

Realm and the Customes paid which to make this Clause reach the s<sup>d</sup> Beer must essentially be alleadged and likewise proved to be true which I am Sure cannot be done in this Case therefore if the s<sup>d</sup> Statute Should reach here nevertheless the information for the defect afores<sup>d</sup> is altogether groundless.

3<sup>d</sup> This Act by the pening thereof may clearly appear to any Mann of indifferent Capacity to be intended only for Goodes carried from port to port in England for by dayly practice we see that no Such certific[ate] [51] is requisite in this Countrey otherwise all goodes carried from one port to another in this Province Should be forfeited for want of Such certificate which we dayly See are not for Tobacco or any other goods are Safely Carried from any one port in boat or Shallope to another here which all the Countrey can testifye therefore this Act does not extend hither Or if it does our Officers have all this while most carelessly neglected the Kings business.

4<sup>th</sup> The other Act mentioned in the s<sup>d</sup> information cannot be construed to effect the s<sup>d</sup> beer because the s<sup>d</sup> Act Sayes that if any wines goods and merchandizes whereof the Subsidies mentioned in the s<sup>d</sup> Act are or Shall be due Shall at any time after be Shipped or put into any boate or Vessell to the intent to be carried into the parts beyond the Seas So that to make this beer forfeited within the s<sup>d</sup> Act there are two Conditions absolutely requisite First that either the Subsidy of Tonnage or poundage be due from the s<sup>d</sup> Beer secondly that it be either carried beyond the Seas or brought from beyond the Seas But it is not once alleadged in the information that either of the s<sup>d</sup> Subsidies are due upon the s<sup>d</sup> beer and if it were alleadged it would be a false allegation neither is it Say'd that the s<sup>d</sup> beer was brought from beyond the Seas or if it were Said it would appear to be manifestly false therefore the Said Statute cannot maintain the s<sup>d</sup> information.

5<sup>th</sup> As to the Act of Assembly, mention'd in the s<sup>d</sup> information it can by noe construction be So taken as to Forfeit the s<sup>d</sup> beer because in the First place the whole Countrey and Severall Assembly men doe own that it was never intended to be Costomable within the s<sup>d</sup> Act or if it were intended the s<sup>d</sup> Act does not mention the least penalty or Forfeiture in Case of non Entry or otherwise but Says only that the importer of Strong liquors Shall pay Four pence per gall<sup>o</sup> which if due from beer it is not by the Act to be pay'd by the buyer therefore the beer was unjustly Seized and the information wrong grounded Vitious and Erronious all which the s<sup>d</sup> Charles is ready to Verifye and demands Judgm<sup>t</sup> and that the information afores<sup>d</sup> may be quashed and the Seizure of the s<sup>d</sup> Beer removed etc:

Clark for the Def<sup>t</sup>

And the s<sup>d</sup> Nehemiah who as well etc: Sayth as in the information afs<sup>d</sup> he hath Said etc: that the s<sup>d</sup> Goodes and Merchandizes were illegally and unlawfully unladen put on Shore and by him the s<sup>d</sup> Charles into his Warehouse