and their Attorneys aforesaid, and by order of the Court here thereon was further continued until the second Tuesday of April next following.

At which said second Tuesday of April Anno Domini One thousand, seven hundred and ninety two, came the parties aforesaid by their Attorneys aforesaid, and the aforesaid James West by his Attorney aforesaid, defends the force and injury when and so forth: and saith that the said Hannah her action aforesaid thereof against him to have or maintain ought not because he saith, that he the said James, on the sixteenth day of June in the year of our Lord one thousand seven hundred and eighty four and before the impetration and suing out of the original writ in this cause, at the County aforesaid paid to him the same Stephen West, in his lifetime, the said sum of ninety five pounds current money in the said Condition mentioned, together with all the Interest then due on the said sum in the condition mentioned; and this the same James is ready to verify; wherefore he prays Judgment, if the same Hannah his action aforesaid thereof against him to have or maintain ought, &c: and the said Hannah by her attorney aforesaid, saith that she by any thing by the said James alledged from having and maintaining her action aforesaid thereof against him ought not to be precluded because she saith that the aforesaid James did not pay to him the said Stephen West the aforesaid sum of money with legal Interest mentioned in said Condition, as he the said James ought to have paid according to the form and effect of the said condition as the aforesaid James above hath alledged and this he prays may be enquired of by the country, and the aforesaid James in like manner: and so forth: Thereupon further process of and upon the premises aforesaid, between the parties aforesaid by consent of the said parties and their Attorneys aforesaid and by order of the Court here thereon was further continued under notice Trial until the second Tuesday of September next following.

At which said second Tuesday of September, came the parties aforesaid by their Attorneys and the said James West by his Attorney aforesaid files in Court here the following affidavit, towit: James West the Defendant in this cause

(Comes)

comes into Court, and made oath on the holy Evangels that Lambert Hyland was a material and competent witness in this cause in his behalf, and that he cannot with safety to himself go to Trial of the same without the benefit of the said Hylands Testimony; and further the same James West believes that the said Hyland will swear that the said James paid to him for the use of the said Stephen in his lifetime the sum of £66. 1.8. current money part of the above debt with the approbation and by the direction of the said Stephen: Thereupon further process of and upon the premises aforesaid between the parties aforesaid by consent of the said parties and their attorneys aforesaid and by order of the Court here thereon was further continued until the second Tuesday of April next following.

And now here at this day, towit, the said second Tuesday of April Anno Domini One thousand seven hundred and ninety three, comes again as well the said Hannah West Executrix as aforesaid by her Attorney aforesaid, as the said James West by his Attorney aforesaid: whereupon for trying the issue aforesaid, let a Jury thereon appear before the Judges of our General Court here immediately by whom &c., and who neither &c., to recognize &c., because as well &c., who being called come, that is to say: Joseph Pace: :man, James Faffitt, Severen Peake, James Ewing, James Bowers, Henry Lemalle, Levin Gale, John Page, John Downes, Edward Burke, Henry M. Pearce and Henry Tripp, who being elected tried and sworn to say the Truth in the Premises upon their Oath do say that the aforesaid James West doth not owe to the said Hannah West Executrix as aforesaid in manner and form as the said Hannah West Executrix as aforesaid above against him hath declared: Therefore it is considered by the Court here that the aforesaid Hannah West Executrix as aforesaid take nothing by her writ aforesaid; but that she and her pledges of Prosecuting, towit, John Doe and Richard Roe be in mercy &c.: and that the said James West go thereof without day &c.: and it is further considered by the same Court that the aforesaid James West do recover against Hannah West Executrix of Stephen the quantity of One thousand four hundred and seventy three pounds of Tobacco for his costs and charges by him about his defence in this behalf sustained to the same James West adjudged by the Judges here according to the form of the Statute in such case lately made and provided: and that the said James West have thereof his Execution &c.

James Carter jun Clk