Large Appear And the said Thomas Saith that altho he the said Thomas did well & truely perform Observe & fulfill all & every the Covenants & agreements in the said Indenture Contained on his part to be performed fulfilled & Observed yet protesting that the said William Scales hath not performed & fulfilled any of the Several Covenants & Agreements in the said Indenture Contained on his part to be performed & fulfilled in fact Saith that he the said Thomas Harris had not in his Choice what Port to Send the said Sloop to from the Place where She the said Sloop then lay In Chester River in the County aforesaid from which place the said Sloop was sent by the direction & Order of the said William Scales without against the Choice of the said Thomas Viz: on the tenth Day of October in the Year Seventeen hundred & thirty Eight in Kent County aforesaid to Boston in New England contrary to the Form & Effect of the Indenture aforesaid And the said Thomas further in fact Saith that he the said Thomas did not go & continue Master of the said Sloop for & during the term of the said three Years But that the said William Scales did place & put a certain Seager as Master of the said Sloop on the said tenth Day of October last mentioned in Kent County aforesaid without against the Will Consent & Approbation of the said Thomas And which said Seager did contrary & Navigate the said Sloop as Master in her Voyage aforesaid from the said Chester River Viz: in Kent County aforesaid to Boston aforesaid contrary to & without the Will Consent & Approbation of the said Thomas Contrary to the Form & Effect of the said Indenture And thus the said Thomas Saith that he the said William altho often requested Viz: on the tenth Day of October aforesaid & often before & since after the making the said Indenture Viz: in Kent County aforesaid the Covenants & agreements aforesaid in the said Indenture contained on the part & behalfe of him the said William to be Observed kept & performed hath not Observed kept & performed but broke And the same to Observe keep & perform hath refused & still doth refuse whereby Action hath accrued to him the said Thomas to have & require from him the said William the said two hundred pounds Current money Nevertheless the said William the said two hundred pounds Current money to the said Thomas altho often required Viz: on the first Day of December in the Year Seventeen hundred & thirty Eight & often afterwards in Kent County aforesaid hath not rendered or paid but the same to him to render & pay hath refused & denyed & still refuses & denys Wherefore he the said Thomas Saith he is the worse & hath Damage to the Sume of One hundred pounds Currency & therefore he brings Suit &c.

Pledges &c. John Doe
Rd. Roe

And the said William Scales by Joshua George his Attorney comes and defends the force & Injury when &c. And prays leave to Imparle hereunto untill next Court & he hath it the same Day is given to the Pltff. also.

At which said next Court to wit the 16th Day of October Anno Domini 1739 come again the said parties Pltff. & Deft. by their Attys. aforesaid and the said Deft. by his said Atty. prays further leave to Imparle hereunto untill next Court & he hath it the same Day is given to the Plaintiff also.

At which said next Court to wit the 20th Day of May anno Dom. 1740 come again the said parties Pltff. & Deft. by their Attys. aforesaid & the said Deft. by his said Atty. prays further leave to Imparle hereunto untill next Court & he hath it & the same Day is given to the Pltff. also.

At which said next Court to wit the 21st Day of October Anno Dom. 1740 come again the said parties Pltff. & Deft. by their Attys. aforesaid & the said Deft. by his said Atty. prays further leave to Imparle hereunto untill next Court & he hath it & the same Day is given to the Pltff. also.

At which said next Court to wit the 14th Day of April Anno Dom. 1741 comes again the said Thomas Harris by Dan. Jenifer his Atty. aforesaid as the said William Scales by Joshua George his Atty. aforesaid & the said William Scales by his said Atty. as to the force & injury when &c. and saith that the Declaration aforesaid & the matter therein contained & also insufficient in Substance as well as in form in Law for him the said Thomas his Action aforesaid against him the said William to have or maintain and that he the said William to that Declaration in manner & form aforesaid made hath no need nor by the Law of the Land is bound to Answer And for cause of Demurrer in Law According to the form of the Statute in such case lately made & provided he the said William shows to the Court here the following cause for that it does not appear nor is it alledged in the Declaration aforesaid that the said Thomas hath brought into Court the Indenture in the Declaration aforesaid above Specified that he the said Thomas by the Law of the Land ought to have brought &c. And this he the said William is ready to aver Wherefore for want of a Sufficient Declaration in this particular he the said William Prays Judgment of the Declaration aforesaid &c. And the aforesaid Thomas Saith that for any thing alledged the Declaration & him the said Thomas aforesaid ought not to be Stayed because he Saith that the Declaration aforesaid & the matter in the same Contained are good & Sufficient in the Law to maintain the aforesaid Action of him the said Thomas and against him the said William which said Declaration & the matter in the same Contained the same Thomas is ready to Justify &c. And because the aforesaid William hath not Answered to that Declaration nor the same hitherto hath any ways denyed the same Thomas Prays Judgment for his Debt aforesaid & his Damages Sustained by Occasion of detaining that Debt to him to be adjudged &c.

Whereupon all & Singular the Premisses being by the Court here Soon heard & fully understood & Matured deliberation thereupon had for that it seems to the Court here that the Declaration aforesaid of the aforesaid Thomas & the matter in the same Contained are in no wise Sufficient in Law for him the said Thomas to have & maintain his Action aforesaid against him the said William.

Therefore it is Considered by the Justices here that the said Thomas take nothing by his Writ aforesaid but that he & his Pledges of Prosecuting to wit John Doe & Richard Roe be in Mercy &c. and that the aforesaid William go thereof without Day. And it is further Considered that the said William recover against the said Thomas the Sum of

pounds of Tobacco for his Costs & Charges by him about his defence in this part Sustained to the same William by the Court here on his aforesaid adjudged According to the form of the Statute in the like Case made & provided & that the aforesaid William have thereof Execution &c.