

That the Comptroler sold to other, w<sup>ch</sup> the Comptroler promised to do, and for  
 the Comptroler and Def<sup>r</sup> came to a certain end about the said bargain  
 though unto the loss of the said Comptroler, to have first a great quantity  
 of provisions turned on the Comptroler's hands at that time of the year  
 yet the Comptroler considering the def<sup>r</sup>'s condition and the great debt hee  
 owed the Comptroler was willing to discharge him of the said bargain, and the  
 Def<sup>r</sup> desired the like and would have delivered up to the Comptroler the said  
 Comptroler's bond for the said provisions if the said Comptroler would have delivered  
 up to the def<sup>r</sup> his bond for payment of the said twenty five thousand five  
 hundred and fifty pounds of Tobacco w<sup>ch</sup> the Comptroler was ready to do  
 only that the def<sup>r</sup>'s said bond was left up to the said Comptroler w<sup>ch</sup>  
 Derrett had the key, and for could not be delivered up to the said Comptroler  
 they came to that certain agreement to deliver up to other the said  
 bonds when the Comptroler got possession of his Ship, that shortly after  
 the Comptroler went up with his ship to Palomack and carried his said  
 provisions with him and resolved to have sent him the goods hee the def<sup>r</sup> had  
 by spot notwithstanding the great debt the def<sup>r</sup> owed him, yet notwithstanding  
 the former end and agreement aforesaid the Def<sup>r</sup> sued the Comptroler in the  
 Supreme Court and Judgment to get Judgment upon the said bond of  
 forty three thousand one hundred pounds of Tobacco for the provisions  
 aforesaid contrary to Equity, and the Comptroler further alleged that  
 the def<sup>r</sup> had not been out one farthing for the purchase of the said  
 provisions, and his housing being burned had no place to put them in  
 should the Comptroler have compelled the said def<sup>r</sup> to take the said provisions  
 w<sup>ch</sup> the Comptroler believed with his want of Tobacco to pay the Comptroler  
 was over for the said def<sup>r</sup> was willing to discharge the said Comptroler  
 of the said bargain, therefore and for that the Comptroler could not  
 make first due proof of the said goods and provisions being turned  
 to the said def<sup>r</sup> according to the condition of the said bond as the strictness  
 of the Common Law required being hee was hindered by wind and weather  
 and the accident aforesaid, Nor could hee make first due proof of  
 the Comptroler and def<sup>r</sup> leaving one another as the Common Law  
 likewise required the def<sup>r</sup> to prove the same being gone to New England  
 or else where out of the Jurisdiction of this Province, Nor could hee be  
 relieved against the said bond then in Equity where hee hoped by the  
 def<sup>r</sup>'s confession by answer upon oath, and w<sup>ch</sup> what hee could prove  
 would prove for the Comptroler's sake, and to ground a Decree for him touching  
 the said, that the def<sup>r</sup> might in his answer shew forth whether the Comptroler  
 did not acquit him w<sup>ch</sup> hee bringing the said goods at his arrival  
 and that hee was ready to deliver and put ashore the same, and  
 whether the Comptroler did not offer him if hee would have the same put  
 ashore, and if the said def<sup>r</sup> could have paid for the same according  
 to bargain aforesaid, And if the said Comptroler did not see him that hee  
 could not pay for them at that time, And whether the said def<sup>r</sup> did  
 not desire the Comptroler to see them to any effect, sparing him some small  
 matter