

comes not but makes default thereupon the said W^m Round by George Plater his Attorney prays condemnation of the goods and chattles so as Aforesaid Attached for Sattisfaction of his debt aforesaid and Cost of suit

It is therefore Considered by the Court this tenth day of October 1704 that there be condemned in the hands of the said John Edgar As well the Summe of Two hundred And twelve pounds Nineteen Shillings and One half penny Sterling of the estate personall goods or chattles of the said Will^m Macklure to the use of the said Wm Round in Sattisfaction of his debt for damages Aforesaid As the Summe of Four thousand and thirty five pounds of tobaccoe Adjudgd by the Court for his costs and charges in this behalfe laid out and Expended And that the said W^m Round may have thereof Execution etc. And that Sattisfaction of the Sheriffs fees upon such Execution be made out of the Sume Attached as aforesd and thereafter that restitution be made of the surplus of [178] Tobacco (if any) to the said Macklure by the Sheriff that Attached the same.

Vera Copia per Jn^o Beale Cl

Afterwards before her Maj^{ty}s Honoble President and Councill came the sd Will^m Macklure by William Bladen his Attorney and files his Reasons for Reversall of the Judgment of the Provinciaall Court aforesaid so as Aforesaid Given Which follows Vizt

That in the Record and Process aforesaid as alsoe in the rendring of the Judgment Aforesaid it is Mannifestly Erred in this to witt.

1st That the said William Round declares upon an Indebitatus Assumpsit for sundry things which are not proper in Such an Action but recoverable in damage

2^{dly} It is Erred in that the said Round declares against the said Macklure for the things recoverable as aforesd and being uncertain without Inquisition of Damages in A proper Action on An Assumpsit found had A Judgment for Attachment which is contrary to the Act of Assembly

3^{dly} The Act of Assembly of this Province for probat of Accounts Warrants not the Account on Which said Round declared.

4^{thly} What is containd in the Account is not meer debt and therefore no Attachment Grantable

5^{thly} There is no probat made before or after Attachm^t granted.

6^{thly} It doth not appear otherwise then by supposition that Copy of the declaration was left According to the directions of the Act of Assembly etc. for he should perticularly Name the place Where such copy was left

7^{thly} No Security by Record appears to be given for restitution Adjudging the Condemnation

[179] 8^{thly} It is Erred for that the said Macklure is said to be in Misericordia not having appeared and defended the force and injury when etc.

For all Which Errors and divers others which the said Will^m Macklure prays he may offer ore tenus he prayeth that the Judgment for Attachment