

the Jury found for the Deft The p<sup>t</sup> Requesting a Copy of the Proceedings of the tryalls & being Orphants businesse peticoned the opinion of his hono<sup>r</sup> the Chancello<sup>r</sup> Whose Judg<sup>t</sup> was and is that the debt ought to be payd & satisfied to ye Estate of Palmer, Although haveing informed the said Preston & since hath demanded the said sumes w<sup>th</sup> cost of suite, the said Preston the sume of Tobacco hath denyed and Still doth denye to the greate damage of them the said Peter and Elizabeth his wife who sayth they are Damnified in the sume of Two thousand pounds of Tobacco and thereupon they comence their suite

Liber W. C.

p. 513

John Dunston appeares for the Deft the Plantiffe likewise & willingly Joyneth issue and putteth themselves to the Judgment of the Court now sitting

**Whereas** Peter Ellis and Elizabeth his wife Ad<sup>x</sup> of William Palmer comenced an accōn against Thomas Preston The said Preston and Ellis Joyneth issue & putteth themselves to the Judgment of the Court then sitting, The Court finding noe Cawse of accōn a Nonsuite was Craved by the said Preston w<sup>ch</sup> was granted w<sup>th</sup> Costs of suite &c. Afs Execution

Bill of Cost: 184:

Cop: pceedings—108:

**Miles Gibson.** (sealed)

Vera Cop<sup>a</sup> p. **Thomas Hedge Clke:**

**Edw<sup>d</sup>: Beedle.**—(sealed)

On w<sup>ch</sup> said three and Twentyeth day of November aforesaid Came the said Peter Ellis & Elizabeth his wife by their Attorney aforesaid & sayd that in the Record and Processe aforesaid & also in the Rendering the Judgment aforesaid It is manifestly Erred in this

Imp<sup>rs</sup> That it appeares by the said Record that the Court was held the fourth day of August 1679 & then the Cawse was tryed, & by the Entry of the writs upon Record it appeares to be Issued out after the tryall of the Cause

(2)—Its Erro<sup>r</sup> in that by the said Record in One place it appeares that five Comiss<sup>rs</sup> did sitt at the tryall and in another place onely one Comission<sup>r</sup> was sitting at the Tryall Namely Coff George Wells:

(3)—Its Erro<sup>r</sup> in that it appeares by the said Record that the deft was sued upon an action of the Case upon an Assumption, and the Defts plea is that he owes nothing of the accompt when as the Prop plea was Non Assumpsit.

(4)—Its Erro<sup>r</sup> in that the said Record says that after the Defts plea as aforesaid the Plt. was willing to Joyne Issue but it doth not appeare what issue that was nor that Ever any issue was Joyned, but that the Deft will put himself upon the Country but what they was to try does not appeare by the said Record

(5) Its: Erro<sup>r</sup> in that the said Record Sayes that the Jury found for the Deft & yet by the same it does not appeare that any fact was put in Issue to them