

of Demurrer according to the forme of the Statute etc. Saith that the Plaintiffs in their Declaration Saith that the Said Nicholas the 12th day of July in the year of our Lord 1689 at Callvert County Stood Indebted by his certaine bill or wrighting Obligatory which the Said Thomas in his Life time with the Seale of the Said Nicholas Signed bringeth here into Court etc. by which Declaration and words the Plaintiffs acknowledges the Said Thomas Hyde to be dead and they to be his Executors and yett they Say that the Said Thomas brings here into Court the Said Bill or wrighting obligatory which is not true but Falce that a man that hath been Dead this twelve months Should now bring the Said bill or wrighting obligatory into Court and further the Said Plaintiffs in their Declaration Saith that the Said that the Said Nicholas in the Said bill or wrighting obligatory acknowledged himselfe to be bound to the Said Thomas Hide in his Life time in the full whole and Intire Sume of one Thousand one hundred Ninety and Eight pounds of good Sound Merchantable Tobacco to be Paid upon all Lawfull demands after the tenth day of October then next En-sueing the Date of the Said bill obligatory aforesaid if in ability to doe it if not to be paid as Soon as Please God to make the Said Nicholas able which words, (if inability to doe it if not to be paid as Soon as please God to make the Said Nicholas able) are altogather uncertaine and hath noe respect to any Peticular time when the Said Debt became due and Payable for the Ending as well as the Commenceing of any Spetialty as bill or bond Should be in every Peticular Shewed and Sett forth in the Declaration for without which it doth not appear that the Debt is become Due and Payable for a bill or Bond is not Sueable untill the Day of Payment is Past (Wide) the Compleat attorney Folio 21 and by Severall Presedents in Brownlows Declarations and Pleadeings folio 78: 79: 80: 81 etc. and Further the Said Plaintiffs in their Declaration in Fact Saith it hath Pleased God afterwards the Day and place aforesaid that is to Say the 28th day of March 1697 at the place aforesaid to make to make the Said Nicholas of ability to pay the Same etc. The words that it hath Pleased God afterwards the Day and Place aforesaid that is to Say the 28th day of March 1697 is a Contradiction to the Plaintiffs owne Declaration for the onely Day and year before mentioned in the Declaration was the 12th day of July in the year of our Lord 1698 and not the 28th day of March 1697 for which reason the Said Declaration is Eronious and Falce and doth not Conteine certainty and verity as all Declarations ought to doe and Likewise the Said Plaintiffs in their Declaration aforesaid Saith that it hath pleased God the Day and place aforesaid that is to Say the 28th day of March 1697 to make the Said Nicholas of [488] Ability to pay the Same etc. which is uncertaine for any man to know Neither is it possible for any man to know the ability of another man in paying of Debts for which many uncertaintyes in the Plaintiffs Declaration aforesaid the Defendant cannot answer, Neither can the Plantives mainteine their Action by any Such Erronious Declaration wherefore for want of a Sufficient Declaration to warrant and Meintein the Action aforesaid the Defendant Prayeth Judgement for his Damages and Costs.

Joshua Cecell for the Defendant.

Joynd in Demurrer. William Stone  
And the Defendant allso. Joshua Cecell.

The Pleadings of both Sides by the Court being read Seen and Fully understood and Concluded by the Court aforesaid that the Declaration is good notwithstanding the Demurr thereunto.