

of the said John & Thomas One hundred forty nine pounds seven shillings currant money of England by the hand of W<sup>m</sup> Stevens Comander of the shipp Comfort of Bristoll, to render a reasonable accompt of the same One hundred forty nine pounds & seven shillings And so the effect of the writt is to have an accompt of Goods M<sup>r</sup>chandize & tobacco And the Declaracōn is for an accompt of currant money of England & tobacco which is manifest & materiall variance between the said writt & count or declaracōn Also the said Theophilus saith, that in the Declaracōn aforesaid itt is sett forth that whereas the aforesaid Theophilus Turford was receiver of the Goods M<sup>r</sup>chandize & tobacco of them the said John & Thomas Dudlestone from the            day of            in the yeare of our Lord One hundred & sixty seven untill the            day of            in the yeare of Our Lord One hundred sixty seven, whereas he this Defend<sup>t</sup> was not borne in many hundred yeares afterward itt being more then ffifteene hundred yeares agoe And by the Lawe of this land this Court cannot hold plea in an action of accompt of so ancient a date & standing Also in the same declaracōn itt is sett forth, that this Defend<sup>t</sup> received by the hands of            of the proper tobacco of the plaintiffes One hundred & nineteen thousand & Seventy two pounds of tobacco to render a reasonable accompt of the same One hundred & nineteene thousand & Seventy two pounds of tobacco to the said John & Thomas Dudlestone when he should be thereunto required But the said plaintiffes in their said declaracōn doe not possitively & plainly expresse nominate & declare the certaine name or names of the person or persons by whose hands the said Theophilus received the said pretended Summe of One hundred & nineteen thousand & Seventy two pounds of tobacco, nor within what tyme the same was so received as by the Law of the land they ought to haue done By reason of which incertainties & insufficiencies the said Theophilus saith that to the said Declaracōn of the said plaintiffes in manner & forme as the same is sett forth he the said Theophilus is not bound to Answer And this he is ready to averr, whereupon he demands judgement & that the said action of the said John & Thomas Dudlestone in manner & forme aforesaid brought against this Defend<sup>t</sup> may abate.

And the said plaintiffes say, that by any thing by the same Defend<sup>t</sup> to the plaintiffes writt or declaracōn aforesaid in barre pleaded the said plaintiffes by the same ought not to be delayed, nor the writt of the aforesaid plaintiffes upon the plea aforesaid to be abated, but that the same Defend<sup>t</sup> the same writt & declaracōn aforesaid is bound to Answer, because they say that the said declaracōn is sufficiently warranted by the writt upon which the same is grounded, which is of a plea that the said Defend<sup>t</sup> render unto the said plaintiffes his reasonable accompt of the tyme that he was Receiver of the Goods M<sup>r</sup>chandizes & tobacco of them the said plaintiffes, & which to them to make justly he ought And the said plaintiffes in their said Decla-

Liber W. C.

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