

Liber N N Clemens in his life tyme, nor the said Mary Exec^x of the last Will and testam^t of the said John since the death of the said John nor while she was sole, nor the said James & Mary since their inter-marriage according to the tenour of the said bill have not paid though thereunto required, but the same to pay the said James & Mary have denyed & yet doe deny, whereupon the said George Lewen saith he is damnified & hath losse to the Value of tenn Thousand pounds of tobacco & thereupon he bringeth his suite

p. 780 And the said James & Mary by Christopher Rousby their Attorney come & defend the force & injury when &c & pray liberty to imparle hereunto untill next Provinciaall Court And itt is granted unto them, the same day is giuen to the plaintiffe also

Att which said next Provinciaall Court cometh the said parties by their Attorneys aforesaid And the said James & Mary by their said Attorney say, that he the said George his action aforesaid against them ought not to haue, because they say that the said plaintiffe in his declaracōn above written doth sett forth, that John Clements by his writing obligatory dated the Eighth day of September One thousande six hundred Seventy two did acknowledge himselfe indebted to the said George Lewen five thousand weight of Arranocoa tobacco, which said five thousand weight of bright tobacco he did thereby oblige himselfe his heyres Exec^{rs} Adm^{rs} & assignes firmly by these p^sents to pay unto the said Geo: Lewen or his assignes within twenty dayes after the arrival of the Seafflower att this Province whether the said Shipp was then bound, but doth not averr that the said Shipp Seafflower did after the Eight of Septemb^r one thousand six hundred seventy two aforesaid evertt arrive att this Province, & when And if she never did arrive since in this Province Or if the said Shipp did arrive in this Province so that itt was not twenty dayes before the issueing forth the originall writt of this suite In either of the cases aforesaid no action doth accrue to the plaintiffe Whereupon the said James & Mary pray judgm^t if the said George to his declaracōn aforesaid against them ought to be Answered Which being read & heard day is given unto both parties untill next Provinciaall Court

Now here att this day to witt the fourteenth day of March in the fourth yeare of the Dominion of Charles Lord Baltemore &c Annoq̄ Doni 1678 come the said James & Mary by their Attorney aforesaid And the said George Lewen although solemnly called cometh not to prosecute his writt against the said James & Mary in the plea aforesaid Therefore it is considered that the said George Lewen take nothing by his writt, but be in mercy for his false claime And that the said James & Mary recover against the said George Lewen the sume of Nine hundred Sixty two pounds of tobacco for their costs & charges by them about their defence in this behalfe laid out & expended And the said James & Mary may have thereof Execucōn