

Liber W. C. barred thereof) Which verdict of the Jurors aforesaid being Read and heard the plantiffe by his Attorney aforesaid Moved the Court here in arrest of Judgment, And Day is thereupon given to both partyes untill next Provinciaall Court

p. 325 Now here att this day to witt the Eighteenth day of ffebruary in the Sixth yeare of the Dominion of the Right Hono^{ble} Charles Lord Baltmore &c Annoq Dominj One thousand six hundred and Eighty came the said partyes by their Attorneys aforesaid, And the said Thomas Jones by his said Attorney fleth his Reasons for arrest of Judgment Upon the Verdict of the Juro^{rs} aforesaid. w^{ch} followeth (viz)

Reason for arresting the Judgment Betweene Thomas Jones plt. and Samuel Dobson Deft Upon the Verdict given by the Jury

The plt sues the deft and charges him to have fraudulently received of him foure hundred and foure pounds of Tobacco, Upon p^rtence of soe much due to the hono^{ble} the secretary for fees, and yet never discharging him from the Secretary for the same, and that hee was forced to pay it againe, for w^{ch} damage Two Thousand pounds of Tobacco

The Deft comes and pleads, and in his plea ownes the receiveing the foure hundred & foure pounds of Tobacco of the plant but sayes hee was undersheriffe & Servant to Gerrard Slye high Sheriffe of S^t Maryes County, & that hee did it by his ord^r, & accounted to him for the same, and soe Justifyes it, and demands Judgment if ac^{co}n &c.

The Plant replies as in his Declara^{co}n, and puts it upon the matter of fact & soe puts himself upon the Judgment of the Court

The deft Rejoynes as in his plea, and of that puts himself upon the Country And the plantiffe also:

(1)—Soe that the matter of Law w^{ch} is in the plea is put upon the Jury w^{ch} is Erro^r for it is a Maxim in Law, as to matter of Law the Juro^{rs} doe not answer but y^e Judges, And as to matter of ffact the Judges doe not answer but the Jury, Soe the matter put in issue to the Jury ought to have been put to the Court w^{ch} is Error

(2)—The Jury could not enquire of the matter of Law, & consequently not of that issue, soe that if they had returned any Verdict in this case att Barr It must have beene a Speciall one, and soe must have found the matter of fact as it really was and appeared to them, w^{ch} was that Jones owed the Secretary but Three hundred & foure pounds of Tobacco, That Dobson Received of him ffoure hundred and foure pounds of Tobacco for The Secretary, That Notwithstanding that Dobson nor slye had not Cleared him from the Secretary, but hee was forced to pay it againe, And If the Court were of oppinion that Dobsons plea was good and that Jones had had noe Remidy but against Slye, and not against Dobson, Then they found for the defendant, but if otherwise) Then they found for the plantiffe, And they could bring noe other verdict in this Case