Kent ffs. Thomas Colling otherwise Dealled Thomas Colling late of Tobacco Gent was summoned to Answer to Jno. Chaney of a plea that he render to him the full and just sume of Sixteen Hundred fifty and Eight and a half pounds of Tobacco which to him he oweth and from him he unjustly detaineth

And whereupon the said John by Wm. Hemsley his Attorney saith that whereas the sd Thomas y 24th day of Apll Anno Dom 1693 in sd County within the Jurisdiction of this Court by his certain Bill or writing obligatory sealed with his Seal as his Act and Deed delivered and here in Court brought whose date is the same day and year did bind himself his Heirs Ex. and Adm. to pay unto the sd John his Heirs or Assigns the One Half of what charges shall Justly appeare by a Bill of cost of what charges he the sd John had expended in an Accon Betweene them the said Jno. and the said Thomas in the Provincial Court on the part of the said John by the Tenth day of October then Next Ensuing the date of the same Bill And the sd Jno. in fact saith that he the sd John did expend in y sd Provincial Court in the said Accon on his part the sd sume of 1658½ lbs of Tobacco the particulars by the Bill of cost signed by the Clerk of y said Court is here in Court brought Yett Notwithstanding y sd Thomas the sd sume of 1658½ of Tobacco the Half of the charges in the sd Provincial Court by the said John on his part in the sd Accon expended According to the tenr. of the same Bill unto the sd Jno. he hath not paid altho often demanded but the same to pay he hath denied and refused to the damage of the sd Jno. three thousand pounds of Tobacco and thereupon he brings this Suit

Hemsley vs. ffs. pledges &c. Jno. Doe Richd Roe

Colling ads Chaney. Demur

And the Defendt by Nicho. Rowder his Attorney demurs in Law and for cause of Demurrer saith

1st That there is Variance Betweene the obligaron and Declaraon for which cause it ought to Abate

2dly By the Law Debt will not lye upon this obligaron in the Plt. Declaracon mentioned because it is uncertaine what should be paid by the sd sum of One 1658½ of Tobacco as it stands soft forth Covenant would not lye