

In the Margent of that Fol. 142. it is thus noted :
Of this Mind were ten Judges of eleven. The Chief
Baron Turner gave no Opinion, because not at the
Argument.

And in the same Fol. 142. he saith, *The Verdict*
of a Jury, and Evidence of a Witness, are very dif-
ferent things in the Truth and Falshood of them : A Wit-
ness swears but to what he hath heard or seen gene-
rally, or more largely to what hath fallen under
his Senses : But a Jury-man swears to what he
can infer and conclude from the Testimony of such Wit-
nesses, by the Act and Force of his Understanding, to be
the Fact enquir'd after ; which differs nothing in Rea-
son, though much in the Punishment, from what a
Judge, out of various Cases consider'd by him, infers
to be the Law in the question before him.

If the meaning of these words, finding against the
Direction of the Court, in matter of Law, be, That
if the Judge, having heard the Evidence given in
Court (for he knows no other) shall tell the Jury, up-
on this Evidence, the Law is for the Plaintiff, or for
the Defendant, and you are under the Pain of Fine and
Imprisonment to find accordingly, and the Jury ought
of Duty so to do ; then every Man sees, that the Jury
is but a troublesome Delay, great Charge, and of no Use
in determining Right and Wrong ; and therefore the
Trials by them may be better abolished than continued :
Which were a strange new found Conclusion, after a
Trial so celebrated for many hundred Years.

It is true, if the Jury were to have no other Evi-
dence for the Fact but what is deposed in Court, the
Judge might know their Evidence, and the Fact from
it, equally as they, and so direct what the Law were in
the Case ; though even then, the Judge and Jury might
honestly differ in the Result from the Evidence, as well
as two Judges may, which often happens ; but the
Evidence