

well &c. Att which said fifth day of December in the yeare aforesaid Came the parties aforesaid and the jurors of that jury likewise came to wit Thomas Pattison John Creycroft Constant O Keife James Rumsey Samuel Ashcomb, John Glover Vincent Atcheson Rob^t Hood John Tant Richard Edmonds John Browning & Joseph Chew who being impannelled Sumōned and Sworne to say the truth in the premisses upon their Oathes doe say Wee of the jury doe find (the conditions moveing the defendant to passe this bond not being performed) for the defendant. Whereupon the plaintiff moved the Court in arrest of judgment & day given the plaintiff untill the morrow afternoone to putt in his reasons to the Court here. On which said Morrow to wit the sixth day of December in the yeare aforesaid the said John Quigley sheweth to the Court here his reasons for arresting the judgment upon the verdict aforesaid, the tenor whereof followeth in these words. Liber N N

The plaintiff brings an action against the def^t upon a bond for 248428 ^l of tobacco for payment of 12421 ^l of tob^o.
The def^t pleads non est factum & putts herselfe upon the Country, issue then joyned upon that plea, the jury impannelled to try that issue & no other.

The p^lt p[ro]ues the bond to be the Testators Act & deed by Garret Vansweringen the wittnes to it who also swears that the said bond was entred into for the ballance of an accompt between the plaintiff & Charles Delaroch & that it was agreed betweene them that the plaintiff was to produce his accompt & make it appeare to be reasonable & to accompt to Soe much or to that effect.

John Deery for the p^lt proves the accompt was both before & after the Sealeing of the bond shewed to Charles Delaroch and that he approved thereof. p. 211

On this the p^lt leaves it to the jury, who ought to have found for the p^lt. The def^t craves the benefitt of the rules of Court made by M^r Boughton Secretary that she may give the speciall matter in evidence & for Speciall plea offers that the said bond was sealed and delivered as an escrowle to the plaintiff upon a condition not performed which she would seeme to induce the jury to beleive upon the Single evidence of Garrett Vansweringen

The jury bring in a verdict in the nature of a speciall verdict as they explained themselves by the fforeman at the Barr, that they found for the defendant.

All which is unjust illegall & contrary to the constitutions of the fundamentall Lawes of England, and for these reasons following vizt.

first It is a president of very dangerous consequence to question the consideration of a bond or bill duly proved to be the Act & deed of the party. which is against Law.

2^{dly} The defendant Ought not to have pleaded the generall issue of