

the King and Queen as for himself prosecuteth into Court by George Plater his Attorney and exhibited his reason for Appeal from a Judgm^t given at a Provinciaall Court held at the City of S^t Maries the Sixth day of November in the Sixth Year of their Ma^{ty} Reign Annoque Domini 1694 in a Cause there depending Between the Said Randolph who as well etc. and John Blackmore Marriner and Commander of the Ship Ann belonging to this Province, which Reason is as followeth.

The Said Judgment is Erronious in this that the Said Randolph having informed ag^t the Said Ship upon a certain clause of a Statute made in the Twelfth Year of King Charles the Second which Says that all Ships coming into any of the English Plantations from any Port besides the Ports of England, Ireland Wales or the Town of Berwick upon Tweed the Govern^r of Such Plantation Shall before the Said Ship or Vessell be permitted to Loade on board any of the Commodities of Such Plantation take Sufficient bond with one Surety that Such Ship or Vessell Shall carry all the goods of Such Plantation loaden on board her to Some other of his Ma^{ty} English Plantations or to England Ireland Wales or town of Berwick upon Tweed and that every Ship which Shall take on board any of the goods of Such Plantation where he Shall Come before Such Bond be given or Certificate produced that Such bond was given in England, Ireland, Wales or the Town of Berwick Shall be forfeited with all her guns etc. And the Breach assigned against the Said John Blackmore and his Said Ship Ann was that he had taken on board Eighty hogsheads of Tobacco before he gave Such Bond as was required by the Said Law Where upon (to Salve the Said Breach) was produced a bond wherein the Said Blackmores name was mentioned but neither Signed nor Sealed by him but Signed and Sealed by one Thomas Tench, and then the question was whether that Bond was a Sufficient bond within the L^{re} of the Said Clause of the Said Statute and that question being a meer question in Law and by Law not determinable by a Jury (Quia ad questionem Juris non respondent Juratores) the Jury having taken upon themselves the determination thereof contrary to that Rule and Maxim of Law who are only to try Matter of Fact renders their Verdict vitious Especially when they have mistaken the Law in the Point in adjudging a Bond Sufficient, according to the Statute which in Law is not Soe therefore the Judges ought not to have given Judgment upon the Said Verdict and in doing thereof have Erred, Therefore their Judgment ought to be reversed.

George Plater Att^r Censt

[43]¹ Ordered that the Debate thereof be set aside vntill to Morrow Night Seaven of the Clock, by Reason the parties concern'd are not now present.

¹ Pages 33 to 42 inclusive are no longer in the liber "H. D. No. 1." They were cut out of the book at some time in the past. For this material, see Appendix, pp. 647-653.