

Charles Towne within the Jurisdiction of this Court being Indebted unto the Said Teague in the Sume of Eight hundred and forty pounds of tobaccoe did then and there Assume upon himselfe and to the Said Teague faithfully promise that he the Said Francis the aforesaid Sume of 840 lbs. of tobaccoe unto the Said Teague when he Should be thereunto Requested would well and truly Content and pay Nevertheless the Said Francis his promise and Assumption Soe as aforesaid made little Regarding but Fraudulently Intending him the Said Teague in this behalfe Craftily and Subtily to deceive and defraud the aforesaid Sume of 840 pounds of tobaccoe unto the Said Teague [207] Although often thereunto Requested to witt the day and yeare and place aforesaid and at divers other times and places hath not paid but Still doth denye and Refuse to pay the Same to the damage of the Said Teague 1000 lbs. of tobaccoe whereupon he brings this Suite etc.

Pledges etc. John Doe, Richard Roe. Bladen pro Querens.

And the Said Francis Warner by William Stone his Attorney Cometh and defendeth the force and Injury when etc. And prayeth Leave thereof to Imparle here untill the next Court and it is granted unto him the Same day is given to the plantiffe Alsoe etc.

And now here at this day (to witt) the 24th day of August in the yeare of our Lord 1697 Came here as well the Said Teague Tracey as the Said Francis Warner by their Attorneys aforesaid and the Said Teague Tracey prayeth that the Said Francis Warner to his Decleration aforesaid may Answer etc. And the Said Francis Warner by William Stone his Attorney Cometh and defendeth the fource and Injury when etc. And Saith that the Decleration and the matter therein Contained is not Suffittient in Law to maintaine the plantiffs Action against the Defendant neither is he bound by the Laws of this Land to make Answer unto the Same and thereupon doth demurr in Law to the Same and for Cause of Demurrer According to the forme of the Stattute in that Case made and provided he Saith.

First - That all Declerations ought to Containe Certainty and verity and to Set forth upon what Consideration the Debt mentioned therein became due and the nature of the Debt which this Decleration doth not for that the plantiffe Saith that the defendant the first day of September 1696 at Charles Towne within the Jurisdiction of this Court being Indebted unto the Said plantiffe in the Sume of 800 lbs. of tobaccoe did then and there Assume upon himselfe which is but a naked promise and Sett forth without any Consideration which is voyd in Law of it Selfe and Cannot maintaine the plantiffs Action against this Defendant and this he is Ready to Aver and prayeth Judgment etc.

William Stone for the Defendant.

And the Said Teague Tracey by his Attorney aforesaid Saith that the Demurrer of the Defendant is altogether insufficient to preclude the plantiffe of his Action aforesaid for that the Defendant therein According as by the good Rules of pleading hath not as he ought prayed any Certaine Judgment of this Court whether the plantiffs Action Should Abate be Quashed etc. and therefore for want of Suffittient plea prayes the Judgment of this Court that he may Recover his Demand in his Court Declared for. William Bladen.

And the Said Defendant by his Attorney Joynes in Demurrer and thereof prayes it may be Inquired into by the Court. William Stone.

The pleadings of boath parties by the Court here being Read Seene and fully understood it is Consided that the Said Decleration be quashed And that the