

Liber W. C. That the said Gerrard Slye the said Garrat Vanswearingen Did discharge and release out of prisson for the said sume of Two Thousand Eight hundred and Twelve pounds of Tobacco upon the Execu^{co}n aforesaid at the suite of the said John England, by y^e ord^r & direc^{co}n of the said Stephen Davies Attorney of the same John England, in manner and forme as the said Gerrard Slye hath above alledged, W^{ch} verdict of the Jurors aforesaid being Read and heard the said John England by his Attorney moved the Court here in arrest of Judgment & prayed day untill the next Provincia^ll Court and Itt is granted unto him, The same Day is given to the plantiffe Likewise

p. 296 Afterwards To witt the Eighteenth day of ffebruary in the Sixth yeare of the Dominion of the Right Hono^{ble} Charles Lord Baltemore & Anno^q Dominj 1680 Came the said partyes by their Attorneys aforesaid, and the said John England by his said Attorney sayth That Judgment ought to bee arrested ffor that the plt Declares in a plea of Trespasse on the case against the deft as late Sheriffe of S^t Maryes County for an Escape of Garrat Vanswearingen taken by him upon a Capias ad satisfaciendum at the suite of the p^lt for Two thousand Two hundred Seaventy six pounds of Tobacco and ffive hundred thirty six pounds Costs of suite Executed the Tenth of November 1678

The Deft pleads an agreement wth Stephen Davis Attorney of the p^lt that hee ingages to pay him the debt and costs and thereupon hee ordered him to discharge the deft, and alledges hee paid him in part thereof Eleaven hundred and Sixty one pounds of Tobacco, and as to sixteen hundred ffifty one pounds of Tobacco residue hee always was & still was ready & c

The plt Replies that the said Gerrard Slye did not discharge the said Garrat Vanswearingen by the order and Direc^{co}n of the s^d p^lts Attorney Stephen Davis, and Upon this Issue was taken

(1st) The Judgm^t ought to bee Arrested for that the plt never did prove any such agreement wth the said Stephen Davis, neither by the oath of any person, nor had any thing to pduce under the hand of the said Stephen that the said discharge was by his Order & direction

(2) That if nothing but hand and seale Can discharge hand & seale, nor Nothing but Record Can discharge a Record, this being a Judgm^t and after that Exccu^{co}n. the same Could not bee discharged but by some Instrument under hand and Seale to order the sheriffe to discharge him, & to order satisfaccon to bee acknowledged upon Record, and that not appearing the Jury ought not to have found for the deft, & soe Consequently the Judgment ought to bee Arrested

(3) The Evidence to the p^lt swears to a designe of Keeping the p^lt out of his debt by giveing him his ffees hee owing the said Garrat the Tobacco, w^{ch} is to the greate discouragem^t of Trade in this Province, and this Judgment being found against him by a Verdict of a Jury will bee an absolute barre to him for the Eleaven