here &c. At which day here came again as well the aforesaid James Peterkin and Elizabeth his wife as the aforesaid Giles Bashaw in their proper persons and whereupon the said James says that the plea aforesaid of him the said James and the matter therein contained are sufficient in Law to preclude the Court here from ^{having} cognizance of the plea aforesaid of the said Giles which matter the said Giles hath not gainsayed or the same in any sort answered but the verification of the same James to admit altogether hath refused and this he is ready to verify Wherefore as before the said James intends not that the Court here of the plea aforesaid cognizance further to take will. — Whereupon all and singular ^{the premises} being seen and by the Court here fully understood as well to the writ aforesaid as the aforesaid plea of the aforesaid defendt in quashing of the writ aforesaid above pleaded it seemeth to the Court here that the same plea is not sufficient in Law to the aforesaid Writ of the aforesaid plaintiff to quash, and that the same writ be adjudged good notwithstanding the said plea of the aforesaid defendt in quashing the same writ in form aforesaid pleaded. Therefore it is considered that the aforesaid doct to the aforesaid plaintiff to the action aforesaid further answer — And the said Giles Bashaw complained against the aforesaid James Peterkin & Eliz^a his wife in the plea aforesaid in form following — Somerset James Peterkin late of Somerset County planter and Elizabeth his wife were attached to answer unto Giles Bashaw of a plea of trespass upon the Case &c. —

And Whereupon the same Giles by William Arbuckle his Attorney complains that whereas on the day of ^{seventeen hundred and thirty at Somerset County aforesaid} a certain discourse was had and moved between the said Elizabeth when she was sole and the said Giles of and concerning the sale of a Negroe called Sampson to the same Giles by the said Elizabeth upon which discourse then and there had the said Elizabeth for and in consideration of twelve pounds current money of Maryland by the same Giles to the said Elizabeth then and there agreed to be paid did bargain and sell to the same Giles and to his proper use the aforesaid Negroe and then and there by bargain warranted and affirmed the Negroe aforesaid to be but eight years of age and also that he was sound and free from any distemper and the same Giles in fact saith that at the time of the sale warranty and affirmation aforesaid the said Negroe was a Limatick and troubled ^{with} Epileptick fits and also above the age of eight years And so the same Giles putting confidence in the Warranty and affirmation of the said Elizabeth against the form of the Warranty and affirmation