insufficient in law & consequently to reverse the Judgmt of the
Provincial Court whereby the said ship was cleared.
Wee therefore of Opinion that upon the Reversall of the Judgmt
of the Provinciall Court for the Reason aforesd the ship ought to
be condemned, because that when ever a Writ of Error is brought
in a superiour Court upon a Judgmt given in an inferiour Court,
if the Judgmt of the inferiour Court be Reversed for any Errors
assigned then and in such case the superiour Court ought to give
the same Judgmt as the inferiour Court ought to have given
if such Error had not happened: Now if the Error of Judging
the Bond sufficient had not happened in the provinciall
Court but that the Bond had been Judged there insufficient
(as your Excellcies Councill adjudged it) then without all dispute
they ought to have condemned the ship; consequently your Excies
Councill having Judged the Bond insufficient, and the
not doing to bring the Error of the Provinciall Court, the
Judgmt to be given by your Excies Councill humbly
conceived is that the ship be condemned according to the direc-
tions of the Act of Parliam; and for any person to come
now allodge in bar of such Judgment that there is Matter of fact
fact to be still inquired into (viz: whether the said Ship took in the
Tobacco before Bond given) is vile Forrigin, and now too late
to allodge; because it was given for granted & allowed upon
the Tryall that Tobacco was taken on board before any other
bond was given but that bond which is now Judged insufficient,
and the sufficiency of the Bond was the only thing in-
sisted upon in the provinciall Court, which being adjudged by
your Excies Councill insufficient it must of Necessity follow
that the ship must be condemned, which is humbly offered to
your Excies as the Opinion of

Yo: Excies most humble
most obedient servant
Charles Carroll

In Obedience to your Excies commands, we have considered
that an Attaint is a Writ that lyes where a false Verdict
lyes in a Court of Record upon an issue joyned by the parties
to a suit

Record