the formalized entries found in English form books in actions on the case (*attachiatus fuit*) and does not indicate use of attachment pursuant to the 1692 law.[21]

Pleadings

As noted above, plaintiff might serve his declaration with the *capias* but in any event was required by rule of court to file it with the clerk within twenty days after the end of the Appearance Court. Many declarations are set forth verbatim in the *Liber*. They show consistent and close adherence to English common law forms. Even in those cases where English form books provided little guidance, the draftsmanship was professional and certainly at odds with any "frontier jurisprudence" theory.[22]

Having been granted an imparlance, some defendants appeared in person at the next court and instead of answering the declaration confessed judgment or stated they could make no answer. In other cases when plaintiff's attorney prayed that defendant answer to the declaration, defendant's attorney appeared and stated that he was not informed by his client of any answer to the allegations contained in the declaration. The court thereupon proceeded to render judgment for plaintiff by confession, by *nihil dicit* or by *non sum informatus*, as the case might be.

In some cases plaintiff appeared in court by his attorney and prayed that defendant answer to plaintiff's declaration, but the defendant "being solemly called came not but made default." The court thereupon rendered judgment for plaintiff. There is no evidence in the *Liber* of any formal procedure for opening up a default judgment. However, in one case in the January 1696/7 court it appeared that Edward and Dudley Carleton at the preceding term had obtained a judgment against George Young by default but Ninian Beall and John Short came into court and made oath that they believed that Young had paid the tobacco in question to the Carletons. The court, by the circumstances mentioned in the oaths believing this to have been done, ordered that the judgment obtained should be remitted, with Young paying all the costs of suit.[23]

However, in most cases after an imparlance had been granted, the defendant filed a plea or answer. In most cases the plea was of the general issue; in some, special pleas were filed. In a few cases a demurrer was filed. From the *Liber* alone it would appear that the pleading took place in open court but this is unlikely. A September 1696 order of the court provided that the attorneys "file all their pleas and make up the Issues the first day of Every Court that the Said Actions Shall be for tryall."[24] Copies of file papers for several county courts and the Provincial Court, a few years later in date than the *Liber*, indicate the mechanics of making up the issue. In some cases the subsequent pleadings were entered seriatim on the back of the declaration and signed by respective counsel. In others a plea was filed by defendant on a separate sheet of paper and the subsequent pleas subscribed thereon. If a demurrer were filed by defendant, joinder therein might be filed

21. See for example *infra* 29, 73, 75, 79, 82, 83, 85, 86.

22. See *infra* 61–62, 76–78, 235–39, 415–16. See also the declarations relating to protested bills of exchange. *Infra* 148–49, 230–32, 467–68, 569–70, 603–04.

23. *Infra* 154.

24. *Infra* 42. This was similar to the rules and orders in Charles County which provided, "That all pleas Replications, Rejoyndures, Rebutters and demurrers Even to the makeing up of the issues be filed perfected and made by the End of the first day of Every Court respectively under the penalty of . . . Judgment goeing against his Clyent at the discretion of the Court." *CCCR, Liber S, No. 1,* 62.