

Liber N N Now here at this day to witt the Seventh day of June in the fourth yeare of the Dominion of Charles Lord Baltemore &c Annoꝝ Doni 1679 came as well the said p^{nt} as the said Defend^t by their Attorneys aforesaid And the said Defend^t by his said Attorney putt in his reason for the Arrest of judgm^t which are as followes Viz^t

The p^{nt} declares agst the Defend^t for that he the fourth day of August One thousand six hundred Seventy five bought had & received of him the said Edward divers Goods & M^rchandizes, & upon that accmpt together with Custome house Charge Carriage & other Charges incident thereunto the said John Quigley stood justly indebted to the said Edward the sume of twenty foure thousand Eight hundred Eighty & two pounds of tobacco And being so indebted the said John Quigley did assume &c and for want of performing that assumpsit say they are damnified forty thousand pounds of tobacco. The Defend^t pleads he did not assume, & upon that plea, issue being taken by the plaintiffe, the cause comes to tryall

The p^{nt} produces an accmpt of Goods delivered & sould to Quigley in April One thousand six hundred seventy five for three thousand foure hundred forty two pounds of tobacco which can have no relation to the declaration for Goods, sould the fourth of August. In the same account he also charges him for Goods sould & delivered the fourth of August one thousand six hundred Seventy five for Fifteene thousand six hundred & Eighteen pounds of tobacco which in the whole makes Nineteen thousand & Sixty pounds of tobacco And in the same account giues him Creditt for thirteen thousand nine hundred twenty fve pounds of tobacco So that by that account Quigley was indebted to Man five thousand One hundred thirty fve pounds of tobacco, but yet never proved by the Oath of Man or his bookekeeper or any other person, so could be no evidence to the jury, yet the jury haue found for the p^{nt} fve thousand One hundred thirty fve pounds of tobacco.

The judgm^t ought to be Arrested

1st Because the said account was never proved to the Court, & the jury was sworne to try the issue joyned according to their evidence, & they found that Verdict without any evidence att all, which is Error

2^{dly} Because the account & the declaracōn doe not agree, which declaracōn mencōns twenty foure thousand Eight hundred Eighty two pounds of tobacco in Goods sould the fourth of August. Whereas by the account exhibitted by the p^{nt} to make good the said declaracōn, three thousand foure hundred forty two pounds of tobacco part of it is said in the said account to be sould & deliuered the April before The said fourth of August One thousand six hundred Seventy five, which is Error

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3^{dly} The declaration & the account does not agree, nor judgment cannot thereon be given by the Court upon the Verdict of the jury aforesaid, for that the p^{nts} account to maintain his declaracōn afore-