

form of a bill of Loading when they shipt the teeth And further We doe not find that Frisby under took the Charge of the teeth as a factor but as Serving a friend without Expecting or Desiring any Commission That M^r Henry Silvester being dead when the Man of Warr arived and the Cap^t not knowing what to do With the teeth Wee are apt to think delivered or sent the Letter in which was his receipt to Peregrine Brown But it does not appear to us that James Frisby gave any Orders or Instructions to the Cap^t to deliver or to Peregrine Brown to receive the teeth That the said Frisby used his Endeavour by Attaching Browns Effects here to serve his Friend M^r Snow which shewed his Concern for what had happened And tho, the said James Frisby might then apprehend or fear some damage to himself Yet We think that fear does not make him lyable to any, for which reasons we think the within Account to be good But humbly Submitt the whole matter to your Hon^{rs} better Judgment Wee further Certifie that we have Attended Six days Each on the Inclosed Commission [523] And our Clerk one Day therefore pray your Hon^{rs} Order for the Same on the Proper persons.

Wee are your Hon^{rs}
most Obedient humble Serv^{ts} . . .
Sam^l Peale [Seale]
W^m Nicholson [Seale]

Which being read and heard the said James Frisby by his Attorney af^d Thereupon prays Judgment etc.

Whereupon it's said by the Court here to the af^d John Snow that unless he shew cause why Judgm^t ought not to be rendred according to the Return of the Audite af^d by the End of this Court that Judgment will be rendred accordingly.

And thereupon the said John Snow saith That the afs^d plea and Account of the said James in his discharg[e] above pleaded is not Sufficient in Law to discharge him the said James of the premisses And that he the said John to that Plea and Account hath no need nor by the Law of the Land is held to Answer and this he is ready to Verify Wherefore for want of a Sufficient plea in this part the same John prays Judgm^t that the said James with the Value of the Elephants Teeth in the Declaration af^d mentioned be Charged etc.

Thereupon day is given to the said parties Pl^{ff}t and Def^t in the Plea af^d untill the next Court etc.

Att which said next Court to witt the 8th day of September Anno Domi: 1719 Come again the said Parties Plaintiff and Defendant by their Attorneys af^d And thereupon further day is given to the said Parties Pl^{ff}t and Defend^t in the Plea afs^d untill next Court etc.

[524] Att which said next Court to wit the 13th day of October Anno Domi 1719 Comes again as well the said John Snow by his Attorney afs^d as the said James Frisby by his Attorney afs^d And thereupon afterwards in the Same