

they can bear no action & that by the aft<sup>r</sup> Shepard who fed us with they must be charged with the very words false & malicious false & malicious or it is not actionable both which words must be found by a jury for if they find one of the words & not the other the action will not lie as in Job & Harmon's Symonds's case the J<sup>ts</sup> brought an action for words & declared that they were spoken false & malicious the jury find the words false & injurious and it was adjudged the action would not lie because the finding of the jury doth not warrant the Declaration in the substantial Form of it. Trin: 7 Car. 1<sup>st</sup>.

Now I leave it to your Honours to judge whether it is possible a jury can find both or either of the words being neither used or charged in my Adversary's Declaration the J<sup>d</sup> Shepard calling them by the Title of the substantial Form of the Declaration.

Notwithstanding may it please your Honours the better to defend myself from the malicious Designs of Henry Spinks a light-carriaged woman Elinor Edwards while she was my servant your Petitioner doth not deny any thing of his Charge or Declaration. Yet he humbly desires your Honours to Consider the sequel. first that the words I am charged with to speak were spoken & so is charged to be in open Court, now Mr Dent & other members of the Court as also Mr Jacobs Mr Turner & other bystanders at least six or seven who hath declared to me they can & will if need be declare upon oath they being present at the same time that they heard no such thing or in that form as most of the others my Adversary hath proved against me make mention of he having procured four oaths the persons of all which had as I can prove perfect prejudice against my person except Mr Hyde whose oath is nothing so desperate or invective against me as the others are. Nay your Petitioner dare venture all he hath that the said Spink cannot get the like oath of any credible person as either of the other three hath taken all over the Province, the men being of very slender repute in comparison of the persons present whose oaths if need be I can produce who only testify of my taxing her of a whorish & lascivious Carriage while she was my servant & in particular with Tho: Hughes which is most true & upon which I forewarned her of this fellows Company she impudently receives him into my House when my wife and I were gone to St Marys lodging him in my wifes bed & lying all night in the room with him as my wifes told me at my Return & which she did not deny when I gave her Correction for it before Mrs Reynolds telling her at that time I gave her Correction for these her whorish Carriages to which she answered not a word.

Ordered that Judgment & Determination in this Case be respitted till to morrow Morning.