

and exhibitted the following Errors upon a Judgm^t given upon an information brought by Nehemiah Blackiston Esq late Col^l of the District of Potomock decd: as well for their Ma^{ty} King William and Queen Mary as for himself before the Comm^{rs} of Oyer and Terminer, holding Court pursuant to their Commission the 18th day of Feb^{ry} in the Fourth Year of the Reign of their s^d Ma^{ty} Anno Domini 1692 ag^t the s^d Charles Carroll for thirteen hundred gall^s of Beer pretended by the s^d Informer to be imported contrary to a Statute made in the third year of Henry the 7th Entituled a certificate Shall be made of goods brought into one port and removed to another and contrary to another Statute made in the 12th year of King Charles the Second, Intituled a Subsidy granted to the King of Tonage and poundage and other Summes of money payable upon merchandizes exported and imported, as also contrary to an Act of Assembly of this Province Entituled an Act for the imposition of four pence per gall: on liquors imported into this Province.

The s^d Charles by his Attorney afores^d cometh and Saith that in the s^d Commission of Oyer and Terminer the record and process afores^d as likewise in the rendering of the s^d Judgm^t there is manifest Error.

Imp^[61] The s^d Commission is in all respects vitious, erronious and Void ab initio, for that it is provided by the Statute of Westminster, the 2^d ca: 29th made in the 13th Year of King Edward the First that a Writ of trespass ad audiendum et terminandum (w^{ch} extends to Comissions of Oyer and terminer) from henceforth Shall not be granted before any Justices, except Justices of either Bench and Justices in Eyre unless it be for an heynous trespass, where it is necessary to provide Speedy remedy which by the Law is determined to be insurrections Rebellions and Such like; and the mischeif intended to be prevented by the s^d Statute was that Comissions of Oyer and terminer were procured and Named by the partyes whom the matter Concern'd, So as the Commission^{rs} were neither indifferent nor of Sufficient knowledge and learning by which it may plainly appear that this Commission comes within the purview of the s^d Act, for the party concern'd being Col^l: Blackiston as informer and who was to reap [54] the bennefit of the Condemnation of the Beer was the very man who granted the Commission by Sealing thereof, and not only So, but by granting it to the p^rsons to whom it was directed, brought this Case within the other mischeif intended to be prevented by the s^d Statute, Viz^t that they were not indifferent nor of Sufficient knowledg and learning, as will undoubtedly appear by their Judgm^{ts} in the Sequell of the proceedings and as it is provided by the s^d Statute that Such Comissions ought only to be granted to Justices of either bench, or in Eyre, and in as much as our provinciall Court is a mixt Court which takes cognizance of matters properly belonging to the s^d Courts of both Benches if they were to be tryed in England therefore Comissions of Oyer and Terminer ought to be granted to none in this Province but to Some of the Justices of the prov^{nt} Court, (except for heynous and horrible trespasses etc: