

The Jury state found by their verdict to be the Attorney and Factor of John Abington, and to be delivered for the proper attempt of John Abington, and the Plaintiff is not way answerable though the goods were taken to possession of the said John Abington. But if they were in the hands of the Plaintiff the Plaintiff is bound to give satisfaction for the said goods amongst other things. By a conveyance from the said Thomas Abington of land in England to a very considerable value. And as to John Abington's assent, it is -

5.

Simply by Thomas Abington being his Attorney. Wherein it is said that the Declaration is sufficient for that there is no special demand set forth nor day month & year for the debt to have taken issue upon. The Plaintiff says that there was no need of any special request or demand in the bill for it is not said in the Declaration that Thomas Abington promised to pay two hundred & fifty pounds of tobacco within the term to request, but that he promised to pay the same, and therefor a special request is not necessary in the Declaration is sufficient, and this appears by a Practice. And as to the day month & year in the bargain and delivery of the goods were made. The Plaintiff says they are expressed in the Declaration to wit the fifteenth day of November One thousand six hundred Seventy Eight. And by the Declaration may appear that the said Declaration being a manifest falsehood is in itself and dishonest to the Court.

6.

It is hard to know what the Plaintiff means in this sixth article for he says the Declaration is sufficient in that there is no matter of fact set forth for the debt to be pleaded to or take issue upon. Wherein it is set forth in the Declaration that Thomas Abington the Attorney and Factor of John Abington the fifteenth of November One thousand six hundred Seventy and Eight had and received of Thomas Furman for the proper attempt of John Abington One Pennyworth of the price of two hundred & fifty pounds of Tobacco for which he promised to pay two hundred & fifty pounds of Tobacco in goods at five pence the pound at the first set, and to find the Plaintiff did take issue that Thomas Abington was not Attorney of John Abington to buy & sell for him and yet now the Plaintiff finds all against him without saying what for him to take issue upon.

7.

Wherein it is alleged that no letter of Attorney from John to Thomas Abington was produced in Court. The Plaintiff says that the same was sufficiently proved by Mr. George Luigan in open Court, who so far satisfied the Defendant of the Jury in the point at issue, that they found for the Plaintiff. The Plaintiff's verdict is a good verdict & cannot be voided unless the Defendant can shew that the Jury were found that Thomas was Attorney to buy & sell for John Abington.

8.

The Plaintiff's bill complains that the Defendant in the Declaration hath not said the goods were worth two hundred & fifty pounds of Tobacco, but instead thereof said they were of the price of two hundred & fifty pounds of Tobacco, which is a very idle allegation and altogether immaterial the terms being equivalent. And the Plaintiff's conclusion that because the word [price] is used & not the word [worth] therefore it may well be intended that the agreement between the said Thomas Furman & Thomas Abington was a fraudulent agreement to sell all the goods of the said Defendant so as to banish and void of use in it so that it is utterly needless to multiply words about it. Whereupon the Plaintiff says that by what the Plaintiff answered as above said to the Defendant's said Plea & Answer it is manifest that Judgment ought not to be stayed and further he says that by the Statute of 32: H 8: Ca: 30. and by that Statute of 15: Eliz: Ca: 14. and of the 21: of King James 6: 13: The above said Declaration