

The Appellant in his Declaration states, that "William Bradbury and John Roberts, (the Respondents), on the twentieth December, one thousand eight hundred and thirty-four, made their certain writing obligatory, commonly called a *Bon*, and thereby declared the same to be good, on demand, to the order of the said Norman Bethune, for the sum of four hundred and twenty-six pounds, current money of the said Province, received in cash, to wit, for value received in cash, and then and there delivered the said *Bon* to the said Norman Bethune." A payment of fifty pounds is then acknowledged to have been made to Norman Bethune. The Declaration proceeds as follows: "And the said Norman Bethune to whom, or to whose order the payment of the said sum of money in the said *Bon* specified, was to be made after the making of the said *Bon*, and before the payment of the balance due upon the said sum of money in the said *Bon* specified, or any part thereof, to wit: on the first day of April last past, at Montreal aforesaid, endorsed the said *Bon*, and thereon, and then and there ordered and appointed the said balance of the said sum of money, in the said *Bon* specified to be paid to the order of the said Plaintiff, and then and there delivered the said *Bon*, so endorsed, to the said Plaintiff. That afterwards, to wit, on the first day of April last past, the Plaintiff, in a personal interview which he then had with the said William Bradbury, presented to him, the said William Bradbury, the said *Bon* for payment of the residue or balance due thereon; whereupon he the said William Bradbury, requested the said Plaintiff to wait for payment of the said balance of the said *Bon*, until the third day of the said month of April, to which, with the express concurrence and acquiescence, and at the special request of the said Norman Bethune, he, the said Plaintiff, consented. That accordingly, on the said third day of April, the said Plaintiff repaired to the office of the said William Bradbury, in the said City (where he had made the said demand of payment aforesaid,) two several times, for the purpose of again demanding payment of the said balance of the said *Bon*; but the said William Bradbury was not there, nor, on enquiring at the said office, could the said plaintiff ascertain where the said William Bradbury was. That afterwards, to wit, on the fifth day of the said month of April, at the said City, the said *Bon* was, by the ministry of Gibb and his colleague, Public Notaries, duly presented to the said William Bradbury, personally, at the office of him, the said William Bradbury, and whereat the said firm of William Bradbury and Company had carried on their business, for payment of the said balance, and payment of the said balance was then and there duly demanded and refused: whereupon the said *Bon* was duly protested for non-payment.

"And for that, whereas, on the ninth day of May, instant, at the City aforesaid, (the said John Roberts, having after the time of the said protest, and before the said ninth day of May, instant, arrived and come into the said Province, for the first time), the said *Bon* was duly presented to the said John Roberts, for payment of the said balance due thereon, and payment of the said balance was then and there duly demanded and refused; whereupon the said *Bon* was duly protested.

The Respondents, Bradbury and Roberts, filed four pleas to the first count of Plaintiff's Declaration. By the first of these pleas, they alleged, that the Appellant (Plaintiff in the Court below) could not maintain his action on the first count of his Declaration, because it