

And now here at this day viz^t 28th day of Novem^r Anno^r Domⁱ 1701 came & was
& said Defend^t by his att^r all & ad alios & said Plaintiff by his said att^r and & said cause
standing for Fryall & Plaintiff Dord

Kent County & Edward Florenson was attached to answer unto Thomas Cook of a p^{ts} of
in Maryland & I respect upon & Cas^e

And whereas & said Thomas by Joshua Treadwell his att^r complains that whereas & said
did on 5th day of July Anno^r Domⁱ 1701 in Kent County within & jurisdiction of this Court bargain
and sell unto & said Thomas three sum of eight Casque for & just quantity of four hundred eighty
pounds of Tob^o in Casque convenient in & said County which & said Thomas for himself did pass
a bill or obligatory unto & said Edward for & sum of 400^l for & aff^r Casque for
consideration of which said bill & said Edward did order & said Thomas to mark & aff^r three
sum of Casque with & letters of & said Thomas his name yet & which standing & said Edward
knowing & aff^r three sum of Casque to & & proper goods of & aff^r Thomas & said Edward
not minding & agreement made hath refused to deliver & aff^r Casque but plotting contriving
& fraudulently intending & said Thomas to deceive & aff^r three sum of Casque he hath not
delivered though often demanded but & said to deliver hath denyed & refused & still doth deny
& refuse & unjustly detain long & damage of & said Thomas nine hundred & eighty pounds of
Tob^o and therefore he brings this Suit - Jos: Treadwell p^r q^r plead^r & Richard Age
Edward Florenson & said Defend^t by Richard Macklin his att^r comes & defend^s & forep^r
Thomas Cook - & injury when & and says that for & manifold imperfections & uncertainties
in & said plaint Dord that that Dord in that manner forms a bond sol^t
forth and express an & matter in & said contained doth not hold sufficient in law to cause
Defend^t to make answer therunto and that to that Dord in that manner forms aff^r let forth
hath not necessity nor by & law of & said & bound to answer and this he is ready to aburr whoso
on for want of a sufficient Dord. of & aff^r Thomas in that behalf he & said Edward prayed
Judgement and his damages to be awarded him -

- 1 Reason The plaint in his Dord alledge^s bargain or contract but doth not set forth by whom the
bargain was made
- 2 Reason The plaint says which said Thomas for himself did pass a bill or obligatory unto & said Edward
four hundred & eighty pounds of Tob^o which is a false concord and inconsistent nonconcord
- 3 Reason The plaint says that for consideration of & bill & said Edward did order & said Thomas
to mark three sum of Casque & but doth not aver that at any time after & said
Edward refused to suffer & said Thomas to mark & said Casque for & said plaint
and showing which & said Cook says says shall overtake most strongly construed
at a man's selfe most in favour of his adversary, & Casque is & consideration alledge^d
to be promised and that not being denied & plaint can have no cause of action
- 4 Reason In all actions on & Casque upon & contract there ought to be a good consideration alledge^d
but in & principle Casque there is neither consideration alledge^d nor assumption averred
- 5 Reason If & Casque were marked with proper marks of & said Thomas and a good sale
made an action of Trover & conversion or detinue would have been such an action as
& Law prescribes and would have given remedy but not other ways
- 6 Reason He ought to have set forth whether he did mark & Casque nor not for if & Casque
were mark^d by & said Thomas then & consideration on & Defend^t side was sufficient
and if they were not mark^d & action ought to have been simply denying & not
suffering him to mark^d them but & introduced in subsequent parts of
Dord contains matter different to & promise principally alledge^d for which & said
Defend^t cannot answer - And & plaint Joyned in Demurrer Macklin p^r Defend^t
Joshua Treadwell p^r q^r