

said plaintiffe above against him hath complained & of this he putt
 himselfe upon the Countrey And the plaintiffe also Therefore itt is
 comāded the Sheriffe of S^t Maryes County that he cause to come
 here twelve &c by whom &c and who neither &c To recognize &c
 because aswell &c Att which said twelfth day of October in the yeare
 aforesaid came the said partyes by their Attorneys aforesaid And
 the Jurors impanelled being called likewise came to witt Richard
 Boughton, Robert Mason, Thomas Doxey, John Doxey, James
 Rumsey, Tho: Bowdle, Tho: Osborne, Lewis Blaugy, Tho. Ball,
 Henry Howard, Tho: Gilbert & Richard Hodgson—who being
 elected tryed & sworne to say the truth in the p^rmisses upon their
 Oaths doe say that the said Henry Johnson is guilty of the trespas
 above imposed upon him in manner & forme as the plaintiffe above
 against him hath declared Which Verdict of the Jurors aforesaid
 being read & heard; the Defend^t by his Attorney aforesaid moved
 the Court here in Arrest of judgem^t whereupon day was given to the
 Defend^t untill Munday the fourteenth day of the same month of
 October to putt in his reasons for the Arresting the judgem^t the
 same day is giuen to the plaintiffe also~On which said fourteenth
 day of October came aswell the said plaintiffe as the said Defend^t
 by their Attorneys aforesaid And the Defend^t by his said Attorney
 putt in his reasons for Arrest of the judgem^t aforesaid which are as
 followes Viz^t

Liber N N

Arrest of judgem^t for the Defend^t

1 Because itt was not proved by any one of all the plaintiffes Witt-
 nesses that he paid the Defend^t so much as one pound of tobacco for
 the Brigantine And itt was proved by the plaintiffes Witnesses that
 Mills released the bargaine to Johnson, he paying downe what Mills
 had paid him for the Brigantine, And that not being proved or
 shewed to be any thing att all, those words paying him downe what
 he had paid, were idle & Superfluous words And the release of the
 bargaine is good notwithstanding, for the rule or Maxime is Utile
 per inutile non Vitiatur

2 The judgem^t ought to be Arrested, because Doctor Ireland the
 material Witnes for the Defend^t was not admitted to be sworne, upon
 pretence that he is a party concerned, haveing a bill of sale & posses-
 sion of the Brigantine, which is no sufficient ground to barr his
 Evidence in the case, for he shall neither receive profit nor losse by
 the judgem^t which way soever itt goes, for the trespas is only in
 question And the plaintiffe (if judgem^t passe for him) shall only
 recover dañages, but shall never have possession by this action.
 Vide compleat Attorney fol. 41

3 The plaintiffe or his Attorney have not sued out a Venire facias
 in this case directed to the Sheriffe of S^t Maryes or any other County
 to Sumon a jury for the said tryall which alone is sufficient Error
 to Arrest the judgem^t—Which being read & heard itt is the judgem^t

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