

Nov<sup>6</sup> Co<sup>2</sup> 1707

said Daniel although to pay y<sup>e</sup> same he y<sup>e</sup> s<sup>d</sup> Daniel on y<sup>e</sup> twenty sixth day of August in y<sup>e</sup> year of our Lord Christ one thousand seven hundred & seven in Kent County ass<sup>es</sup> w<sup>th</sup> in y<sup>e</sup> Jurisdiction ass<sup>es</sup> was by y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> required But y<sup>e</sup> same to pay he y<sup>e</sup> s<sup>d</sup> Daniel hitherto hath and still doth deny & refuse To y<sup>e</sup> damage of y<sup>e</sup> ass<sup>es</sup> Att<sup>ys</sup> in their ass<sup>es</sup> capacity mind thousand pounds of To b<sup>e</sup> And therof they bring Suits &c.

Wollinger of quor Redgespe In<sup>o</sup> Deb

And y<sup>e</sup> ass<sup>es</sup> Daniel in his proper & son comes & defends y<sup>e</sup> force & injury &c and prays Judgm<sup>t</sup> if y<sup>e</sup> Vostry ass<sup>es</sup> shall be answered because he saith y<sup>e</sup> this acc<sup>on</sup> by y<sup>e</sup> Vostry's own showing is brought upon an Indebitatus a sump sit viz<sup>t</sup> for y<sup>e</sup> sum of ten thousand seven hundred fifty four pounds of To b<sup>e</sup> balance of a greater sume formerly said to be due upon acc<sup>on</sup> & now reduced to certainty by a note whereby y<sup>e</sup> acc<sup>on</sup> is turned to Debt or a sump sit call<sup>d</sup> indubitatus and y<sup>e</sup> sume being thus entire & above y<sup>e</sup> sume of ten thousand pounds of To b<sup>e</sup> as is ownd & may appear by y<sup>e</sup> s<sup>d</sup> Note and this Co<sup>2</sup> being of a limited Jurisdiction not to exceed ten thousand pounds of To b<sup>e</sup> Therefore y<sup>e</sup> ass<sup>es</sup> Daniel prays Judgm<sup>t</sup> if y<sup>e</sup> ass<sup>es</sup> Vostry shall be answered &c

Sign<sup>d</sup> Jord<sup>r</sup> of Dan<sup>l</sup> Morris

And now here y<sup>e</sup> doct<sup>r</sup> & plea ass<sup>es</sup> being read & y<sup>e</sup> allegations of both parties by y<sup>e</sup> Co<sup>2</sup> here heard & fully understood It is considered by y<sup>e</sup> Co<sup>2</sup> That y<sup>e</sup> Acc<sup>on</sup> ass<sup>es</sup> lies w<sup>th</sup> in y<sup>e</sup> Jurisdiction of this Co<sup>2</sup> And that y<sup>e</sup> s<sup>d</sup> Daniel doe answer over unto y<sup>e</sup> ass<sup>es</sup> doct<sup>r</sup> of the m<sup>o</sup> y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup>

Whereupon y<sup>e</sup> s<sup>d</sup> Daniel by Christopher Phillipson his Att<sup>ny</sup> comes & defends y<sup>e</sup> force & injury wherepe and prays Judgm<sup>t</sup> if acc<sup>on</sup> &c because he saith the action ass<sup>es</sup> is not brought by y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> own showing w<sup>th</sup> in three yeares as by Lawe it ought and this he is ready to verifie Wherefore he prays Judgm<sup>t</sup> as above &c and that y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> ass<sup>es</sup> their acc<sup>on</sup> ass<sup>es</sup> ag<sup>t</sup> s<sup>d</sup> Def<sup>t</sup> to have may be debarred

Phillipson of Def<sup>t</sup>

And y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> say that by any thing by y<sup>e</sup> s<sup>d</sup> Def<sup>t</sup> in pleading alledg<sup>d</sup> from their action ass<sup>es</sup> ought not to be debarred because they say that y<sup>e</sup> plea of y<sup>e</sup> s<sup>d</sup> Def<sup>t</sup> in forme ass<sup>es</sup> pleaded and y<sup>e</sup> matter therein contained is not good sufficient in Lawe To w<sup>ch</sup> s<sup>d</sup> plea and matter therein contained they y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> have no necessity nor are they by Lawe obliged to answer for that s<sup>d</sup> y<sup>e</sup> s<sup>d</sup> Def<sup>t</sup> in his plea ass<sup>es</sup> sett<sup>s</sup> forth y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> action is not brought w<sup>th</sup> in three yeares as by Lawe it ought w<sup>ch</sup> is uncertaine for y<sup>e</sup> he ought to sett forth y<sup>e</sup> Lawe by w<sup>ch</sup> such acc<sup>on</sup> are limited whether by y<sup>e</sup> Lawe of England or of this Province and y<sup>e</sup> he ought to recite such Lawe of y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> know not how to reply Secondly all pleas in barr (as this of y<sup>e</sup> s<sup>d</sup> Def<sup>t</sup> seems to be) ought to conclude by praying Judgm<sup>t</sup> if y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> their acc<sup>on</sup> ass<sup>es</sup> ought to have & maintain But y<sup>e</sup> s<sup>d</sup> Def<sup>t</sup> in conclusion of his plea prays y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> their action ass<sup>es</sup> ag<sup>t</sup> s<sup>d</sup> Def<sup>t</sup> to have may be debarred w<sup>ch</sup> is not agreeable to the precise forme of pleading by Lawe prescribed for w<sup>ch</sup> reasons they y<sup>e</sup> s<sup>d</sup> Att<sup>ys</sup> pray Judgm<sup>t</sup>