

March Court 1701

Robert Smith, Non Assumpit modus et forma et paduam - Earle of Devon

Thomas Mann - And of Plaintiff in like manner - Martin of Devon

Command was therefore given to the Sheriff of Kent County that he cause to come here Justice etc. by whom etc. who neither etc. to recognize etc. to which said Sheriff made answer he had there read Justice etc. at his presence he was commanded by Thomas Wyatt foreman Thomas Gwin Esq. Blessed George Bourne Thomas Ford John Thonson Thomas Browne Nicholas Massey William Robinson Nathan. Haue John Bly and Jacob Young which being duly elected tried and sworn to try the issue about Joyned of said Plaintiff by the said atty prays that the said Plaintiff may have liberty to prove his debt after some dispute between the said atty about proving the said debt. it was ordered by the Court that the said Thomas Mann have liberty to prove his debt which was accordingly performed and jury having heard the pleadings evidence and allegations on both sides of Court queth them their charges who withdraw to consider of premises and after some time doo againe returned being againe called over at a Justice of Plaintiff Defendant being asked who they found for doo say was the jury find for the Plaintiff by Thomas Wyatt their foreman all of them doo say and

But of said Defendant by his said atty prays an arrest of Judgment of time to be given him untill the next Court to file his reasons which was granted unto him and At which next Court viz the 22 day of March anno Domini 1701 came at vs. the said Plaintiff by his said atty at a Justice of said Defendant by his said atty

Thomas Mann Plaintiff of Reasons in Arrest of Judgment

Robert Smith Defendant

- 1. The Plaintiff Debt doth consist of 200 grounded upon divers different principles so that by Law no direct answer could be given thereunto and
- 2. The Plaintiff by Law could not be by this Court to prove any thing but a debt of Debt doth toll forth soverall 1st Contracts which ought to be proved by witnesses and by his own oath
- 3. The profits which he did make was not according to Law because he gave no credit nor did acknowledge any satisfaction paid which by Law he ought to have done for all which reasons Judgment ought not to be entered for the Plaintiff - Earle of Devon

Which said Reasons being argued and by the Court duly considered the said Reasons were overruled by the Court except. viz the said Thomas Smith President of said Court who is of a different opinion, and Judgment awarded to the said Plaintiff at the said Defendant for his Debt

Therefore it is considered by the Court that the said Plaintiff Thomas Mann doo recover from the said Defendant Robert Smith as well 200 of one thousand four hundred Twenty eight pounds and half of pound of Debt. forty seven pounds three shillings six pence the said Debt as also of Twenty of Seven hundred thirty seven pounds of Debt. cost of said Plaintiff Robert in money

But of said Defendant prays liberty to appeal from the Judgment of this Court to the next Court which was granted unto him he giving bonds according to Act of Assembly in that behalf made and the said bond according to