

And whereupon the said Thomas Taylor by Robert Carville his Attorney saith that whereas the said Thomas Pattison upon the third day of November Anno Dom̄ 1675 by his certaine bond or writeing Obligatory Sealed with the seale of him the said Thomas Pattison & here in Court produced whose date is the day & yeare abovesaid did confesse & acknowledge himselfe to be holden & firmly bounden unto the said Thomas Taylor in the just quantity of One hundred thousand pounds of good Sound & merchantable leafe tobacco & caske to be paid to the said Thomas Taylor Yet notwithstanding the said Thomas Pattison the said summe of One hundred thousand pounds of tobacco to him the said Thomas Taylor according to the tenor of the said bond though often thereunto requested hath not paid or Satisfied but the same to pay hath hitherto & Still doth deny & refuse to the damage of the said Thomas Taylor One hundred & fifty thousand pounds of tobacco & thereupon he bringeth his suite. Liber N N

And the Said Thomas Pattison by Kenelm Cheseldyn his Attorney cometh & defendeth the force and injury when &c and prayeth heareing of the said writeing Obligatory & it is read unto him he also prayeth heareing of the Condition of the said writeing Obligatory and it is read unto him in these words The Condition of this Obligation is such That if the said Thomas Pattison doe at the next County Court held for the County of Dorchester bring with him a faire & just accompt of all bargaines & sales publique & private that ever have been between the said Pattison & Taylor without fraud or deceit in any respect whatsoever & to the same to take his corporall Oath & when so done the Court to ballance accompts between Us & what remaines of the ballance of accompt to be paid upon demand convenient in the said County Then this Obligation to be void & of no effect otherwise to remaine in full force & vertue. Which being read & heard the said Thomas Pattison saith that the said Thomas Taylor his action aforesaid Ought not to have for that the said Thomas Pattison hath performed the condition of the said writeing Obligatory & this he is ready to averr whereupon he demands judgm^t whether the said Thomas Taylor his action aforesaid against him Ought to have.

And the said Thomas Taylor Saith that he ought not to be barred of his action aforesaid because he saith the said Thomas Pattison hath in nothing performed the Condition of the said writeing Obligatory because he saith that the Said Court of Dorchester hath balanced the accompts between them and have adjusted the same to thirteen thousand foure hundred & fifty pounds of tobacco to be due to the said Thomas Taylor which the said Thomas Pattison hath not paid or satisfied according to the Condition of the said bond and of this he putts himselfe upon the Country, and the said Thomas Pattison saith he hath performed the said Condition and of this he putts himselfe upon the Country likewise Therefore Comānd is p. 257