

called or of what Burthen. Every Declaration should & ought to contain Certainty but in that there is Incertainty. That is Error

3. Hudson prayeth Order against Carver's Attorney but nameth him not in the Declaration therefore that is Error for the Incertainty of the Person.

4. The Record saith Hudson Pl. & Anderson Def. when his Declaration was against Carver & it cannot appear by any Record extant that Anderson is Def. in any Declaration ever Entered in relation to the Suit & therefore that is Error

5. The Summons was directed to Thomas Notley the Atty of Anderson in which Capacity he never was & that is Error

6. Abraham House served the Summons which the Sherriff ought to have done & that is Error

7. The Order of Court of the 22^d Decem^r. 1664 was that Bedloe his Attorney should be summoned but the Summons was awarded ag^t the Attorney of Anderson & therefore that is Error

8. The Testimony of Hawkins is insufficient to prove the Title of the Friggott sued for by Hudson for he speaks generally of a Vessel & saith only that he himself reputed the Vessel Hudsons but doth not say that he knew her Hudsons or that she was positively the Goods of Hudson

9. The Testimony of Staple fort insufficient. he swears positively the Vessel was Hudsons four years & an half ago but speaketh nothing of his Knowledge but that the Carpenter that built her told him so, which is but hearsay & at Random, he speaks of a Vessel the Court with a Friggott All which is very Uncertain & therefore Error

The Jury find a Vessel called the Expedition did belong to Hudson, but Hudson sues for a Friggott not distinguished by any name. Nor are these words a Vessel called the Expedition ever named in any of the Proceedings upon Record in the said Case & therefore the Verdict of the Jury is erroneous. But admitt all the precedent Allegations of Error insufficient the which the said Bedloe doth not Grant yet nevertheless the Error Insuing he humbly supposeth will evidently appear.

The Friggott was in the Custody possession & Charge of Goodrick as servant of Hudson. Goodrick sells the Vessel after Sale Hudson consents to the Sale. The Jury finds that Goodrick had Satisfaction & that Hudson consented, therefore Hudson had Satisfaction in the hands of his servant Goodrick whom he may call to account if he please & Carver cannot force him to call his servant to account, But if he forbear to call him to account & by that think to have liberty to