should have spoken to the same in Court and prayed the same
according to Act of Assembly in such case provided but that by Law
he ought not to be allowed the said Court thereafter verdict in arrest
of Judgment. Which being considered by the Justices here that the said John
Peirce and Company recover against the said David Macall as well
the sum of two thousand five hundred and twenty pounds of tobacco
the Balance of his accounts as also the sum of four hundred
twenty seven pounds of tobacco costs of suit by the said John Company in
that behalf laid out and expended according to the form of the Statute
&c. and the said David in mercy &c. Upon which Judg.t &c. Sagain
as also the said David pray'th that he may have liberty to appeal
from this Judgment unto the next provincial Court which is to him
granted he giving security to prosecute the same with effect according
to the form of the Act of Assembly in such case made and provided &c.

And now here this day to wit the tenth day of October Anno Dni
Fourteen hundred and four come the said David Macall & William
Boyd on his attorney into his Majesties said provincial Court here
says that in the record and proceed.s aforesaid and also in the rendering of
Judgment thereupon it is manifestly erred for that he does
not appear that the Defendant was brought into Court by any legall
process the there being no process awarded in the said Cause or any
return by them made of such &c.

2dly The Statute for laying any Tobacco duty of the Defend.t assumpsit
is regular & ought could be made up for the jury to try whether assumpsit
made or not when was the Plaintiffs right to be heard upon but by the County

3dly It appears by the account exhibited with the Bill that the Defendt
was indebted to Robert armitage & agnes his own Contrary to
which the Jury have found him Indebted for the same cause to Peirce
and Company which is Contra allegatum & Erronious

4th That Court was never returned by the Sheriff for the which Error and
many more in the record and proceed.s aforesaid and rendering the Judgment
thereupon aforesaid the said David prays that the Judgment of the Court here
that the Judgment so given against him aforesaid may be set aside
and that he be at all things that thereby he had as he may be restored &c.
And the said David prays that the said John Company to the said Appeal may

(answer





answer and that this Court here well proceed to the Examination of the Errors
and proceed.s aforesaid and also of the Errors Alleged by him assigned &c.

And Hereupon the said John and Company by George Slater their Attorney
come the same day and over and the said David and Boyd that neither
in the record and proceed.s aforesaid nor in the rendering of Judgment thereupon is
in any wise Erred and the said prayed that the Court here will proceed to
Examine the record and proceed.s and the matters above for Errors assigned
and that the said Judgment may in all things be affirmed &c.

Whereupon for that the Court here is not advised of the Judgment
of and upon the premisses to give Judgment Day is given to the said parties until this
hour Whereat their Judgment for that there is not &c.

At which said next Court held the twenty fourth day of April Anno Dni
1705 Came again the parties by their Attorneys aforesaid and thereupon all and
singular the premisses being by the Court here seen heard and fully understood
& seem to the Court here that in the record and proceed.s aforesaid and also in the
rendering Judgment thereupon it is in no thing Erred. Wherefore it is Consider-
ed by the Justices here that the said Judgment in all things affirmed and held
in all full force and effect the Matters for Error above Alleged in any wise
notwithstanding and also that the said John Peirce and Company do recover against
the said David Macall the sum of
pounds of tobacco by the Court adjudged unto them for their costs and damages
Damages sustained by occasion of the Delay of Execution of the Judgment
appearance of prosecuting the appeals aforesaid and that they have
have Execution &c.

The Sheriff } This being an appeale from ann Arundell County
William Dorsey } Court It struck off the Docket by Order of both parties
Appellt } Attys

The same Defft } This being a transcript of a record & Judgment &c
vs } by Thomas Dorsey Admr of William Dorsey
The same pltf } of ann Arundell County thereupon against John Brown Merchant
in an action of trespass upon the case for the sum of twenty five pounds
five shillings sterl and costs & damages and one thousand eight
one hundred pounds of tobacco & cask of suit in ann Arundell County on the 8th
day of August Anno Dni then and there being duly entered
the Henry Costa Clerk thereof and now filed and remaining of record
their Office fully to view whereupon it is considered by the Court here that the Judgment may
be and proceed.s out of this Court according to the Custom of Province in like Cases

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