

Lib. H. D. tion of the said information, the Matter of ffact (as it seemeth to me) is determined and the Verdict of the Jury is to stand in full force, and the Judges could do no otherwise than Credit the Verdict & Give Judgm^t according to it; for the Judges are not to take notice, as I do humbly conceive, whether the Bond was good or not, being a thing meerly collaterall & was not any part of the Record which was before them; But if the Kings Counsell or they that were of Counsell with the Informer would not Demurr they have tacitly confessed the bond given in Evidence to be good, and the Judges are to take it to be so, vnless the Kings Counsell or the Counsell for the informer shew the contrary vpon their Demurrer.

5: In all cases where the King is party 'tis a Rule in Law that the King being Caput Reipublicæ & Juris, Requires th^t Justice should be done between him & his people with all the favour that may be towards his people Vide Doc. & Stud. Chap. 48.

This I do humbly Offer to your Ex^{ncy} as my present Opinion in the principal Case & begg leave to Subscribe my self
June 17th 1696.

May it please your Ex^{ncy}

Yo^r Ex^{ncies} most humble Serv^t

R Gouldesborough

June 22th 1696.

p. 358 I do concur with the above Opinion with this further Addition, that I humbly conceive, that at the Tryall it was not Debated whether the Def^t after the Bond in question was past shipped Tobacco on Board or not for that I presume was admitted, but what did weigh with the Jury to find the Def^t not guilty was a permit of Trade vnder the hand & Seal of the Collector which was produced to the Jury as Evidence for the Def^s Clearing. And if the same permit was not sufficient Evidence in Law to indemnify the Def^t against the breach of the Law the Counsell for the plaintiffes ought to have demurred therevnto, as in the third Article above is mentioned; so that the Counsell for the plaintiffe having waved that advantage & the permit not being contradicted the Jury (in my Opinion) might well find the Def^t not guilty without the danger of an Attaint, if any Attaint in this Case would lye, which most of the Books agree cannot.

Shep Epit. 121. 122. The King or an Informer cannot have this Writ ffitz. Na. Br. Verb. Attaint says the same, Only I find in Cro: 1. part Abrid N^o 731. The Queen & Ingorsells It was the Opinion of the Justices that an Attaint lyes where a Verdict passeth against the Queen, vpon an Information. And furthermore if the s^d permit did dispose to the breach of