

6.

The Defendant alledg'd that the goods might be bought in the Country, or that they might be duly cut and imported and the Master Esq. not being that might have the Certificate of Entry, but that is but an allegation to the Law and is positively false for the Defendant produced no single paper or evidence to prove his suggestion for the same allegations without proof and the Verdict therein grounded against law for all which reasons the said Nicholas Swall who appeared prayed the Verdict may be quashed and that the Judgment may pass for the said Nicholas who appeared according to the Law aforesaid to be directed as aforesaid.

Which being read in the Court it was ordered that the same be copied for Mr. Underwood and the Court adjourned till this day come for which being the eighth day of April, when the reasons are to be argued by the Attorneys on both sides and considered on by the said Justice.

April the eighth One thousand six hundred eighty five the Court sat again: Mr. Carville desired that the arguing the reasons might be deferred till Monday come to which for two reasons: because the said Nicholas Swall who appeared desired to be present himself and hear them argued. Secondly because it was the day of Lent. Anthony Underwood for the Defendant desired of the Court that the further or more delay might be. His Honor said that he was on purpose for such a dispute, and that for the reasons might be read: The same read and argued and the Court will decide thereupon of and upon the points which the day next about of the Court being the sixteenth day of the said month of April the Court adjourned till the day of April 1685: The Court sat again and adjourned till to Morrow out of the Court.

The twenty second day of April One thousand six hundred eighty five the Court sat again:

And the said Justice having fully heard and understood the whole proceedings in the points and the arguments and allegations on both sides Do say that the reasons aforesaid are not sufficient to arrest the Judgment aforesaid: And it is by the Court the Defendant that the said Nicholas Swall who appeared take nothing by his said Information. And that the said Defendant goe thereof without day.

And it is ordered that there be paid by Mr. Lynch the sum of five hundred pounds of tobacco to the said Justice for their expenses charges and attendance in and upon the Commission and points aforesaid.

And that the said Clerk be paid by the said Justice Lynch the sum of [£]100 Ninety pounds of tobacco for his pay and fees in and about the points aforesaid.

The Affidavit of Christmas Smith followeth in these words viz:

Christmas Smith humbly saith on or about the day of February the person called Capt. Esq. Command of the Ship Providence of D. also having in the hearing of this Deposition lay open his condition and the danger he was under by reason of some prohibited goods that was then on board his Ship Providence aforesaid, unto Anthony Underwood promising the said Mr. Underwood Twenty pounds Sterling Providence he had performed several Courtesies then agreed upon, or otherwise that he the said Esq. should as a certainty pay One hoghead of Malt on the day having agreed by both their request this Deposition was performed to ride with the said Esq. to Puttugen and thence to goe on board his Ship in order to fetch and make

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