25,000—4-5-32.

Block 7

Rack No.

Shelf No.

Serial No. 13

General No.

High Court Vol VI

Appeals against Mayors' Court decisions

Vol 13

To the Kings Most Excellent Majesty

Between Charles Smith by his Attornies Alexander Cuthbert Alexander Brodie and John Douglas of Fort Saint George Esquire Complainant and Kistnadoss Verjeedoss of Madras Soucar Defendants

The humble Petition and Appeal of Kistnadoss Verjeedoss the above named Defendants

Most Humbly Sheweth

That the said Complainant did by his said Attornies on or about the thirteenth day of the month of July One thousand Seven hundred and Eighty two file his Bill of Complaint in the Honorable the Mayor's Court at Madraspatnam against your Petitioner for the Recovery Filed in my Office the 2d June 1784 of the Sum of five thousand and two hundred Pagodas and thirty three fanams Current Money of Madras by him the said Complainant said to be Charles Freemantle Esq due and owing upon a Certain Bond or Obligation bearing date in Fort Saint George the Twenty fourth day of April One thousand seven hundred and Eighty one given by your Petitioner unto him the said Complainant by Virtue of which he the said Complainant Charged your Petitioner with Standing indebted unto him in the Sum aforesaid your Petitioner further Sheweth that your Petitioner did appear to the said Bill of Complaint and did file an Answer in the said Honorable Court thereto the truth whereof your Petitioner did verify upon Oath and did thereby set forth and Alledged that your Petitioner was not indebted unto him the said Complainant in the Sum Specifyed in his said Bill of Complaint or in any other Sum or Sums of Money whatsoever because your Petitioner expressly Charged that the several

Engagements undertakings Promises and Conditions made and entered into by the said Complainant in order to obtain the said Bond or Obligation had not in any degree been fulfilled or Complied with. Your Petitioner further Sheweth that your Petitioner did in his said Answer further Setforth that some time in the Month of March One thousand Seven hundred and Eighty one, the Said Complainant being at that time Governor of Fort Saint George did send for your Petitioner and desire him to lend to the Honorable the United Company of Merchants of England Trading to the East Indies the Sum of five thousand Pagodas and that he the said Complainant and his Council would grant Bills of Exchange for that Amount in favor of your Petitioner payable in Bengal which your Petitioner Refused to Accept your Petitioner not Choosing to Run the Risque of the Seas at that critical Juncture and not being able to Advance any money without great Inconvenience to himself and your Petitioner further Sheweth that your Petitioner did in his said Answer further Setforth that during the said Month of March and until the Twenty fourth day of April following the said Complainant Constantly kept several of his People and Servants at your Petitioners house who in order to Compel your Petitioner to lend the said Sum of five thousand Pagodas kept your Petitioner a Prisoner in his own house and prevented him from going about his Necessary Business which illegal and Violent Measures of the said Complainant not producing the desired Effect Your Petitioner constantly presisting in his Refusal to lend the said Sum of Money the said Complainant on the Twenty fourth day of April sent a greater Number of his People and Servants known in India by the Names of Peons and Herrecarrahs with Orders to carry your Petitioner to the said Complainants House by force and in pursuance of such Orders of him the said Complainant the said Peons and Herrecarrahs did Actually by force and against your Petitioners Will take your Petitioners out of his said Dwelling house and carried him to the said Complainants house in Fort Saint George where the said Complainant upon your Petitioners being brought before him immediately presented a Set of Bills of Exchange Ready drawn in favor of your Petitioner and Dated the fourteenth of April Ten Days before the said Twenty fourth day of April aforesaid for the Sum of five thousand Pagodas upon the Governor General and Council in Bengal and the said Complainant insisted upon your Petitioner Advancing the said five thousand Pagodas in Ready Money to him and Accepting the said Sett of Bills in lieu thereof but your Petitioner Refusing so to do and alledging as was Really the case that he had not so much Money in his Possession the said Complainant immediately told your Petitioner that he would Accept your Petitioners Bond for the said Bills payable to him the said Complainant and not to the said United Company in whose Account he had before pretended that he wanted the Money and whose Necessitys the said Complainant had made a pretext for harrassing ill using and disgracing your Petitioner in the manner herein before mentioned and which your Petitioner then clearly discovered had originated from some motive to your Petitioner unknown but evidently unconnected with the Interests of the said Company in whose Behalf the said Complainant had before pretended he wanted the said Sum of Money your Petitioner further Sheweth that your Petitioner did in his said Answer also allege that upon your Petitioners Refusing to Execute such Bond or to accept the said Bills of Exchange the said Complainant assured your Petitioner that in case your Petitioner would execute such Bond and take the said Bills of Exchange he the said Complainant would not demand payment of such Bond until your Petitioner had Received Accounts of the Payment

of the said Bills of Exchange in Bengal without adding that there should be a clause inserted in such Bond for that purpose by which said Promise engagement and undertaking of him the said Complainant upon the performance of which your Petitioner implicitly Relied as your Petitioner could not harbour an Idea so derogatory to his Rank Credit Honour and Indigrity of the said Complainant as to suppose him capable of deceiving and imposing upon your Petitioner your Petitioner was induced to give his Bond to the said Complainant but upon and under this express Condition that he the said Complainant should make no demand upon your Petitioner for the amount thereof until the said Bills of Exchange which your Petitioner received in Consideration of the Bond in question were paid in Bengal which said Condition when your Petitioner was going to Execute the said Bond your Petitioner proposed writing under your Petitioners Signature but your Petitioner was prevented from so doing by Ponumbalum Head Dubash and Mr. John Douglas at that time Secretary to the said Complainant and at present one of the said Complainant's Attornies who assured your Petitioner that such Condition was inserted in the body of the Bond and that a Repetition of it under your Petitioners Signature would be highly improper in confidence of the Truth of which Assertions & your Petitioner being entirely ignorant of the English Language in which the said Bond was written and trusting entirely that such Condition was therein inserted desisted from Subscribing such Condition under his Signature and Executed the said Bond in the Common from not in the least suspecting that he was deceived and imposed upon or that as he has since discovered no such Clause or Condition was inserted therein your Petitioner further sheweth that your Petitioner did in his said Answer further say that after the Execution of the said Bond in the manner and upon the Condition

herein before mentioned Your Petitioner Received from the said Complainant the said Bills of Exchange for the said sum of Five thousand Pagodas as drawn in favor of your Petitioner upon the Governor General and Council in Bengal and Dated on the fourteenth of April as aforesaid which your Petitioner without loss of time sent to your Petitioners Gomasta or Agent in Bengal (one of the said Bills of Exchange being sent by the Land and the other by Sea) but your Petitioner not Receiving any Accounts at the time expected from your Petitioners said Gomastah Acknowledging the Receipt of the said Bills of Exchange your Petitioner wrote to his said Gomastah to enquire about them who in Reply informed your Petitioner that the said Bills of Exchange had never been Received whereupon your Petitioner immediately went to the said Complainant and informed him of the Loss of the said Bills of Exchange and Demanded a third Bill of Exchange

which

which the said Complainant constantly delayd, under various pretences to give to your Petitioner previous to his Departure for Europe but at length after various Delays and Evasive Excuses your Petitioners obtained a Copy of the Bills of Exchange that were lost from Mr. Maubray the Accountant instead of another Bill of Exchange of the same Tenor and Date with those lost which the said Complainant, and after his Departure his Attorney the said John Douglas had so often promised your Petitioner to procure him your Petitioner further sheweth that your Petitioner did in his said Answer further setforth that your Petitioner immediately Transmitted the said Copy of the said Bill of Exchange which had been delivered to your Petitioner by the said John Douglas to your Petitioner Gomastah in Bengal with instructions to endeavour to procure the Amount thereof upon the Credit of such Copy but whether your Petitioner's Gomastah had Succeede therein or not your Petitioner could not

not setforth as your Petitioner had not received any Accounts from him your Petitioner further sheweth that your Petitioner did in his said Answer declare that he was totally ignorant of the Payment of five hundred Pagodas for which the said Complainant had given Credit in the Account Current Annexed to his said Bill of Complaint as your Petitioner did aver that he your Petitioner had never paid him a Single fanam in part payment of such Bond nor had your Petitioner given directions to any Person or Persons to Pay such Sum to him the said Complainant on your Petitioners Account your Petitioner further sheweth that your Petitioner did in his said Answer Allege that the Bond in Question upon which the said Complainant founded his Demand upon your Petitioner was the Bond which your Petitioner had granted to him the said Complainant for the said Bills of Exchange upon the Express Condition herein before mentioned and that your Petitioner had never Received any other Consideration thereof from the said Complainant and that your Petitioner had not Received any Accounts at the time of filing his said Answer of a Single

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sparam being paid to your Petitioners Order on account of the said Bills of Exchange the full amount of which your Petitioner humbly conceives ought to have been received before the said Complainant could be intitled to any demand whatever upon your Petitioner on account of the said Bond wherefore your Petitioner submitted to the said Honourable Court whether your Petitioner ought to be charged with the Amount of the said Bond when the condition upon which the said Bond was expressly given had not been fulfilled it being totally repugnant to Equity and Justice as your Petitioner conceived to enforce the performance of an Obligation on one party when the Consideration and Condition of such Obligation had been totally disregarded by the other wherefore your Petitioner prayed that the

Said

Said Honble the Mayors Court would interfere in the Nature of a Court of Equity whose particular province it is to relieve in such cases your Petitioner further sheweth that your Petitioner having in his said Answer Admitted the Execution of the Bond or Obligation in Question and fully fairly and Candidly stated and explained the several matters and Circumstances relative to the Execution of the said Bond the whole Merits of the Cause were then fully and fairly before the said Honble Court and might have been then heard and decided on but the said Complainant altho' he well knows the several facts above charged were true and could not be denied yet out of a desire to vex your Petitioner and put him to great charges he did file a Replication to your Petitioner's said Answer wherein the said Complainant by his said Attornies did deny the several Acts of Violence and force charged by your Petitioner to have been made use of by him or by his Servant to induce your Petitioner to Execute the said Bond and did aver that your Petitioner Agreed to receive the said Bills of Exchange from him the said Complainant of your Petitioners free Will and Consent and that the Bargain was made and concluded without his the said Complainants even persuading your Petitioner to Execute the said Bond and the said Complainant did likewise aver and pledge himself to prove that your Petitioner had received the Sum of three thousand Rupees in part payment of the said Bills of Exchange and Endeavoured at the Same time to insinuate that your Petitioner had received the whole of the said Bills of Exchange by Asserting that such Bills of Exchange were Usually paid but without asserting that the said Bills of Exchange had been actually paid your Petitioner further sheweth that the said Complainant did in his said Replication likewise aver that he the said

Complainant

Complainant had Received from Nagapah Chilly the Sum of five hundred Pagodas credited in his the said Complainants account and that your Petitioner had frequently Acknowledged to be indebted unto him the said Complainant in the Amount of the said Bond which he the said Complainant Averred that your Petitioner had declared that your Petitioner would pay if your Petitioner was possessed of the means but that your Petitioner also declared your Petitioners intentions of Contesting the Justness of the demand in case he the said Complainant should prosecute your Petitioner for the Recovery of the Amount of your Petitioners said Bond your Petitioner further Sheweth that your Petitioner did file a Rejoinder to the Replication of the said Complainant wherein your Petitioner did support the Contents of your Petitioners said Answer and denied the Assertions of him the Complainant in his said Replication to be true in any particular your Petitioner further Sheweth that upon the said Recited proceedings the full and Ample benefit of which and of all other proceedings in this Cause is prayed by your Petitioner Issue was joined and Rules passed for the parties Complainant and Defendant to produce and Examine Witnesses in support of their Respective Allegations during which your Petitioner produced Gopauldoss as a Witness on behalf of your Petitioner who deposed that from the Twenty Second Day of the Month of March which was in the year of Our Lord one thousand Seven hundred and Eighty one until the Twenty fourth day of the Month of April insuing the said Complainant duly sent for your Petitioner and upon your Petitioners waiting upon him the said Complainant at his

his own House he the said Complainant continually pressed your Petitioner for the Loan of the Sum of five thousand Pagodas on account of the said Honorable United Company for which he the said Complainant always proposed to give your Petitioner Bills of Exchange upon the Governor General and Council in Bengal but that your Petitioner constantly Refused to make Requested Loan on Account of the Troubles which on all Sides surrounded this Settlement which would prevent your Petitioner from getting the amount of such Bills of Exchange Remitted from Bengal without great Risk and that your Petitioner was unable to Raise the Money in Madras your Petitioner further Sheweth that the said Gopauldoss did further Depose that in Consequence of your Petitioners Repeated Refusals to lend the said Sum of five thousand Pagodas Two Peons and Two Hercarrahs belonging to the said Complainant Constantly came to your Petitioners house from the Twenty Second Day of the Month of March which was in the year of Our Lord one thousand Seven hundred and Eighty one until the Twenty fourth day of the Month of April ensuing who constantly told your Petitioner that they came by order of the said Complainant to Require your Petitioners Attendance at his the said Complainants house your Petitioner further Sheweth that the said Gopauldoss did further Depose that on the said Twenty fourth Day of the said Month of April which was in the said year of Our Lord One thousand Seven hundred and Eighty one he was present when Two Peons and Two Hercarrahs came to the house of your Petitioner and by force barried your Petitioner to the said Complainants House in the Fort and that he heard the said

Peons

Peons and Hurcarrahs declare that they acted by the Orders of the said Complainant that he Attended your Petitioner to the House of the said Complainant and was present and did hear the whole of the Conversation that passed betwixt your Petitioner and the said Complainant and that he told your Petitioner in an Angry manner that he had often Requested the Loan of five thousand Pagodas from your Petitioner and had been as often Refused but that he then Required the payment of the said Sum of five thousand Pagodas from your Petitioner in which sum the said Honble the United Company were indebted unto him the said Complainant and that he the said Complainant would procure your Petitioner Bill of Exchange for the said Sum of five thousand Pagodas upon the Governor General and Council in Bengal when your Petitioner again Refused to comply with the said Complainants directions urging as before the Difficulty of procuring Remittances from Bengal and your Petitioners incapacity to raise the money at Madras to obviate which objections of your Petitioners he the said Complainant proposed that your Petitioner should give a Bond and take the said Bills of Exchange and that he the said Complainant would write to Bengal to get the Bills paid immediately and that he the said Complainant would not demand the Amount of your Petitioners Bond until your Petitioner should have Received the Amount of the said Bills of Exchange in Madras to which proposal of the said Complainant your Petitioner Agreed and Executed a Bond to the said Complainant but at the time of Executing the said Bond your Petitioner proposed to insert the promises and engagements of the said Complainant but was prevented

therefrom

therefrom by the Remonstrances of the said Complainant who said that there would be an impropriety in inserting such things in the Bond but that he would punctually perform his promise your Petitioner further Sheweth that the said Gopauldass did further depose that two or three days after your Petitioner had Received the said Bills of Exchange from the said Complainant he the said Deponent sent one of the said Bills by Land and the other by Sea to Bengal and wrote to the Gomastah of your Petitioner advising him thereof but having no Letter from your Petitioners said Gomastah during the space of forty five Days Acknowledging the Receipt of the said Bills of Exchange your Petitioner wrote a Second Letter to your Petitioners Gomastah informing him that the said Bills of Exchange had been forwarded to him the latter End of the Month of April and desiring to know whether he had Received the said Bills of Exchange and whether the same had been paid or not to which said Second Letter your Petitioner Received for Answer that no such Bills of Exchange as those mentioned by your Petitioner had ever been Received nor had either of them been Received the Contents of which Letter your Petitioner immediately communicated to the said Complainant and Requested to have another Bill of Exchange with a Letter to the Supreme Council mentioning the Miscarriage of the two others which Request he the said Complainant promised to comply with which promise he the said Complainant Repeated several Different Times when your Petitioner Repeated his Application for the performance thereof but that upon your Petitioners pressing the said Complainant to perform his promise he the said Complainant said that he could not perform his promise immediately as he was

no

no longer Governor but referred your Petitioner to the said Mr John Douglas and Pennumbalam the said Complainants Aubash who would procure for your Petitioner such Bills of Exchange your Petitioner further Sheweth that the said Gopauldoss did further depose that your Petitioner had not by himself or any other Person or Persons paid or Caused to be paid unto the said Complainant or to any other Person or Persons for his the said Complainants use any Sum or Sums of Money whatsoever as he the said Deponent from the Nature of his Employ as Gomastah to your Petitioner must have been Acquainted with such payment had any such been made your Petitioner further Sheweth that your Petitioner did likewise produce Dawlaraw as a Witness on behalf of your Petitioner who Deposed that upon his Coming to your Petitioner's House upon Business about Twenty Months ago he saw Two Peons and Two Hercarrahs belonging to the said Complainant at your Petitioners House who prevented him the said Deponent from speaking with your Petitioner upon the Business upon which he the said Deponent heard the said Peons and Hercarrahs threaten your Petitioner and order your Petitioner to go along with them to the said Complainants house which your Petitioner Accordingly did. Your Petitioner further Sheweth that your Petitioner did also produce Bavana Shaunker as a Witness on behalf of your Petitioner who deposed that he saw Two or three Peons and Two or three Hercarrahs belonging to the said Complainant came to your Petitioners House thirteen days Successively and that he heard the said Peons and Hercarrahs threaten to carry your Petitioner by force to the House of the said Complainant

Complainant and that in Consequence of your Petitioner persisting to Refuse to go to the said Complainants House they the said Peons and Hercarrahs did proceed to Violence and forcibly carried your Petitioner to the said Complainants house whether he the said Deponent accompanied your Petitioner at your Petitioners expressdesire and Request and that your Petitioner told him the said Deponent upon your Petitioners leaving the House of the Complainant that your Petitioner had been forced by the Said Complainant to take Bills of Exchange upon Bengal for the Sum of five thousand Pagodas and that your Petitioner had executed a Bond for the Amount of such Bills of Exchange the Amount of which Bond the said Complainant had promised not to demand until your Petitioner should have Received the Amount of the said Bills of Exchange your Petitioner further Sheweth that the said Complainant did also produce several Witnesses on his behalf not one of which Contradits the facts proved by your Petitioners Relative to the force and ill usage made use of by the said Complainant to induce your Petitioners to Execute the Bond in Question though the Hearsay Evidence of Pennumbalam and others has a Tendency that way the whole of which is Completely set aside by the Evidence of Shashachellum (one of the said Complainants Witnesses) the Person from whom such Hearsay Evidence was Collected who positively denies his having made use of the Expressions he is charged with by the other Witnesses and in the Strongest Manner Supports the whole of your Petitioners said Answer your Petitioner further Sheweth that the said Complainant in his said Replication pledged himself to prove that your Petitioner had Received three thousand Rupees

in

in part payment of those very Bills of Exchange which your Petitioner had Affirmed to be lost but your Petitioner shewith that the said Complainant was not able to produce the promised proof as the Evidence of Ponambalam who deposed that your Petitioner Acknowledged to have Received such Sum is flatly Contradicted by your Petitioners said Answer upon Oath and by the Evidence of Gopauldass who positively Swears that your Petitioners Gomastah in Bengal denied ever having Received the said Bills of Exchange without which it is impossible that any Money could be paid thereon wherefore no Attention whatever be paid to the said Pennembalams Evidence who in this Cause positively Swears to what he heard from two Persons whilst the Persons from whom he the said Pennembalam pretends to have gained his Information as positively swear that they never made use of any Expressions your Petitioner further Shewith that the said Complainant has not produced a single Evidence to Contradict the Deposition of Gopaul Doss and the Answer of your Petitioner Relative to the Solemn Covenant and engagements of the said Complainant not to Demand your Petitioners Bond until your Petitioner had Received the Amount of Bills of Exchange in Contradiction of which your Petitioners Bond was granted by the said Complainant has in fact tacitly admitted of his making such Covenant by Examining Evidences and endeavouring to prove that such Covenant had been fulfilled for if no such Covenant had been made of what Consequence was it to the said Complainant whether the Bills of Exchange had been paid or not such payment if proved could

could not Add to the Validity of the Bond or give the said Complainant a better ground of Action against your Petitioner but your Petitioner Sheweth that the said Complainant was conscious that he had made the Covenant Charged by your Petitioner and that a Reliance upon the performance thereof was your Petitioners Sole Inducement for granting the Bond in Question therefore he the said Complainant thought it incumbent upon himself to prove that the Terms of such Covenant had been fulfilled which he has not been able to do. Your Petitioner further Sheweth that publication having passed in this Cause the same was set down for hearing and the same coming on to be heard before the said Honble the Mayor's Court on Friday the Twenty third day of the Month of May in the present Year of Our Lord One thousand Seven hundred and Eighty three the said Honble the Mayor's Court did think fit to Order and Decree and did Accordingly Order and Decree that your Petitioner should pay unto the said Complainant the full and Just Sum of five thousand and Twenty Pagodas and thirty three fanams Current Money of Madras together with all such Interest as then was or Should hereafter become due thereon with all costs of Suit as will fully and at large Appear by copies of the said Decree of the said Honble the Mayor's Court and also of the other Papers in this Cause herewith Transmitted for the inspection of your Most Excellent Majesty full and Ample Reference whereunto and to every part whereof your Petitioner most humbly prays may be Allowed him as fully in every Respect as if the same were herein particularly Recited and your Petitioner further Sheweth that the said Order and Decree

of

of the said Honble the Mayor's Court being Erroneous and your Petitioner Conceiving himself to be Aggrieved thereby your Petitioner did Appeal therefrom to the Honble the President and Council of Fort Saint George as a Court of Appeals Exhibited by Royal Charter for the said Presidency In which said Petition and Appeal were briefly Recited the foregoing Matters and Circumstances and Relief was prayed by your Petitioner against the said Decree of the said Honble Court for divers just and Sufficient Reasons therein Specified And your Petitioner further Sheweth that the said Complainant did some time after appear by his Attornies aforesaid and did put in an Answer to your Petitioners said Petition and Appeal wherein he again Setforth the several Allegations and Misrepresentations he had before Stated in his Replication but without adducing any valid or Substantial Reason why the said Decree of the said Honble the Mayor's Court should not be Reversed. And your Petitioner further Sheweth unto Your Most Excellent Majesty that the said Petition and Appeal and the Answer thereto came on to be heard before the said Honble Court of Appeals on the Twentieth day of May One thousand Seven hundred and Eighty Four when the said Honble Court was pleased to Confirm the Decree of the said Honble the Mayor's Court as will fully appear by a Copy of the said Decree hereunto Annexed and also of the said Petition and Appeal and the Answer thereunto herewith Transmitted for the Inspection of Your Most Excellent Majesty and which your Petitioner humbly prays may be taken and Admitted as part of this his Petition and Appeal by which said

Decree

Decree of the said Honble the Court of Appeals so made and given against your Petitioner as aforesaid on the said Twentieth day of May last past your Petitioner conceives himself to be much aggrieved and injured and therefore Appeals to the Judgment and final Determination of your Most Excellent Majesty in Council for the following among other Reasons.—

First Because it appears plainly from the Testimony of three Different Witnesses as well as by the Defendants Answer that the Bond in Question was obtained illegally by a continuance of threats and other Violent Measures of the Complainant and at length by forcing your Petitioner to execute the same contrary to his Will and Inclination; and because that this was done without even the pretence of any publick Exigency Requiring the same, no Money whatever being thereby Raised for the Publick service or any Publick Advantage gained but the whole was done to Suit the Private Convenience of the said Complainant by procuring your Petitioner to be his Debtor instead of the Company by thus Receiving his Security instead of the Companys.—

Secondly Because of the Advantage Attempted to be taken by the Complainant of your Petitioner's Ignorance of the English Language in which the said Bond was written, and of the English Laws according to which it was formed your Petitioner being thereby deceived in the purport of the said Bond and not having the same explained to him as he conceives ought to have been done previous to his Sealing and Delivering thereof and as, if he had known the Purport thereof he

should

should not have executed it he conceives that not knowing the Purport of it he cannot in Strictness of Law or in Common Reason and Justice be said to have Executed it a Man's Act implying his Voluntary Act, and when it ceases to be his Voluntary Act ceasing to be his Act.—

Thirdly.— Because of the Condition which it appears evidently was entered into by the said Complainant previous to his Executing the said Bond whereby the said Complainant agreed to wait for the payment of the Money thereby Secured untill the Bills for which the same was given should be paid in Bengal so that the said Bond may be considered to be delivered Merely as an Escrow and in Trust not to take Effect till the payment of the said Bills of Exchange in Bengal and which Payment it is necessary for the Complainant to prove before he can be entitled to Recover the same.—

Fourthly Because of the Nonpayment of the Bills of Exchange for which the said Bond was given and which as the Consideration of the whole Transaction Equity Reason and Justice Require should have been paid, for otherwise it is mere Exchange of Paper and as the Complainants Bill has not been paid neither ought the Defendants Bond to be paid it being highly inequitable and Contrary to every Rule of Justice that the Defendant should be forced to pay so large a Sum of Money without Receiving any equivolent.—

Fifthly Because the said Complainant has Admitted the proof of such payment necessarily his Attempt to prove it in the Evidence produced and because he has Miscarried in such Attempt to prove it General Assertions of what is Usual and probable not being adequate to prove a simple plain fact, which if true might have easily been incontrovertibly proved either by producing the Bill paid an Authenticated copy thereof, or a Certificate from the Accountant at Bengal that it had been paid, and this being what the Complainant might and ought to have done if it had been paid, his not doing it clearly points out that it has not been paid.—

Sixthly—Because of the disagreement between the Bill of Complaint of the Complainant and the Evidence produced by him the Bill being brought against one person only and the Bond produced in Evidence and copied in his bill being made the names of the more than one person, so that the things proved not agreeing with the things Alledged instrictness of Law the Complainant could not Recover and tho' your Petitioners wishes not to take any advantage of any legal Exception, as he trust he may Safely Rely on the Justness Equity and Reasonableness of his Case yet he conceives this legal Error may be made a fit instrument to Restore to him that Justice which is Attempted to be withheld from him.—

Seventhly Because of the Evil Tendency it may have in their Remote Countries if such Violent Measures of those in power here against Persons in the humble Station of Your Petitioner Should find Support and Countenance from this last and final Appeal of the injured.—

For

For all which Reasons and for such others as may be offered at the hearing by Council learned in the Law or Solicitors on the part of your Petitioner he your Petitioner most humbly prays that the said Decree or Judgment of the Mayor's Court at Madraspatnam so made and given against your Petitioner on the said Twenty third day of May which was in the year of Our Lord One Thousand Seven Hundred and Eighty three and also the said Decree or Judgment of the said Court of Appeals at Madraspatnam of the Twentieth day of May last past and in this Present year of our Lord One thousand Seven Hundred and Eighty four be Reversed and for ever set aside with Examplary Costs to be paid unto your Petitioner and your Petitioner most humbly prays that your Most Excellent Majesty in Council will be Graciously Pleased to grant him such other General and particular Relief in all and Singular the premisses as shall appear Agreeably to Law and Equity.

And your Petitioner as in duty bound
Will Ever Pray &c.a

Peter Walker
Attorney for Appellant.

Court

Court of Appeals at Madraspatnam } ss Thursday the 20th May Anno Domini 1784.

Between Histnadoss Virgeedoss Appellant and Charles Smith by his Attorney's Alexander Cuthbert Alexander Brodie and John Douglas Respondents.

This Cause coming on this Day to be heard and Debated before this Court by the Attornies on both Sides upon hearing the Petition of Appeal and Answer and the several Exhibits of the Honble the Mayor's Court together with the Decree of the said Court given in this Cause on Friday the 23d day of May Anno Domini 1783 and upon due Consideration had of the Matters therein severally contained and of the Pleadings and Arguments used by the Attorneys on both Sides This Court doth think fit to order and Decree and doth accordingly order and decree that the Decree of the Honble the Mayors Court dated the 23d day of May Anno Domini 1783 do Stand affirmed and that the Appellant's Petition be hence dismissed with Costs.

Hur
(Signed) Chas. Freeman
Cth

To

To the Kings Most Excellent Majesty in Counc

Between Charles Smith by his Attornies Alexander Cuthbert Alexand Brodie and John Douglas of Fort Saint George Esquires Complainant and Kistnadass Virjee dass of Madras Soucar Defendant.

The Answer of Charles Smith by his Attornie Alexander Cuthbert Alexander Brodie and John Douglas to the Petition and Appeal to your Most Excellent Majesty in Council of Kistnadass Virjeedass

This Respondent by way of Answer to the said Petition and Appeal to your Most Excellent Majesty in Council of the said Appellant or unto so much thereof as Concerns this Respondent to make Answer unto saith he Admits it to be true that this Respondent by his said Attornies did on the Thirteenth day of July which was in the year of our Lord One thousand Seven hundred and Eighty two file his Bill of Complaint in the Honble the Mayors Court at Madraspatnam against the said Appellant for the Recovery of the Sum of Five thousand and Twenty Pagodas and thirty three fanams Current Money of Madras due and owing by the said Appellant unto this Respondent by the Ballance of an Account Current Arising upon a Bond or Obligation Executed by the said Appellant in favor of this Respondent and bearing Date at Fort Saint George on the Twenty fourth day of April which was in the year of our Lord One one thousand Seven hundred and Eighty One To which said Bill of Complaint this Respondent Admits that the said Appellant Appeared and did file his Answer thereto and did thereby pretend that the said Appellant was not indebted unto this Respondent in the Sum Specified and Claimed by this Respondent in his said Bill of Complaint Nor in any other Sum or Sums of Money whatsoever and did further pretend that this Respondent during his Administration as Governor of Fort Saint George did Compell the said Appellant to lend to the Honble the United Company of Merchants of England trading to the East Indies the Sum of Five thousand Pagodas and that this Respondent and his Council would Grant Bills of Exchange for that Amount in favor of the said Appellant payable in Bengal and that when the said Appellant expressed that he had not so much Cash by him that this Respondent consented to take his Bond for the said Bills Payable to this Respondent and not to the said United Company and that the said Appellant did give his Bond in favour of this Respondent and this Respondent admits that the said Appellant did pretend in his said Answer that such Bond was by him given under the Express Condition that this Respondent should make no demand upon the said Appellant for the Amount thereof until the said Bills of Exchange were paid in Bengal and this Respondent admits that the Answer of the said Appellant contained such Several other pretences as are to that Effect Stated in the Appellants

Filed in my Office the 9th Sept 1784
Chas Freeman Ex

Appellants said Petition and appeal all which Pretences this Respondent doth aver to have been intirely without foundation and this Respondent doth also aver that the said Appellant Received the said Bills of Exchange as also a third Bill or a Copy of the former Bills thro' the Means of the abovenamed John Douglas in Consequence of the Appellants having pretended that the Two first Bills had been lost And this Respondent admits that the said Appellant did further pretend in his said Answer that he was an entire Stranger to the payment of the Sum of Five hundred Pagodas credited by this Respondent in his said Account Current Annexed to his Bill of Complaint the Contrary of which is proved in the Proceedings in the said Cause And this Respondent doth admit that by his said Attornies he did Reply to the said Answer not from any Spirit of Litigation or a Desire of vexing or harrassing the Appellants as is falsely asserted by the Appellant in his said Petition and Appeal but with a view of Explaining as he had a Right to do his whole conduct in the Premises and to remove the unjust insinuations thrown out to his prejudice by the Appellant in his said Answer And this Respondent did in his said Replication among other things Setforth that the Attornies of this Respondent are uninformed as to any Conversations which may have happened between the Appellant and this Respondent Respecting the Loan on behalf of the said Honble Company as Setforth by the Appellant and that they only know that the Appellants Bond was left with this Respondents Attornies with Instructions to Recover the Money due thereon and did further

further Setforth that the said John Douglas one of this Respondents Attornies and who had the Principal Management of this Respondents affairs had enquired of the Dubashes and writers who served this Respondent and that he is informed by them that the said Appellant did Agree with this Respondent to Receive the said Bills of Exchange of his own free Will and Consent and that the Bargain was made and Conducted without any force or even Persuasion having been used by this Respondent to make the Appellant Sign the Bond and did further hope to prove as he did afterwards prove to the Satisfaction of the Honble the Mayor's Court that the Appellant had Acknowledged his having Received three thousand Rupees in Calcutta being in part and for Account of the said Bills of Exchange Granted by this Respondent as the Alledged Consideration of the said Bond and this Respondent did further Setforth that it is Generally Known and this Respondent did afterwards prove that all Bills which had been drawn by the Presidency of Fort Saint George or the Presidency of Fort William in Bengal Previous to the Month of January then last past had been discharged and that therefore the Appellant must have Received by himself or his Gomastah the full Consideration of the said Bond Now in Question and this Respondent by his said Attornies did further Setforth that this Respondents Attornies have Received from Nagapah Chitty the said Sum of Five hundred Pagodas credited in the said Account Current and that the Appellant had very often Acknowledged to be indebted unto this

Respondent

Respondent the Amount of the said Bond and that he would pay it if he had Means but if he was sued for the same that he would deny the Justness of the Debt and this Respondent Admits that the said Appellant did file a Rejoinder to the Replication of this Respondent and did therein Support the Contents of his Answer and denied the Assertions of this Respondent in his said Replication to be true in every or any particular and this Respondent doth Admit that Issue was Joined and Witnesses both on the part of the Appellant and Respondent were Examined and Publication Passed and the Cause was Set down for hearing and the same come on to be heard on the Twenty third day of May which was in the year of our Lord One thousand Seven hundred and Eighty three when the said Honble the Mayor's Court were Pleased to Order and Decree and did Accordingly order and Decree that the said Appellant should pay unto this Respondent the full and Just Sum of Five thousand and Twenty Pagodas and thirty three fanams together with all such Interest as then was or should thereafter become due thereon with all Costs of Suit From which said Decree of the said Mayor's Court this Respondent Admits that the Appellant did Appeal to the Honble the Court of Appeals at Madraspatnam Pretending that the said Decree was Erroneous and that he was aggrieved thereby — To which said Petition and Appeal this Respondent by his said Attornies did Put in his Answer and did therein Amongst other things fully State that the said Appellant had not any

any Cause whatever to Consider himself Aggrieved by the Decree of the said Mayor's Court for the following among other Reasons:—

First. Because that it is Evident in the Course of the Proceedings that this Respondent took no sort of Advantage whatever of the Appellant by Reason of his the Respondent's station or for any other Reason or Cause whatever — On the Contrary it is in proof that this Respondent by crediting the Honble Company for the said Bills of Exchange advanced his own Private property for their use and to Accommodate this Respondent and that no deceit whatever was practised by this Respondent or his People towards the Appellant nor were any assurances given at the time of Executing the said Bond to the Tenor and purport of what has been falsely asserted by the Appellant with a view to prejudice the fame and character of this Respondent and to evade the Payment of a just demand. —

Secondly. Because it is proved by the Testimony of Tottacala Armogum and Annaviah Chengleroy the two Subscribing Witnesses to the said Bond that no Compulsion whatever was practised towards the said Appellant when he executed the said Bond nor any Stipulation or Agreement mentioned which were not in the said Bond And the said Annaviah Chengleroy also saith that John Douglas was not present when the said Bond was Executed by the Appellant. —

Thirdly. Because it Appears by the evidence of Ponumbalam who was head Dubash to this Respondent during the time he was Governor of Fort Saint George that the said Peons upon whose going to the house of the defendant

so

so much Stress has been laid by the defendant in order to endeavour to Support his Suggestions of force being used by this Respondent to obtain the said Bond now in Suit were not sent for that purpose or at that time but were sent to the Appellant as well as to the other Soucars or Bankers dwelling in Madras to Require their assistance of Government in their then distress by a General Loan and was previous to the time of the Execution of the said Bond And it also Appears by the Evidence of the said Ponumbolum that Securities were deposited and others offered to this Respondents Attornies by the Appellant a Short time before this Respondent had by his Attornies Sued the Appellant And the Appellant also Acknowledged the Receipt of three thousand Rupees by his Gomastah or Agent at Bengal in Part payment of the said Bill of Exchange and it appears by the Evidence of Nagapah Chitty that he paid five hundred Pagodas to the said Ponumbolum for Account and at the Request of the said Appellant and which Ponumbolum says was Paid in Part of this Respondents Bond And it also appears by the Evidence of Vencatachellum Chitty and Ramah Chitty that he desired Ponumbolum to give him more time to Pay his Bond to this Respondent and made no objection whatever to the Justness of the said Bond or the Conduct of this Respondent Respecting the same.—

Fourthly Because the Depositions on behalf of the Appellant Amount to little more than the Proof of Beons and Hircarahs being sent to force the Appellant to Come to this Respondents House during the time he was Governor of Fort Saint George but no One Evidence Attempts to Prove the force and deceit Charged by the defendant Respecting the said Bond except one

one Gopauldass whose Evidence does not in any wise Support the Allegations of the Appellant Respecting the Conduct of this Respondent and the said John Douglas and Ponumbolum and it does not Appear by the Evidence of any Person in this Cause that the said John Douglas was present when the Negociation of the said Bond was going on altho' the Appellant Swears that he was Active throughout the business and the whole Answer and Evidence on behalf of the Appellant Attempts Nothing beyond an Expectation of being indulged in Point of time for the Payment of the said Bond till the Bills should have been discharged in Bengal which Bills it is fair to Presume from the Evidence of Thomas Cockburn and William Ross must have been discharged long before this Respondent by his said Attornies Sued the Appellant the more so as the said Appellant had long before Acknowledged to Ponumbolum the Receipt of three thousand Rupees by his Gomastah or Agent at Bengal in part Payment of the said Bills And which Circumstance proves also the safe arrival of one of the said set of Bills in Bengal the Contrary whereof hath been asserted by the Appellant This Respondent further Admits that the said Petition and Appeal and Answer having Come on to be heard and determined on the Twentieth day of May in this Present year of our Lord One thousand Seven hundred and Eighty four before the said Court of Appeals at Madraspatnam they were pleased to Confirm the Decree of the said Mayor's Court with Costs of Suit in the said Court of Appeals as will appear by the said Decree as well as by the several Proceedings in this Cause now before Your most Excellent Majesty in Council Reference being thereunto Respectively had To which

Proceedings

Proceedings this Respondent Craves leave to Refer and to have such full and Ample benefit and of every Part thereof as if the same were herein before fully Setforth.—

From which said Decree or Judgment of the said Mayor's Court and Court of Appeals the said Appellant did Appeal to your Most Excellent Majesty in Council Pretending that he is much Aggrieved and injured by the said Decrees of the said Mayor's Court and Court of Appeals But this Respondent humbly Conceives that the Appellant had not any Cause to Consider himself Aggrieved by the said Decrees of the said Mayor's Court and Court of Appeals for the Reasons above Setforth nor hath the Appellant in his Petition and Appeal to your Most Excellent Majesty in Council urged any Argument in Contradiction to those Reasons or to Warrant a Compliance with the Prayer of his Petition and Appeal for the Assertion in the—

First Reason of threats and violent measures having been used to obtain the Appellant's Bond is not proved nor is it proved that this Respondent Suited his private Convenience instead of the Company's by procuring the Appellant to be his Debtor instead of the Company on the Contrary it Appears by the Proceedings that this Respondent's Cash was advanced into the Company's Treasury to the Amount of Five thousand Star Pagodas on the faith of the Appellant's performing the Condition of his Obligation And the Charge made in the.—

Second Reason of an Advantage being taken of the Appellant's ignorance of the English Language is equally untrue and proved to be so by the Two Subscribing Witnesses who were the only persons present

present except this Respondent when the Appellant Executed the Bond— And in Answer to the—

Third Reason this Respondent saith that the object of his Negociation with the Appellant, and other Soucars or Bankers was to get Money for Bills of Exchange to be granted on the Presidency of Fort William and that the Appellant had Received his Bills in lieu of Cash lent to him by this Respondent whose Cash so Lent was the Consideration of the Bond and the Value to the Appellant for the Cash he so Advanced was the said Sett of Bills of Exchange so that in the Event of the Non Payment of the Bills his Recourse was by Protest at Fort William and Demand of Payment under and by Virtue of such Protest from the Presidency of Fort Saint George and as to the.—

Fourth & Fifth } Reasons urged by the Appellant the same are Answered by the Argument above Stated in Answer to the third Reason urged by the Appellant— And as to the Sixth Reason the same is a departure from the Pleadings had in the Mayor's Court and therefore cannot avail the Appellant was the assertion true but this Respondent by his said Attornies solemnly averreth that it is most notoriously known that the words Kistna Doss Vijee Doss from the Name of one Man a Soucar formerly of high Credit and Reputation in Madras— and in Answer to the Seventh Reason this Respondent saith that the injury hath been done to him by the Wanton Chicane of the Appellant and that the Conduct of this Respondent by his Attornies towards the Appellant has been Moderate and for bearing in the Extreme.—

Wherefore

Wherefore and for such other Reasons as may be Offered at the hearing of this Cause this Respondent Prays that your Most Excellent Majesty in Council will be Graciously Pleased to Confirm the said Decrees of the said Mayor's Court and Court of Appeals and be further Pleased to Dismiss the said Petition and Appeal of the Appellant with Exemplary Costs to be Paid by the said Appellant.—

Stephen Popham
for the Respondents.—

To

To the Right Honble George Lord Macartney K.B. &c.
President and Governor &c. Council of Fort St. George.—

In the Court of Appeals at Madraspatnam.

Between Vedapillah of Madras Inhabitant and Complainant — and Charles Edward Jones John Snow George Maule Freemanum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar Balla-Chengleroy Moodelliar Poongatoor-Chengleroy Moodelliar Sawmy Ayah and Ayah Sawmy Executors named in the last Will and Testament of Pombahvie Comaro Coroonadum Deceased Defendants.—

The humble Petition and Appeal of Balla-Chingleroy Moodelliar and Poongatoor Chingleroy Moodelliar two of the above named Defendants.—

Shew

That on or about the Seventh day of February last past and which was in this present year of our Lord One Thousand Seven hundred and Eighty three the above named Complainant filed his amended Bill of Complaint in the Honble the Mayor's Court at Madraspatnam against your Petitioners together with Charles Edward Jones John Snow George Maule Freemanum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar Sawmy Ayah and Ayah Sawmy

Filed in my Office the 3d July 1783.
Cha. Freeman Clerk

Sawmy as Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum Deceased, in and by which said amended Bill of Complaint so exhibited against your Petitioners and the other aforenamed Defendants he the said Complainant setforth that Some time on or about the eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy two — the said Pombahvie Comaroo Coroonadum Applied unto him the said Complainant for the Loan of two thousand Star Pagodas with which sum of two thousand Star Pagodas he the said Complainant saith he Accomodated the said Testator in his life time and for Securing the Repayment thereof Accepted the Bond or written obligation of him the said Testator bearing date the eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy two — to Establish the said Demand of the said Complainant against your Petitioners and the other Defendants as Executors as aforesaid on Account is annexed to the Amended Bill of Complaint and prayed to be taken and Admitted as part of the said Amended Bill by which said Account is Shewn or Stated that on the said Eighteenth day of July which was in the year of our Lord one thousand Seven hundred and Seventy two — the said Testator was Indebted unto the said Complainant in the Sum of Two thousand Pagodas the next charge on the Debit side under date the Eighteenth day of March which was in the year of our Lord One thousand Seven hundred and Eighty two is to Interest for Nine Years and eight Months at Twelve per Cent per Annum Two thousand

three

three hundred and Twenty Pagodas and by way of Credit one thousand Two hundred Pagodas is stated to have been Received by the said Complainant of and from the Testator in his life time on Account of Interest from the Date of the declared Bond to the Eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy Seven — then Charging the Balance to be three thousand one hundred and Twenty Pagodas Current Money of Madras which the said Complainant in and by his said Amended Bill of Complaint expressly Charges your Petitioners and the other Defendants to stand Justly and truely indebted unto him the said Complainant in as the Executors named in the last Will and Testament of the said Pombahvie Comaroo Coroonadum deceased without producing or offering the Pretended Bond or annexing a Copy thereof or any Voucher to Establish the pretended Debt other then the Account Current aforestated — made up to the eighteenth day of March which was in the year of our Lord one thousand Seven hundred and Eighty Two — or producing or even asserting that any Agreement was ever made or entered into by and between the said Testator in his life time and the said Complainant — that incase of dispute delay of payment or other difference, the same should be submitted to the Judgement or Decision of the Honble the Mayor's Court at Madraspatnam on the Contrary it fully Appears by the said Complainants own Shewing that the said Bond if any there be was given by the Testator and received by the Complainant after and According to the mode and Custom immemorial of the Inhabitants of Madraspatnam and the Districts thereof towards each other nor doth it Appear to have been the intention of either of the parties at the time of the Testators executing the said

Bond

Bond and the Complainants receiving it that the same should be received considered or taken otherwise than According to the Custom of the Natives of India towards each other — Your Petitioners further Shew unto this Honble Court that the said Amended Bill of Complaint of the said Complainant Containing no other Material Charge against your Petitioners than the afore stated vague incertain and unsupported Claim of the said Complainant in manner and form as before is setforth your Petitioners could not but Consider the length of the Bill and the many matters transactions and occurrences therein setforth and introduced as foreign to the purpose of establishing a fair and Just Demand either in law or in Equity and that the same Appeard more Calculated to Oppress and Aggrieve your Petitioners by excessive and very heavy expences in the Law than to answer any just purpose whatsoever to which said Amended Bill of the said Complainant your Petitioners Appeard by their Attorney at Law and in due Course filed their Joint and Seperate Demurrer thereto, for as much as they your Petitioners Considered the said Bill of Complaint of the said Complainant to Contain no just Cause Charge Matter or thing either in Law or in Equity good or Sufficient to Call your Petitioners in Question before the said Mayor's Court either as Executors of the said Pombahvie Comaroo Coroonadum deceased or otherwise — and for Special Cause of Demurrer your Petitioners among other Causes and Reasons stated that by and from the Complainants own Shewing in and by his said Amended Bill of Complaint that the said Deceased Pombahvie Comaroo Coroonadum in his life time was an Indian native of Madraspatnam or the Districts thereof and that he the said Complainant was also by his own Shewing an Indian Native of Madraspatnam, that the said Amended Bill of Complaint being so exhibited against your Petitioners and other aforenamed Defendants as Executors of the last Will and Testament of the said Pombahvie Comaroo Coroonadum they the said Defendants were and ought in law and in Equity to be taken and Considered as one person in any Act Matter or trasaction relative to the said Estate or the Discharge of their Duties as Executors as aforesaid being only the Legal Representatives of the Deceased Testator — in whose place they stand wherefore your Petitioners in their said Joint and Seperate Demurrer stated that the said Amended Bill of the said Complainant was irregular and expressly contrary to that Clause of his Majesty's Charter which prohibits all Indian Natives of Madraspatnam to Commence Suits or Actions in the Honble the Mayor's Court at Madraspatnam against each other, and which said Clause of his said Majesty's Charter expressly provides orders And directs that all Suits or Actions between such Indian Natives be determined among themselves and not otherwise — unless both parties shall by Consent Submit the same to the Determination of the said Mayor's Court — which Consent of the said Pombahvie Comaroo Coroonadum in his life time or of these Defendants as Executors since the Decease of the said Pombahvie Comaroo Coroonadum or either or any of them the Defendants to the Amended Bill of Complaint of

of the said Complainant was ever had procured or obtained in Writing or otherwise for the purpoze of having the Merits of the Matters in Dispute decided upon or adjudged by the said Mayor's Court — Wherefore your Petitioners further Stated in their said Demurrer that such Consent could not be allowed or granted at that time by these Defendants without injury to the Estate of the said Testator, whose Executors and legal Representatives your Petitioners in and by their said Demurrer declared themselves to be for the purpose of Executing or Carrying into effect the intent and meaning of the Deceased and by Acting so far as possible for the Benefit and Advantage of the Estate the Heir at Law and Residuary Legatee a Minor they your Petitioners holding themselves subject to the like Claims or Demands in such sort manner and form as the Testator was in his life time, and Claiming such Right of Action Advantage Benefit or Legal Demand against the Debtors of the Estate which he the said Testator was Lawfully and Clearly entitled unto in his life time and not otherwise to which said joint and Seperate Demurrer of these Defendants he the said Complainant did on the Seventh day of April last past and in this present year of our Lord one thousand Seven hundred and Eighty three file a Joinder therein and thereby endeavouring to Support the Charges Matters and Allegations in the said Amended Bill of the said Complainant Contained but in no part thereof did he the said Complainant attempt to Shew or produce any engagement or Obligation of or from the said Pombahvee Comaroo Coroonadum in his life time or your Petitioners or any or either

either of the Defendants as the Legal Representatives of the said Testator since his Decease for the purpose of Allowing or Consenting to have the Matters in Dispute Submitted to the Judgement or Decision of the Honble the Mayor's Court but instead of setting up or Actually establishing any proof or Matter in Support of the said amended Bill of Complaint and the Charges Matters and things therein stated Suggested and Shewn against your Petitioners and others the aforenamed Defendants he the said Complainant entered into a detail of Transactions Matters and occurrences some of which had necessarily passed in the Ecclesiastical Court but none of which Could in Law or Equity be adduced urged or brought in proof or by way of evidence in the Honble the Mayor's Court when Setting in their Capacity of a Court of Common Law which together with some evasive and insupportable assertions and an evident misconstruction of his Majesty's Charter, formed the joinder of the said Complainant to your Petitioners joint and Seperate Demurrer which said Amended Bill of Complaint of the said Complainant the Joint and Seperate Demurrer of your Petitioners together with the Joint and Seperate Demurrers of the other Defendants who Appeared to the said Amended Bill as Executors and Defendants as Aforesaid, also the Joinders of the said Complainant to the Several Demurrers your Petitioners Shew unto this Honble Court Came on to be heard Argued and Determined upon before the said Honble the Mayor's Court on Friday the Twentyeth day of June last past and which was in this present year of our Lord One thousand Seven hundred

hundred and Eighty three when the said Court thought fit and were pleased to order and Decree and did Accordingly order and Decree that the Sum Sued for and Demanded by the said Complainant in and by his said Amended Bill of Complaint and Account Current thereunto annexed together with the Interest then due and to grow due thereupon together with the Costs on the Amended Bill of Complaint be paid out of the Testators Estate and Effects and that your Petitioners and the other Defendants do pay all Costs of the Demurrer out of their own Pocket — which will morefully and at large Appear by Attested Copy of the said Order Judgemint or Decree hereunto annexed for the Inspection of this Honble Court and which is prayed by your Petitioners to be taken and Received as part of this their Petition and Appeal — which said Order Decree or Judgement of the said Mayor's Court so passed or made upon the said Twentieth day of June last past your Petitioners conceive to be Erroneous and are thereby aggrieved wherefore they your Petitioners do Appeal therefrom to the Judgement of this Honble Court for the following among other Reasons —

First — Because your Petitioners together with the other Defendants being named in the last Will and Testament of the said Pombahvie Comaroo Coroonadum Deceased as his Executors and having taken upon themselves the Burthen and Execution of the Duties of the said Office or Trust as Executors to the Deceased, are as one person in the Law and so to be deemed taken and Considerd Representing the said Pombahvie Comaroo Coroonadum Deceased having the same right title Interest and Claim in and to all and Singular his Estate and effects Debts dues and Demands in the like manner and under the same Privilegs and restrictions as he the said Testator was entitled unto or had in his life time and Subject to every Claimants Demand in the manner and form as he the said Testator would be if living and not otherwise. —

Second — Because the words in his Majesty's Charter directing all matters in Dispute or difference between Indian Natives of Madraspatnam are plain express direct and unequivocal and such as will Admit of no forced or false Construction your Petitioners as the Legal Representatives of the said Deceased Pombahvie Comaroo Coroonadum do say that they are strictly and Legally entitled to the Benefit thereof notwithstanding any thing that have been, or may hereafter be urged to the Contrary and therefore they do Conceive that the Judgement or Decree of the said Mayor's Court of the Twentieth day of June last past, is Erroneous and ought to be reversed set a Side and held for Nought. —

Third — Because your Petitioners as the Legal Representatives of the said Deceased Pombahvie Comaroo Coroonadum Considering it their Duty to act as much as in them lay for the benefit of the Estate also of the Heir at Law and Residuary Legatee a Minor humbly Conceive that they are bound to insist upon the Rights Benefits and Advantages which they Conceive the said Testator was entitled unto in his life time and under no pretence whatever to give them up without the Judgement of this Honble Court in whose Equitable Decision they your Petitioners firmly Rely for a just and proper Construction

Construction of the Rights privileges and Advantages Attendant up or descending to the Executors or Legal Representatives of Deceased Indian Natives and doubt not but upon due Consideration of the Premisses that this Honble Court will be pleased to reverse the said order Judgement or Decree of the said Honble the Mayor's Court so passed in this Cause upon the said Twentieth day of June last past as Aforesaid.—

Fourth Because your Petitioners humbly beg leave to Represent unto this Honble Court that at the time they your Petitioners Entered upon their Defence to the said Amended Bill of Complaint of the said Complainant they your Petitioners Acted from a Consciousness of doing Right and have not in any way or manner or thro' any means whatsoever Committed any waste or Devastavit of the Monies Effects Goods or Chattles of the Deceased Testator which have ever Come to their hands Custody or Possession nor has the Complainant even attempted to Charge your Petitioners with any such Waste or Devastavit whereby to render or make your Petitioners liable to pay Law Costs and Charges as Defendants out of their own Estates nor is any proof adduced in Support of the pretended Debt or Claim of the said Complainant sufficient to Ground a Decree or Judgement of any Court upon — Wherefore they your Petitioners humbly Conceive that they are injured and heavily aggrieved by the said Judgement or Decree of the said Mayor's Court will be Pleased to reverse annull Absolutely make Void and set a Side the said Judgement or Decree the said Mayor's Court so passed in this Cause on the said Twentieth day of June last past.—

Fifth

Fifth Because your Petitioners having acted to the best of their Judgement and skill for the good and benefit of the Estate ought not under any pretence to be finally barred deprived of or precluded from Investigating the Demands or Claim of the said Complainant which the Judgement or Decree of the said Mayor's Court if Carried into execution or enforced will effectually deprive them of — for your Petitioners conceive that no Bond being proffered in Court or even a Copy Annexed to the said Bill of Complaint was Sufficient for them to Contest the Validity of the Claim set up by the said Complainant upon the Estate of the Deceased without any Apparent Ground or Legal Instrument produced nor was there as your Petitioners are Advised Sufficient Proof of the Existence of any Legal Claim or Demand against the Estate to Warrant or Justify the Decree or Judgement of the said Mayor's Court so passed thereupon as Aforesaid.—

For all which Reasons and for such others as may be offered at the hearing your Petitioners humbly pray that this Honble Court will be pleased to take the premises into their Most Serious Consideration and Reverse set aside and fully Annul the Decree or Judgement of the said Mayor's Court so made in this Cause on the Twentieth day of June last past and which was in this present Year of our Lord one thousand Seven hundred and Eighty three — and your Petitioners do further Pray that the said Complainant may be ordered and Decreed to pay all Costs of Suit in this Honble Court

and

and also and also in the Mayor's Court together with such other further and General Relief in all and Singular the Premisses as may be agreeable to Equity and good Conscience.

Edward Ellis.
James Johnson
for the Appellants.

Extract from the Minutes of a Court held at the Town Hall on Friday the 20th day of June Anno Domini 1783.

Present

William Webb Esquire Mayor
James Call. Edwd. John Hollond
Edward Garrow, Thomas Cooper
Hugh Maxwell & Edward Trowd
Aldermen

Verdapully
vers
Charles Edward Jones, John Snow, George Maule, Treemanum Arnachillum Moodelliar. Court Dubash Davy Naick Moodelliar, Balla Chengleroyah Moodelliar, Poongatore Chengleroyah Moodelliar. Sawmy Ayer and Ayah Sawmy.

Bill with Copy of an Account annexed Read
Joint and Seperate Demurrer of Tereemannum Arnachillum Davy Naick and Ayah Sawmy Read.
Joinder thereto Read

Demurrer

Demurrer of John Snow and George Maule Read
Joinder thereto Read
Joint and Seperate Demurrer of Balla Chingleroy and Poongatore Chingleroy Moodelliar Read
Joinder thereto Read

The Demurrers of Tereemannum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar Ayah Sawmy, John Snow George Maule Balla Chengleroy and Poongatoor Chengleroy Moodelliar the Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum deceased and the Complainants Joinders thereto, coming on to be argued and determined this day in the presence of the Attornies on both Sides and the Court having had due Consideration thereon are of Opinion that the Please made use of by the Defendants in their Demurrers are in Sufficient This Court doth therefore think fit to order and doth accordingly order that the Defendants Demurrers be thrown out with Costs to be paid by the Defendants out of their own Pocket.

(L.S.)

This Court doth further think fit to order and Decree and doth accordingly order and Decree that the Defendants do pay unto the Complainant out of the Estate and Effects of Pombahvie Comaroo Coroonadum deceased the full and just Sum of Three thousand one hundred and twenty Pagodas (Pags. 3120) together with such interest as now is or shall hereafter become due thereon until full payment is made also all Costs of the amended Bill of Complaint.

Mayor's Court

Hur
(Signed)
James Taylor
Regr.

A true Copy
Edward Ellis
James Johnson
for the Appellants

To the Right Honble George Lord Macartney
K. B. President and Governor &c. Council of
Fort St. George.

In the Court of Appeals.

Between Vedapillah of Madras Inhabitant Complainant and Charles Edward Jones John Snow George Maule Freemannum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar Balla Chengleroy Moodelliar Poongaloor Chengleroy Moodelliar Sawmy Ayah and Ayah Sawmy Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum Deceased Defendants.

The Answer of the said Vedapillah to the Petition and Appeal of Balla Chengleroy and Poongaloor Chengleroy Moodelliar two of the Above Named Defendants.

Filed in my Office
the 22 August 1783
Chas Freemantle

This Respondent for Answer to the said Petition and Appeal or unto so much thereof as this Respondent is Advised is Material or Necessary for him to make Answer unto Answereth and Saith that it is true that this Respondent did on the Seventh day of February last past and which was in the year of

Of our Lord One thousand Seven hundred and Eighty three file his Amended Bill of Complaint in the Honble the Mayor's Court at Madraspatnam against the said Appellants together with Charles Edward Jones John Snow George Maule Freemannum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar and Ayah Sawmy as Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum Deceased for the Sum of Three thousand One hundred and Twenty Pagodas Current Money of Madras being the Ballance of an Account Current Arising upon a Bond or Obligation Executed by the said Pombahvie Comaroo Coroonadum in his life time in favor of this Respondent and bearing Date on or about the Eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy two and did therein also amongst other things Shew and Establish a fair and Just Demand of this Respondent against the said Appellants as Executors as aforesaid to which said amended Bill of Complaint this Respondent admits that the said Appellants appeared by their Attorney at Law and in due Course filed their Joint and Seperate Demurrer thereto and did therein Pretend that the said Amended Bill of Complaint of this Respondent Contains no Just Cause Charge matter or thing in Law or in Equity good or Sufficient to Call the said Appellants in Question before the said Mayor's Court either as Executors of the said Pombahvie Comaroo Coroonadum Deceased, or otherwise and this Respondent doth also Admit the Several Matters Contained in the said Joint and Seperate Demurrer of the said Appellants to be such as are for that purpose

purpose particularly setforth in the said Petition and Appeal to which said Joint and Seperate Demurrer of the said Appellants this Respondent did on the Seventh day of April in this Present year of our Lord one thousand Seven hundred and Eighty three file a Joinder and did therein amongst other things setforth that His Majesty's Charter mentioned and referred to by the said Appellants in their said Demurrer was meant and intended to aid and assist the Purposes of Justice and that under and by Virtue thereof the Honble the Mayor's Court is Authorised to try hear and determine all Civil Suits Actions and Pleas between party and party that shall or may arise or happen or that have already Arisen or happened within the said Town of Madras-patnam or within any of the Factories Subject or Subor-dinate unto Fort Saint George aforesaid or to the Governor or President and the Council of Fort Saint George aforesaid except such Suits or Actions shall be between the Indian Natives of Madraspatnam only in which the same is to be determined among themselves unless both Parties shall by Consent Submit the same to the Determination of the said Mayor's Court which this Respondent humbly insisted that the Appellants have done as far as in them lay by Applying unto the Honble the Mayor's Court for Probate of the Will of the said Pombahvie Comaroo Corro-madum and therefore Submitted all matters and things Respecting the Estate of the Testator to the Determination of the said Mayor's Court under whose Sanction and Authority the Appellant have been

enabled

enabled to intermeddle in the affairs of the Testator and to Receive Money and to give Receipt for and on behalf of the Testator and to Commence Actions and institute Suits and file Petitions or to Defend and Answer Actions Suits and Petitions relating to the affairs of the said Testator of his Residuary Legatee now an Infant by name anne Swamy whether as Executors to the said Will or as Guardians to the said Infant in all or most of which matters and things the said Appellants or some of them have acted and intermeddled as Executor named in the last Will of the Testator or as Guardians to the said Infant Anna Swamy as Residuary Legatee under and by Virtue of the said Will and in most of which matters and things Relating to the Estate of the said Testator the said Appel-lants might have acted and intermeddled of their own Accord and According to their own Customs without the Aid or Sanction of the said Mayors Court unless Called upon in due form of Law before the said Mayor's Court and According to the said Charter to Answer any Matter or thing respecting the said Estate of the said Testator And this Respondent for further Joinder did Setforth that instead of determining the Matters and things relating to the said Estate among themselves According to the said Charter and which determination among themselves they the said Appellants Presume to be the only mode in which they are Answerable they the said Appellants did in the first instance Crave the Aid Sanction and Authority of the Said Mayor's Court in the affairs of the said Testator by Proving the said Will of the said Testator and

obtaining

obtaining Probate thereof under the Seal of the said Mayor's Court and that therefore at the same instant that the said Appellants derived a Title to sue under the Sanction and Authority of the said Mayor's Court in all matters relating to the Estate of the said Testator they Subjected themselves to be Sued for the Recovery of all Claims against the said Estate for was it otherwise and that the Suggestions of the Appellants in their Demurrer and Appeal to be held good and Sufficient it would follow that a Native might have an opportunity of Amassing Wealth to an unlimited amount on his Personal Credit while alive and make his Will in such a manner as to give his Executors a Right to receive all monies which might be due to the Deceased without Subjecting them to be Sued for the recovery of the sums so borrowed by the Testator in his Life time than which nothing can be more repugnant to Law and Equity and the Sound Principles of Substantial Justice and this Respondent for further Sounder did setforth that the very Charter to which the said Appellants have referred in and by their said Demurrer gives this Respondent a Right sue in manner as he hath done for the said Charter gives to the Natives an exemption from the Process of the said Mayor's Court in the following words to wit " Except such Suits or Actions shall be "between the Indian Natives of Madraspatnam only" And this Respondent did further setforth that in the Present instance this Respondent hath instituted his Suit against Charles Edward Jones John Snow and George Maul who are not Natives as well as against the said Appellants and others the Executors in the said Last Will of the Said

Pombahvie

Pombahvie Comaroo Coroonadum And this Respondent did further Setforth that altho' the said Charles Edward Jones John Snow and George Maul as Executors as Aforesaid may be said to Represent the said Testator and to Possess the same Rights Nevertheless they Possess them in as full and ample a Manner by being Executors as they would by an assignment thereof from the Testator and have as full and ample a Right and Title to sue for the same as any person not a native hath under and by virtue of a Transfer or Assignment for that Purpose Given and Granted and this Respondent did further in his Sounder Setforth that the same Instrument under and by Virtue of which the Appellants appear as Executors as aforesaid gave this Respondent a Title to Judgment or a Decree for the amount due unto this Respondent upon the Testators said Bond for the Proof of the Execution of the Will is a Proof of the Debt of the Testator the same being stated and Setforth by the Testator in his said Will then and now of Record in the said Mayor's Court therefore According to that Part of their said Demurrer and Appeal wherein the Appellants say they are Ready to Account and become Subject to every Claimant's Action as he the said Testator was in his Lifetime this Respondent hath a Title to Judgment or a Decree for the Sum for which he hath so Sued Because the said Testator hath Acknowledged and the Appellants have by their said probate Proved this Respondents Claim before the said Mayor's Court And this Respondent did further Setforth that whenever any Remedial Law Charter or Act of Parliament is expressed in Terms which are at all ambiguous the

Interpretation

Interpretation of such Law Charter or act of Parliament ought to be as Beneficial towards the General Relief of the Subject as the words can Possibly admit and this is done upon the same Principles of General and extensive good which Require that all penal Statites should be Construed Strictly And for further Foinder this Respondent did Sefforth that under and by Virtue of a Certain Statute or act of Parliament made in the Twenty Seventh year of the Reign of Queen Elizabeth Chapter the fifth and also under and by virtue of one other Statute or act of Parliament made in the fourth year of the Reign of Queen Anne Chapter the Sixteenth and which is Confirmatory of the said act of Queen Elizabeth this Respondent is entitled to Judgment for the Amount due underpand by Virtue of the Bond or Obligation stated by the said Testator in his said Will and mentioned and Referred to by this Respondent in his Bill of Complaint and the Account Current thereunto Annexed Because that the Pleadings made use of by the Appellants in their said Demurrer are frivolous and Vexations nor have they Advanced One Argument in Law or Equity why Judgment ought not to Pass against them — And that therefore and as this Respondent hath fully joined to the Demurrer of the said Appellants he humbly hoped that it would appear in Justice Equity and Right that this Respondent is not by any thing the Appellants have alledged Precluded or deprived of his Right of Action and to the Recovery of his just Demands and this Respondent did further and Lastly Pray the Judgment of the said

Mayor's

Mayor's Court with such Exemplary Costs in this matter as to the said Mayor's Court may appear Right — And this Respondent saith that the said Amended Bill of Complaint of this Respondent the Joint and Seperate Demurrer of the said Appellant together with the Joint and Seperate Demurrer of the other Defendants who appeared to the said Amended Bill of Complaint as Executors and Defendants as aforesaid Also the Foinder of this Respondent came on to be heard and Determined before the said Mayor's Court on Friday the Twentieth day of June last past and which was in this present year of our Lord one thousand Seven hundred and Eighty three when the said Court were pleased to order and Decree and Did Accordingly order and Decree that the Sum Sued for and Demanded by this Respondent in and by his said Amended Bill of Complaint and Account Current thereunto Annexed together with the Interest then due and to grow due thereupon together with the Costs on the Amended Bill of Complaint be Paid out of the Testators (meaning the said Deceased Pombahvie Comaroo Coroonadum) Estate and Effects and that the said Appellants and the other Defendants do Pay all Costs of the Demurrer out of their own Bechets as will more fully appear by the said Order as well as by the other Proceedings in this Cause to which this Respondent Craves leave to refer the same being now before this Honble Court and to have such full and Ample Benefit thereof and of every Part thereof as if the same were herein fully setforth. this Respondent further saith that the said Appellants had not any Cause whatever to Consider themselves Aggrieved by the said Order

or

or Decree of the Honble the Mayor's Court either by any thing set forth by the Appellants in their said Demurrer or in their said Petition and Appeal the Reasons therein urged by the Appellants containing no good argument to Warrant any other Judgment than what has been given as aforesaid by the said Mayor's Court for This Respondent in Answer to the first Reason contained in the Appellants said Petition and Appeal saith that he allows the Executors to have the same Right title Interest and Claim and to be under the same Privileges and Restrictions in all matters concerning the said Testator as he the said Testator would enjoy or be Subject to if alive And therefore as the Executors have Submitted all his Concerns to the Jurisdiction of the said Mayor's Court this Respondent has the same Right to sue the said Executors as he would have had to sue the Testator had he done so during his Life time— This Respondent in Answer to the Second Reason of the Appellant saith that it is true that the words of the Charter are plain Express direct and unequivocal and therefore as the Executors have as aforesaid Submitted all matters relating to the Estate of the said Testator to the Jurisdiction of the Mayor's Court, and as this Respondent by preferring his Complaint for their decision hath also Submitted to the same Jurisdiction and as Charter is restrictive only were the Cause of Action is between the Indian Natives of Madraspatnam only the said Court was under either Reason Competent to take the Merits of this Respondents Claim into Consideration and give Judgment thereon— This Respondent in

Answer

Answer to the third Reason urged in the said Petition and Appeal saith that he allows it to be the Duty of the Appellants as Legal Representatives of the said Deceased Pombahvie Comaroo Corronadum to act the most in their power for the Benefit of the Estate and of the Heir at Law and Residuary Legatee and this Respondent saith that the Conduct of the Appellants would have more accorded to those principles had they paid this Respondent's Claim rather than to have subjected the Testator's Estate to Expense and this Respondent to Vexation by a Suit the Issue of which is upon the same ground of Validity as the Right of Interference of the Appellants the same Instrument to Wit the Will of the Testator under which the Appellants act expressly Acknowledging under the Hand and Seal of the Testator the Justness of this Respondents Claim.—

This Respondent in Answer to the fourth Reason urged by the Appellants saith that their Demurring to this Respondents Right of action under the Circumstances above stated is in itself an injury to the Estate of the said Infant whose Rights as Residuary Legatee the Court is bound to protect and is also an act of oppression to this Respondent and therefore well deserving that censure of the Mayor's Court which they inflicted by Ordering the Appellants to Pay Costs of such Demurrer out of their own Pocket— This Respondent in Answer to the fifth Reason of the Appellants saith that the Bond in Question being the same as is specially stated by the Testator in his Will was established in proof before the Court at the same

Instant

Instant the Will was proved and this Respondent further saith that the Demurrer being an admission of the Fact such Fact cannot afterwards be brought in Question by the Person Demurring the Law Arising thereon being the only Point at Issue before the Court besides as the Demurrer states not any Doubt of the Existence of the Bond it is irregular in the Appellants to depart from the Demurrer by urging any matter as ground of Appeal which is not therein Set forth.—

This Respondent further saith that it appears by this Respondents Bill of Complaint that several Claims have been admitted and satisfied which were not stated by the Testator in his Will and that the European Executors being conscious of the Justness of this Respondents Claim from time to time promised to settle with him altho' they afterwards failed in the performance thereof, and it also is stated in the said Bill of Complaint that the said European Executors had assigned over the Effects of the Testator to the Appellants and the other Native Executors in order that they might settle the several Claims still due on Account of the Testator under a Consciousness of all which and of the Justice of the said Decree of the Mayor's Court the said European Executors have Submitted thereto nor have they appealed therefrom.—

For all which Reasons and Such others as may be offered at the hearing this Respondent Prays that this Wonble Court will be pleased to affirm the said Decree of the Wonble the Mayors Court made in this Cause

Cause on the said Twentieth day of June in this present year of our Lord One thousand Seven hundred and Eighty three And that the Petition and Appeal of the Appellants be dismissed with Costs to be paid by the Appellants.—

Stephen Popham
for Respondent.

Court of Appeals at Madraspatnam } Js. Thursday 20th May. Anno Domini 1784

Between Balla Chengleroy Moodelliar and Poongatore Chengleroy Moodelliar two of the Executors named in the last Will and Testament of Pombah-vie Comaroo Cossonadum Deceased Appellants, and Vedapillah Respondent.—

This Cause coming on this Day to be heard and debated before this Court by the Attornies on both sides upon Hearing the Petition of Appeal and Answer and the Several Exhibits of the Wonble the Mayor's Court, together with the Order of the said Court given

in

in this Cause on Friday the 20th day of June Anno Domini 1783 likewise the Decree of the said Court given in the said Cause on the said 20th Day of June Anno Domini 1783 upon due Consideration had of the Matters therein severally Contained and of the Pleadings and Arguments used by the Attorneys on both sides This Court doth think fit to order and Decree and doth Accordingly order and Decree that the order of the Honble the Mayor's Court dated the 20th day of June Anno Domini 1783, likewise the Decree of the said Court dated the said 20th Day of June Anno Domini 1783, do Stand affirmed and that the Appellants Petition be hence Dismissed with Costs.

Hur

(Signed) Chas. Freeman
Clk

To

To the Right Honble George Lord Macartney K.B.
&c. President and Governor &c. Council of Fort Saint George.

In the Court of Appeals at Madraspatnam

Between Verdapillah of Madras Inhabitant and Complainant and Charles Edward Jones John Snow George Maule Tereemannum Arnachellum Moodelliar Court Dubash Davy Naick Moodellier Balla Chengleroy Moodelliar Poongatoor Chengleroy Moodelliar Sawmy Ayah and Ayah Sawmy Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum Deceased Defendants.

The Humble Petition and Apeal of Tereemannum Arnachillum Moodelliar Court Dubash Davy Naick Moodelliar And Ayah Sawmy three of the Above named Defendants.

Shew

That on or about the Seventh Day of February last past and which was in this Present year of our Lord One thousand Seven Hundred and Eighty three the above named Complainant filed his Amended Bill of Complaint in the Honble the Mayor's Court at Madraspatnam against your

Filed in my Office the 3d July 1783
Charles Freeman
Clk

Your Petitioners together with Charles Edward Jones John Snow George Maule Balla Chengleroy Moodelliar Poogatoor Chengleroy Moodelliar and Sawmy Ayah as Executors named in the Last Will and Testament of Pombahvie Comaroo Coroonadum Deceased. In and by which said Amended Bill of Complaint so Exhibited against your Petitioners and the Other aforenamed Defendants, he the said Complainant setforth that some time on or about the Eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy two — the said Pombahvie Comaroo Coroonadum Applied unto him the said Complainant for the Loan of two thousand Star Pagodas — with which Sum of Two thousand Star Pagodas he the said Complainant saith he Accomodated the said Testator in his Life time, and for securing the repay=ment thereof Accepted the Bond or written obligation of him the said Testator bearing Date the Eighteenth day of July which was in the year of our Lord one thousand Seven hundred and Seventy two, to Establish the said Demand of the said Complainant Against your Petitioners and the other Defendants as Executors as aforesaid — on Account is Annexed to the Amended Bill of Complaint and prayed to be taken and Admitted as part of the said Amended Bill, by which said Account is shewn or Stated that on the said Eighteenth Day of July which was in the year of our Lord One thousand Seven Hundred and Seventy two — the said Testator was Indebted unto the said Complainant in the Sum of Two thousand Pagodas the next charge on the Debit side under Date the Eighteenth Day of March which was in the

the year of our Lord One thousand Seven hundred and Eighty Two — is to interest for Nine years and Eight Months at Twelve per cent per Annum — Two thousand three hundred and Twenty Pagodas, and by way of Credit One thousand and Two hundred Pagodas is Stated to have been received by the said Complainant of and from the Testator in his Life time on Account of Interest from the Date of the Declared Bond to the Eighteenth day of July which was in the year of Our Lord one thousand Seven hundred and Seventy Seven — then charging the Balance to be Three thousand One hundred and Twenty Pagodas Current Money of Madras which the said Complainant in and by his said Amended Bill of Complaint Expressly Charges your Petitioners and the other Defendants to Stand Justly and truly Indebted unto him the said Complainant in, as the Executors named in the Last Will and Testament of the said Pombahvie Comaroo Coroonadum Deceased — without Producing or offering the pretended Bond or Annexing a Copy thereof or any Voucher to Establish the pretended Debt other than the Account Current aforestated made up to the Eighteenth day of March which was in the year of our Lord One thousand Seven hundred and Eighty two — or Producing or even Asserting that any Agreement was ever made or Entered into by and between the said Testator in his Life time and the said Complainant — that in Case of Dispute delay of Payment or other difference, the same should be submitted to the Judgement or Decision of the Honble the Mayor's Court at Madraspatnam on the Contrary it fully Appears by the said Complainants Own Shewing that the said Bond if any

there

thing Be was given by the Testator and received by the Complainant after and According to the mode and Custom immemorial of the Inhabitants of Madraspatnam and the Districts thereof towards Each other — nor doth it Appear to have been the intention of Either of the Parties at the time of the Testator's Executing the said Bond and the Complainants receiving it that the same should be Received Considered or taken otherwise than According to the Custom of the natives of India towards Each other — your Petitioners further Shew unto this Honble Court that the said Amended Bill of Complaint of the said Complainant Containing no other Material Charge against your Petitioners than the afore Stated vague incertain and unsupported Claim of the said Complainant in manner and form as before is setforth — your Petitioners could not but Consider the Length of the Bill and the many matters transactions and occurrences therein setforth and introduced as foreign to the purpose of Establishing a fair and Just Demand Either in Law or in Equity and that the same appeared more Calculated to Oppress and Aggrieve your Petitioners by Excessive and very heavy Expences in the Law than to Answer any Just purpose whatsoever to which said Amended Bill of the said Complainant your Petitioners Appeared by their Attorney at Law and in due Course filed their Joint and Seperate Demurrer thereto for as much as they your Petitioners Considered the said Bill of Complaint of the said Complainant to

Contain

Contain no Just Cause Charge matter or thing in Law or in Equity good or Sufficient to Call your Petitioners in Question before the said Mayor's Court either as Executors of the said Pombahvie Comaroo Coroonadum Deceased or otherwise — and for Special Cause of Demurrer your Petitioners among other Causes and Reasons Stated that by and from the Complainants own Shewing in and by his said Amended Bill of Complaint that the said Deceased Pombahvie Comaroo Coroonadum in his Life time was an Indian Native of Madras Patnam or the Districts thereof and that he the said Complainant was also by his own Shewing an Indian Native of Madras Patnam, that the said Amended Bill of Complaint being so Exhibited against your Petitioners and other aforenamed Defendants as Executors of the Last Will and Testament of the said Pombahvie Comaroo Coroonadum — they the said Defendants were and ought in Law and in Equity to be taken and Considered as One person in any Act matter or transaction Relative to the said Estate or the discharge of their duties as Executors as aforesaid, being only the Legal Representatives of the Deceased Testator in whose place they Stand, wherefore your Petitioners in their said Joint and Seperate Demurrer Stated that the said Amended Bill of the said Complainant was irregular and Expressly Contrary to that Clause of his Majesty's Charter which prohibits all Indian Natives of Madraspatnam to commence Suits or Actions in the Honble the Mayor's Court at Madras Patnam against Each other, and which said Clause of his said Majesty's Charter Expressly provide order and direct that all Suits or Actions between such Indian Natives be determined among themselves and not otherwise — unless

both

both Parties shall by consent submit the same to the Determination of the said Mayor's Court — which Consent of the said Pombahvie Comaroo Coroonadum in his Life time or of these Defendants as Executors since the Decease of the said Pombahvie Comaroo Coroona=dum or either or any of them the Defendants to the said Amended Bill of Complaint of the said Complainant was ever had procured or obtained in writing or otherwise for the Purpose of having the merits of the Matters in Dispute decided upon or Adjudged by the said Mayor's Court — wherefore your Petitioner's further Stated in their Said Demurrer that such Consent could not be allowed or Granted at that time by these Defendants without injury to the Estate of the said Testator, whose Executors and Legal Representa=tives your Petitioners in and by their said Demurrer declared themselves to be, for the purpose of Executing or carrying into Effect the intent and meaning of the Deceased and by Acting so far as possible for the Benefit and Advantage of the Estate the Heir at Law and Residuary Legatee a minor they your Petitioner's holding themselves Subject to the like Claims or Demands in Such Sort manner and form as the Testator was in his life time and Claiming Such Right of Action advantage Benefit or legal Demand against the Debtors of the Estate which he the said Testator was Lawfully and Clearly Entitled unto in his Life time and not otherwise — to which said Joint and Seperate Demurrer of these Defendants he the said Complainant did on the Seventh Day of April last past and in this Present year of our Lord One thousand Seven hundred and Eighty three file a Rejoinder therein and thereby Endeavouring to Support the Charges matters and Allegations in the said Amended Bill of

of the said Complainant Contained, but in no part thereof did he the said Complainant Attempt to Shew or produce any Engage=ment or obligation of or from the said Pombahvie Comaroo Coroo=nadum in his Life time or your Petitioners or any or either of the Defendants as the Legal Representatives of the said Testator Since his Decease, for the purpose of Allowing or Consenting to have the matter in dispute Submitted to the Judgement or Decision of the Honble the Mayor's Court, but instead of setting up or Actually Establishing any proof or matter in Support of the said Amended Bill of Complaint and the Charge matters and things therein Stated Suggested and Shewn against your Petitioners and others the aforenamed Defendants, He the said Complainant Entered into a detail of Transactions matters and Occurrences Some of which had Necessarily passed in the Ecclesiastical Court but none of which could in Law or Equity be Adduced Urged or brought in Proof or by way of Evidence in the Honble the Mayor's Court when setting in their Capacity of a Court of Common Law which together with some Evasive and unsupportable Assertions and an Evident Misconstruction of his Majesty's Charter, formed the Rejoinder of the said Complainant to your Petitioner's Joint and Seperate Demurrer — which said amended Bill of Complaint of the said Complainant the Joint and Seperate Demurrer of your Petitioner's together with the Joint and Seperate Demurrers of the other Defendants who Appeared to the said Amended Bill as Executors and Defendants as aforesaid, also — the Rejoinders of the said Complainant to the Several Demurrers — your Petitioners

Shew

Shew unto this Honble Court came on to be heard Argued and Determined upon before the said Honble the Mayor's Court on Friday the Twentieth day of June last past and which was in this Present year of our Lord One thousand Seven hundred and Eighty three — when the said Court thought fit and were pleased to order and Decree and did Accordingly order and Decree that the sum Sued for and Demanded by the said Complainant in and by his said Amended Bill of Complaint and Account Current thereunto Annexed together with the Interest then due and to grow due thereupon together with the Costs on the Amended Bill of Complaint be paid out of the Testators Estate and Effects and that your Petitioners and the other Defendants do Pay all Costs of the Demurrers out of their own Pocket — which will more fully and at large Appear by Attested Copy of the said order Judgement or Decree hereunto Annexed for the inspection of this Honble Court and which is Prayed by your Petitioners to be taken and Received as part of this their Petition and Appeal which said order Decree or Judgement of the said Mayor's Court so Passed or made upon the said Twentieth Day of June last past — your Petitioners Conceive to be Erroneous and are thereby Aggrieved wherefore they your Petitioners do Appeal therefrom to the Judgement of this Honble Court for the following Among other Reasons —

First — Because your Petitioners together with the other Defendants being named in the last Will and Testament of the said Pombahvie Comaroo Coroonadum Deceased or his Executors and having taken upon themselves the Burthen and Execution of the Duties of the said office or Trust as Executors to the Deceased are as one Person in the Law and so to be deemed taken and Considered Representing the said Pombahvie Comaroo Coroonadum Deceased having the same Right title Interest and Claim in and to all and Singular his Estate and Effects Debts dues and Demands in the like manner and under the same Privileges and Restrictions as he the said Testator was Entitled unto or had in his Life time and Subject to every Claimants Demand in Like manner and form as he the said Testator would be if Living and not otherwise

Second — Because the words in his Majesty's Charter describing all matters in Dispute or difference between Indian Natives of Madraspatnam are Plain Express direct and Unequivocal, and such as will Admit of no forced or false Construction your Petitioners as the Legal Representatives of the said Deceased Pombahvie Comaroo Coroonadum do Say that they are Strictly and Legally Entitled to the benefit thereof notwithstanding any thing that have been, or may hereafter be Urged to the Contrary — and therefore they do Conceive that the Judgement or Decree of the said Mayors Court of the Twentieth day of June last past, is Erroneous and ought to be Reversed set a Side and held for Nought. —

Third — Because your Petitioners as the Legal Representatives of the said Deceased Pombahvie Comaroo Coroonadum Considering it their Duty to Act as much as in them Lay for the Benefit of the Estate also of the Heir at Law and Residuary Legatee a minor humbly Conceive that they are bound to insist upon the Rights Benefits and Advantages which they Conceive the said Testator was Entitled unto in his

his Life time and under no pretence whatever to give them up without the Judgement of this Honble Court in whose Equitable Decision they your Petitioners firmly Rely for a Just and proper Construction of the Rights Privileges and Advantages Attendant upon or descending to the Executors or Legal Representatives of Deceased Indian Natives and doubt not but upon due Consideration of the Premises that this Honble Court will be pleased to Reverse the said Order Judgement or Decree of the said Honble the Mayors Court so passed in this Cause upon the said Twentieth Day of June last past as aforesaid.—

Fourth Because your Petitioners humbly beg leave to Represent unto this Honble Court that at the time they your Petitioners Entered upon their Defence to the said Amended Bill of Complaint of the said Complainant they your Petitioners Acted from a Consciousness of Doing Right and have not in any way or manner or through any means whatsoever Committed any waste or Devastation of the Monies Effects Goods or Chattles of the Deceased Testator which have ever come to their Hands Custody or Possession, nor has the Complainant even Attempted to Charge your Petitioners with any such Waste or Devastavit whereby to Render or make your Petitioners Liable to Pay Law Costs and Charges as Defendants out of their own Estates nor is any Proof adduced in Support of the Pretended Debt or Claim of the said Complainant Sufficient to Ground a Decree or Judgement of any Court upon — Wherefore they your Petitioners humbly Conceive that they are injured and heavily Aggrieved by the said Judgement or Decree of the said Mayors Court and humbly hope that this Honble Court will be

Pleased

Pleased to Reverse Annull absolutely make void and set aside the said Judgement or Decree of the said Mayors Court so passed in this Cause on the said Twentieth Day of June last past.—

Fifth Because your Petitioners having Acted to the best of their Judgement and Skill for the Good and Benefit of the Estate ought not under any Pretence to be finally barred deprived of or Precluded from Investigating the Demands or Claim of the said Complainant — which the Judgement or Decree of the said Mayors Court if Carried into Execution or Enforced will Effectually deprive them of for your Petitioners Conceive that no Bond being prefered in Court or Even a Copy annexed to the said Bill of Complaint was Sufficient for them to contest the validity of the Claim set up by the said Complainant upon the Estate of the Deceased without any Apparent Ground or Legal Instrument produced nor was there as your Petitioners are Advised Sufficient proof of the Existence of any Legal Claim or Demand Against the Estate to Warrant or Justifie the Decree or Judgement of the said Mayors Court so passed thereon as Aforesaid.—

For all which Reasons and for such others as may be offered at the Hearing your Petitioners humbly Pray that this Honble Court will be pleased to take the Premisses into their most Serious Consideration and Reverse set aside and fully Annul the Decree or Judgement of the said Mayors Court so made in this Cause on the

Twentieth

Twentieth day of June last past and which was in this Present year of our Lord One thousand Seven hundred and Eighty three — And your Petitioners do further Pray that the said Complainant may be Ordered and Decreed to Pay all Costs of Suit in this Honble Court and also in the Mayor's Court together with such other further and General Relief in all and Singular the Premisses as may be Agreeable to Equity and Good Conscience.—

Edward Ellis
James Johnson
for the Appellants.

Extract from the Minutes of a Court held at the Town Hall on Friday the 20th day of June Anno Domini 1783.

PRESENT

William Webb Esquire Mayor
James Call, Edwd John Holland
Edward Garrow, Thomas Cooper
Hugh Maxwell & Edwd Frowd
Aldermen

Verdapilly
vers
Charles Edward Jones, John Snow, George Maul,
Tremannum Arnachellum Moodelliar, Court Dubash
Davy

Davy Naick Moodeliar, Balla Chengleroyah,
Moodelliar Poongatoor Chengleroyah Moodeliar
Sawmy Ayar and Ayah Sawmy.—

Bill with Copy of an account annexed Read.
Joint and seperate Demurrer of Tereemannum Arnachellum Davy Naick and Ayah Sawmy Read.
Joinder thereto Read.
Demurrer of John Snow and George Maule Read
Joinder thereto Read.
Joint and seperate Demurrer of Balla Chengleroy and Poongatoor Chengleroy Moodeliar Read.
Joinder thereto Read.

The Demurrers of Tereemannum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar, Ayah Sawmy, John Snow, George Maule Balla Chengleroy and Poongatoor Chengleroy Moodelliar the Executors named in the last Will and Testament of Pombahvie Comaroo Cooroonadum deceased and the Complainants Joinders thereto coming on to be Argued and determined this day in the Presence of the Attornies on both sides and the Court having had due Consideration thereon are of Opinion that the Pleas made use of by the Defendants in their Demurrers are insufficient This Court doth therefore think fit to Order and doth Accordingly order that the Defendants Demurrers be thrown out with Costs

to

(L.S.)

to be paid by the Defendants out of their own Pockets—

This Court doth further think fit to order and Decree and doth Accordingly order and Decree that the Defendants do pay unto the Complainant out of the Estate and Effects of Pombahvie Comaroo Coroonadum deceased the full and Just Sum of Three thousand One hundred and Twenty Pagodas (Pagodas 3120..) together with Such Interest as now is or shall hereafter become due thereon until full Payment is made also all Costs of the Amended Bill of Complaint—

Mayor's Court

Hur

(Signed) James Taylor
Regr

A true Copy
Edward Ellis
James Johnson
for the Appellants.

To

To the Right Honble George Lord Macartney
K.B. President and Governor &c Council of
Fort Saint George

In the Court of Appeals

Between Verdapillah of Madras Inhabitant Complainant and Charles Edward Jones John Snow George Maule Tremannum Arnachellum Moodeliar Court Dubash Davy Naick Moodeliar Balla Chengleroy Moodeliar Poongatoor Chengleroy Moodeliar Sawmy Ayah and Ayah Sawmy Executors Named in the last Will and Testament of Pombahvie Comaroo Coroonadum deceased Defendants.—

The Answer of the said Verdapillah to the Petition and Appeal of Tremannum Arnachellum Moodeliar Court Dubash Davy Naick Moodeliar and Ayah Sawmy Three of the Above named Defendants.—

Filed in my Office the 22d August 1783
Charles Freeman
Clk

This Respondent for Answer to the said Petition and Appeal or unto so much thereof as this Respondent is advised Material or necessary for him to make Answer unto Answereth and saith that it is true that this Respondent did on the Seventh day of February last past and which was in the year of Our Lord One thousand Seven

Seven hundred and Eighty three file his Amended Bill of Com-
-plaint in the Honble the Mayor's Court at Madraspatnam
against the said Appellants together with Charles Edward Jones
John Snow George Maule Balla Chengleroy Moodeliar Poogatoor
Chengleroy Moodeliar and Sawmy Ayah as Executors named
in the last Will and Testament of Pombahvie Comaroo Cooroo-
-nadum Deceased for the Sum of Three thousand One
hundred and Twenty Pagodas Current Money of Madras
being the Ballance of an Account Current arising upon a Bond
or Obligation Executed by the said Pombahvie Comaroo Coroo-
-nadum in his life time in favour of this Respondent and
bearing date on or about the Eighteenth day of July which
was in the year of our Lord One thousand Seven hundred
and Seventy two and did therein also Amongst other things shew
and Establish a fair and just demand of the Respondent
against the said Appellants as Executors as aforesaid to which
said Amended Bill of Complaint this Respondent Admits
that the said Appellants appeared by their Attorney at Law
and in due course filed their Joint and Seperate Demurrer
thereto and did therein pretend that the said Amended Bill of
Complaint of this Respondent Contains no just Cause charge
matter or thing in Law or in Equity good or Sufficient to Call
the said Appellants in Question before the said Mayor's Court
either as Executors of the said Pombahvie Comaroo Cooroonadum
deceased, or otherwise and this Respondent doth also Admit
the Several Matters Contained in the said Joint and
Seperate Demurrer of the said Appellants to be such, as
are for that purpose particularly set forth in the said
Petition

Petition and Appeal To which said Joint and Seperate
Demurrer of the said Appellants this Respondent did on the
Seventh day of April in this present year of our Lord one
thousand Seven hundred and Eighty Three, file a Joinder
and did therein among other things set forth that His
Majesty's Charter mentioned and Referred to by the
said Appellants in their said Demurrer was meant
and intended to aid and assist the purposes of Justice
and that under and by Virtue thereof the Honble the
Mayors Court is Authorised to try hear and determine
all Civil Suits actions and Pleas between party and party
that shall or may arise or happen or that have already
arisen or happened within the said Town of Madraspatnam
or within any of the Factories Subject or Subordinate unto
Fort Saint George aforesaid or to the Governor or President
and the Council of Fort Saint George aforesaid except such
Suits or actions shall be between the Indian Natives of
Madraspatnam only in which the same is to be determined
among themselves unless both parties shall by Consent
Submit the same to the determination of the said Mayors
Court which this Respondent humbly insisted that the
Appellants have done as far as in them lay by applying
unto the Honble the Mayor's Court for probate of the Will
of the said Pombahvie Comaroo Coroonadum and therefore
Submitted all matters and things Respecting the Estate
of the Testator to the determination of the said Mayors Court
under whose Sanction and authority the Appellants have
been enabled to intermeddle in affairs of the Testator and to
Receive

Receive money and to give Receipts for and on behalf of the Testator and to Commence actions and institute Suits and file Petitions or to defend and Answer actions Suits and Petitions Relating to the affairs of the said Testator or of his Residuary Legatee now an Infant by name Anna Sawmy whether as Executors to the said Will or as Guardian to the said Infant in all or most of which matters and things the said Appellants or some of them have acted and intermeddled as Executors named in the last Will of the Testator or as Guardians to the said Infant Anna Sawmy as Residuary Legatee under and by Virtue of the said Will, and in most of which matters and things Relating to the Estate of the said Testator the said Appellants might have acted and intermeddled of their own Accord and According to their own Customs without the aid or Sanction of the said Mayor's Court unless called upon in due form of Law before the said Mayor's Court and according to the said Charter to Answer any matter or thing Respecting the said Estate of the said Testator And this Respondent for further Joinder did setforth that instead of determining the matters and things Relating to the said Estate among themselves According to the said Charter and which determination among themselves they the said Appellants presume to be the only mode in which they are Answerable they the said Appellants did in the first instance Crave the said Sanction and Authority of the said Mayors Court in the affairs of the said Testator by proving the said Will of the said Testator and obtaining Probate thereof under the Seal of the said Mayor's Court and that therefore

at

at the same instant that the said Appellants derived a Title to sue under the Sanction and authority of the said Mayors Court in all matters Relating to the Estate of the Testator they Subjected themselves to be sued for the Recovery of all Claims against the said Estate for was it otherwise and that the Suggestions of the Appellants in their Demurrer and Appeal were to be held good and Sufficient it would follow that a native might have an opportunity of Amassing wealth to an unlimited amount on his personal Credit while alive and make his Will in such amanner as to give his Executors a Right to Receive all Monies which might be due to the deceased without Subjecting them to be sued for the Recovery of the Sums so borrowed by the Testator in his life time than which nothing can be more Repugnant to Law and Equity and the Sound Principles of Substantial Justice and this Respondent for further Joinder did setforth that the very Charter to which the said Appellants have Referred in and by their said Demurrer gives this Respondent a Right to sue in manner as he hath done for the said Charter gives to the natives an Exemption from the Process of the said Mayors Court in the following words to wit.— "Except such Suits or Actions shall be between "the Indian Natives of Madraspatnam only—" And this Respondent did further Setforth that in the present instance this Respondent hath instituted his Suit against Charles Edward Jones John Snow and George Maule who are not Natives as well as against the said

Appellants

Appellants and others the Executors named in the said Last Will of the said Combahvie Comoroo Coroonadum and this Respondent did further setforth that altho' the said Charles-Edward Jones John Snow and George Maule as Executors as aforesaid may be said to Represent the said Testator and to possess the same Rights nevertheless they possess them in as full and ample amanner by being Executors as they would by an Assignment thereof from the Testator and have as full and Ample aright and Title to sue for the same as any person not a Native hath under and by Virtue of a Transfer or Assignment for that purpose given and Granted and this Respondent did further in his Sainder setforth that the same Istrument under and by Virtue of which the Appellants appear as Executors as aforesaid gave this Respondent a Title to Judgment or a Decree for the Amount due unto this Respondent upon the Testators said Bond for the proof of the Execution of the Will is a proof of the Debt of the Testator the same being stated and setforth by the Testator in his said Will then and now of Record in the said Mayors Court therefore According to that part of their said Demurrer and Appeal wherein the Appellants say they are Ready to Account and become Subject to every Claimants action as he the said Testator was in his life time this Respondent hath a Title to Judgment or a Decree for the Sum for which he hath so sued Because the said Testator hath Acknowledged and the Appellants have by their said Probate proved this Respondents Claim before the said Mayors Court and this Respondent did further

further setforth that wherever any Remedial Law Charter or Act of Parliament is expressed in Terms which are at all Ambiguous the Interpretation of such Law Charter or Act of Parliament ought to be as beneficial towards the General Relief of the Subject as the words can possibly Admit and this is done Upon the same principles of General and Extensive good which Require that all Penal Statutes should be Construed Strictly — And for further Sainder this Respondent did setforth that under and by Virtue of a Certain Statute or act of Parliament made in the Twenty Seventh year of the Reign of Queen Elizabeth Chapter the fifth and also under and by Virtue of one other Statute or act of Parliament made in the fourth year of the Reign of Queen Anne Chapter the Sixteenth and which is Confirmatory of the said Act of Queen Elizabeth this Respondent is entitled to Judgment for the Amount due under and by Virtue of the Bond or Obligation stated by the said Testator in his said Will and mentioned and Referred to by this Respondent in his Bill of Complaint and the Account Current thereunto annexed because that the Pleadings made use of by the Appellants in their said Demurrer are frivolous and Vexations nor have they Advanced one Argument in Law or Equity why Judgment ought not to pass against them — and that therefore and as this Respondent hath fully joined to the Demurrer of the said Appellants he humbly hoped that it would Appear in Justice Equity and Right That this Respondent is not by any thing the Appellants have alledged precluded or deprived of his Right of Action and to the Recovery

of

of his just demands and this Respondent did further and lastly pray the Judgment of the said Mayor's Court with such Exemplary Costs in this matter as to the said Mayors Court may appear Right And this Respondent Saith that the said Amended Bill of Complaint of this Respondent the Joint and Seperate Demurrer of the said Appellant together with the Joint and Seperate Demurrer of the other Defendants who appeared to the said Amended Bill of Complaint as Executors and defendants as aforesaid also the Joinder of this Respondent came on to be heard and determined before the said Mayors Court on Friday the Twentieth day of June last past and which was in this present year of our Lord One thousand Seven hundred and Eighty Three, when the said Court were pleased to Order and Decree and did Accordingly order and Decree that the Sum Sued for and demanded by this Respondent in and by his said Amended Bill of Complaint and Account Current thereunto Annexed together with the Interest then due and to grow due thereupon together with the Costs on the Amended Bill of Complaint be paid out of the Testators (meaning the said deceased Pombahvie Comaroo Coroonadums) Estate and Effects & that the said Appellants and the other Defendants do pay all Costs of the demurrer out of their own Pockets as will more fully appear by the said order as well as by the other Proceedings in this Cause to which this Respondent Craves leave to Refer the same being now before this Honble Court and to have such full and Ample benefit thereof and of every part thereof as if the same were herein fully setforth This Respondent further Saith that the said Appellants had not any Cause whatever to Consider themselves

Aggrieved

Aggrieved by the said Order or Decree of the Honble the Mayors Court either by any thing setforth by the Appellants in their said Demurrer or in their said Petition and Appeal the Reasons therein urged by the Appellants Containing no good Argument to Warrant any other Judgment than what has been given as aforesaid by the said Mayor's Court for this Respondent in Answer to the first Reason contained in the Appellants said Petition and Appeal saeth that he allows the Executors to have the same Right Title Interest and Claim and to be under the same Priviledges and Restructions in all matters Concerning the said Testator as he the said Testator would enjoy or be Subject to if alive and therefore as the Executors have Submitted all his Concerns to the Jurisdiction of the said Mayors Court this Respondent has the same Right to sue the said Executors as he would have had to sue the Testator had he Done so during his life time This Respondent in Answer to the Second Reason of the Appellant Saith that it is true that the words of the Charter are Plain express direct and unequivocal and therefore as the Executors have as aforesaid Submitted all matters Relating to the Estate of the said Testator to the Jurisdiction of the Mayors Court And as this Respondent by preferring his Complaint for their decision hath also submitted to the same Jurisdiction and as the Charter is Restrictive only where the Cause of Action is between the Indian Natives of Madraspatnam only the said Court was under either Reason Competent to take the Merits of this Respondents Claim into Consideration

and

and give Judgment thereon This Respondent in Answer to the third Reason urged in the said Petition and Appeal saith that he allows it to be the duty of the Appellants as legal Representatives of the said deceased Bombahvie Cornan Coroonadum to act the most in their power for the benefit of the Estate and of the Heir at Law and Residuary Legatee, and this Respondent saith that the Conduct of the Appellants would have more accorded to those Principles had they paid this Respondents Claim rather than to have Subjected the Testators Estate to Expense and this Respondent to Vexation by a Suit the issue of which is upon the same ground of Validity as the Right of Interference of the Appellants: the same Instrument to wit the Will of the Testator under which the Appellants act expressly acknowledging under the hand and Seal of the Testator the Justness of this Respondents Claim — This Respondent in Answer to the fourth Reason urged by the Appellants saith that their Demurring to this Respondents Right of Action under the Circumstances above stated is in itself an injury to the Estate of the said infant whose Right as Residuary Legatee the Court is bound to protect and is also an act of Oppression to this Respondent and therefore well deserving that Censure of the Mayors Court which they inflicted by Ordering the Appellants to pay Costs of such Demurrer out of their own Pocket This Respondent in Answer to the fifth reason of the Appellants saith that the Bond in Question being the same as is Specially stated by the Testator in his will was established in proof before the Court at the same

Instant

Instant the Will was proved, and this Respondent further saith that the Demurrer being an admisson of the fact such fact cannot afterwards be brought in Question by the person Demurring the Law Arising thereon being the only point at issue before the Court besides as the Demurrer states not any doubt of the Existence of the Bond it is irregular in the Appellants to depart from the Demurrer by urging any matter as ground of appeal which is not therein setforth — This Respondent further saith that it appears by this Respondents Bill of Complaint that several Claims have been admitted and satisfied which were not stated by the Testator in his Will and that the European Executors being Conscious of the Justness of this Respondents Claim from time to time promised to settle with him altho they afterwards failed in the performance thereof, and it also is stated in the said Bill of Complaint that the said European Executors had assigned over the Effects of the Testator to the Appellants and the other Native Executors in order that they might settle the Several claims still due on Account of the Testator under a Consciousness of all which and of the Justice of the said Decree of the Mayors Court the said European Executors have Submitted thereto nor have they Appealed therefrom.—

For all which Reasons and Such others as may be offered at the hearing this Respondent prays that this Honble Court will be pleased to affirm the said Decree of the Honble the Mayors Court made in this Cause on the said Twentieth day of June in this present year of our Lord one thousand Seven hundred and Eighty Three and that the Petition and Appeal of the Appellants be dismissed with Costs to be paid by the Appellants.—

Stephen Popham
for Respondent.—

Court

Court of Appeals at Madraspatnam } ss Thursday the 20th May Anno Domini 1784

Between Tereemannum Arnachellum Moodeliar Court Dubash Davy Naick Moodeliar and Ayah Sawmy Three of the Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum deceased Appellants and Verdapillah Respondent.—

This Cause coming on this day to be heard and debated before this Court by the Attornies on both sides upon hearing the Petition of Appeal and Answer & the several Exhibits of the Honble the Mayors Court together, with the Order of the said Court given in this Cause on Friday the 20th Day of June Anno Domini 1783 likewise the Decree of the said Court given in the said Cause on the said 20th day of June Anno Domini 1783 upon due Consideration had of the Matters therein severally Contained and of the Pleadings and Arguments used by the Attornies on both Sides this Court doth think fit to order and Decree and doth Accordingly order and Decree that the Order of the Honble the Mayors Court dated the 20th day of June Anno Domini 1783, likewise the Decree of the said Court dated the ~~said~~ 20th Day of June Anno Domini 1783 do stand affirmed and that the Appellants Petition be hence dismissed with Costs.—

Hur

(Signed) Chas. Freeman Clk

To the Kings Most Excellent Majesty in Council

Between Verdapillah of Madras Inhabitant and Complainant and Charles Edward Jones John Snow George Maule Tereemannum Arnachillum Moodelliar Court Dubash Davy Naick Moodelliar Balla Chingleroy Moodelliar Poongatoor Chingleroy Moodelliar Sawmy Ayah and Ayah Sawmy Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum Deceased Defendants.—

The humble Petition and Appeal of Tereemannum Arnachillum Moodelliar Court Dubash Davy Naick Moodelliar and Ayah Sawmy three of the Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum deceased.—

Sheweth.

That on the Seventh day of February which was in the year of our Lord One thousand seven hundred and Eighty three the above named Complainant Exhibited and filed in Honble the Mayor's Court of Madraspatnam, his Amended Bill of Complaint against your Petitioners together with Charles Edward Jones John Snow George Maule Balla Chingleroy Moodeliar Poongatoor Chingleroy Moodeliar and Sawmy Ayah as Executors named in the last Will

Filed in my Office the 2d June 1784 Chas. Freeman Clk

Will and Testament of Combahvie Comaroo Coroonadum Deceased in and by which said Amended Bill of Complaint so exhibited against your Petitioners and the other aforenamed Defendants he the said Complainant setforth that some time on or about the Eighteenth day of July which was in the year of our Lord one thousand Seven hundred and Seventy two, the said Combahvie Comaroo Coroonadum applied unto him the said Complainant for the loan of two thousand Star Pagodas with which Sum of Two thousand Star Pagodas he the said Complainant saith he accomodated the said Testator in his life time and for securing the Repayment thereof accepted the Bond or written Obligation of him the said Testator bearing date the Eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy two, to establish the said demand of the said Complainant against your Petitioners and the other Defendants as Executors as aforesaid on account is annexed to the amended Bill of Complaint and prayed to be taken and admitted as part of the said amended Bill by which said Account is shewn or stated that on the said Eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy two, the said Testator was indebted unto the said Complainant in the Sum of Two thousand Pagodas the next charge on the Debit Side under date the Eighteenth day of March which was in the year of our Lord One thousand Seven hundred and Eighty two, is Interested for nine years and eight Months at Twelve per Cent per Annum Two thousand three hundred and Twenty Pagodas and by way of Credit One thousand two hundred Pagodas is stated to have

have been Received by the said Complainant of and from the Testator in his life time on Account of Interest from the date of the declared Bond to the Eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy Seven, Then charging the Ballance to be three thousand one hundred and Seventy Pagodas Current Money of Madras which the said Complainant in and by his said amended Bill of Complaint expressly charge your Petitioners and the other Defendants to stand justly and truely indebted unto him the said Complainant in as the Executors named in the last Will and Testament of the said Combahvie Comaroo Coroonadum deceased without Producing or offering the Pretended Bond or annexing a Copy thereof or any Voucher to establish the pretended debt other than the Account Current aforestated made up to the Eighteenth day of March which was in the year of our Lord one thousand Seven hundred and Eighty two or producing or even asserting that any Agreement was ever made or entered into by and between the said Testator in his life time and the said Complainant that in Case of Dispute delay of payment or other Difference the same should be Submitted to the Judgment or Decision of the Honble the Mayors Court at Madraspatnam on the Contrary it fully appears by the said Complainants own Shewing that the said Bond if any there be was given by the Testator and Received by the Complainant after and according to the mode and Custom immemorial of the Inhabitants of Madraspatnam and the Districts thereof towards each other nor doth it appear to have been the intention of either of the Parties at the time of the Testators executing the said Bond and the Complainants

Complainants receiving it that the same should be received considered or taken otherwise than according to the custom of the Natives of India towards each other your Petitioners further shew unto your Most Excellent Majesty in Council that the said amended Bill of Complaint of the said Complainants containing no other material Charge against your Petitioners than the aforestated Vague uncertain and unsupported claim of the said Complainant in manner and Form as before is setforth your Petitioners could not but consider the length of the Bill and the many matters Transactions and Occurrances therein setforth and introduced as extraneous and foreign to the purpose of establishing a fair and just Demand either in Law or in Equity and that the same appeared more calculated to oppress and aggrieve your Petitioners by excessive and very heavy Expences in the Law than to Answer any just purpose whatsoever to which said Amended Bill of the said Complainant your Petitioners appeared by their Attorney at Law and in due course filed their joint and Seperate Demurrer thereto for as much as they your Petitioners considered the said Bill of Complaint of the said Complainant to contain no just Cause Charge matter or Thing either in Law or in Equity good or Sufficient to Call your Petrs in Question before the said Mayors Court either as Executors of the said Combahrie Comaroo Coroonadum deceased or otherwise and for special Cause of Demurrer your Petitioner among other Causes and Reasons stated that by and from the Complainants own Shewing in and by his said amended Bill of Complaint that the said deceased Combahrie Comaroo Coroonadum in his life time was an Indian Native of Madraspatnam or the Districts thereof and that he the said Complainant was also

by

by his own shewing an Indian Native of Madraspatnam that the said Amended Bill of Complaint being so exhibited against your Petitioners and other aforenamed Defendants as Executors of the last Will and Testament of the said Combahrie Comaroo Coroonadum they the said Defendants were and ought in Law and Equity to be taken and considered as one Person in any Act matter or Transaction relative to the said Estate or the Discharge of their Duties as Executors as aforesaid being only the legal Representatives of the deceased Testator in whose Place they stand wherefore your Petitioners in their said Joint and Seperate Demurrer stated that the said Amended Bill of the said Complainants was irregular and expressly Contrary to that Clause of your Most Excellent Majesty's Charter which prohibits all Indian Natives of Madraspatnam to commence Suits or Actions in the Honble the Mayors Court at Madraspatnam against each other and which said Clause of your said Most Excellent Majesty's Charter expressly provides orders and directs that all Suits or Actions between such Indian Natives be determined among themselves and not otherwise Unless both Parties shall by Consent Submit the same to the Determination of the said Mayors Court which Consent of the said Combahrie Comaroo Coroonadum in his life time or of those Defendants as Executors since the decease of the said Combahrie Comaroo Coroonadum or either or any of them the Defendants to the said Amended Bill of Complaint of the said Complainant was never had procured or obtained in writing or otherwise for the purpose of having the Merits of the Matter in Dispute decided upon or adjudged by the said Mayors Court wherefore your Petitioners further stated in their said Demurrer that such Consent could not be allowed or granted

at

at that time by these Defendants without Inquiry to the Estate of the said Testator whose Executors and legal Representatives your Petitioners in and by their said Demurrer declared themselves to be for the purpose of executing or carrying into Effect the Intent and meaning of the Deceased and by acting as far as possible for the benefit and Advantage of the Estate the Heir at Law and Residuary Legatee a Minor they your Petitioners holding themselves subject to the like Claims or Demands in such Sort Manner and Form as the Testator was in his life time and Claiming such Right of Action Advantage Benefit or legal Demand against the Debtors of the Estate which he the said Testator was lawfully and clearly entitled unto in his life time and not otherwise to which said Joint and Seperate Demurrer of these Defendants he the said Complainant did on the seventh day of April Which was in the year of our Lord One thousand seven hundred and Eighty three file a Joinder therein and thereby endeavouring to support the Charges Matters and Allegations in the said amended Bill of the said Complainant containing but in no Part thereof did he the said Complainant attempt to shew or produce any Engagement or Obligation of or from the said Combahrie Comaroo Coroonadum in his life time or your Petitioners or any or either of the Defendants as the legal Representatives of the said Testator since his Decease for the Purpose of allowing or consenting to have the Matters in Dispute submitted to the Judgment or Decision of the Honble the Mayor's Court but instead of setting up or actually establishing any

Proof

Proof or matter in Support of the said amended Bill of Complaint and the Charges matters and things therein stated suggested and shewn against your Petitioners and others the aforenamed Defendants he the said Complainant entered into a Detail of Transactions matters and Occurrences some of which had Necessarily passed in the Ecclesiastical Court but none of which could in Law or Equity be adduced urged or brought in proof or by way of Evidence in the Honble the Mayor's Court when setting in their Capacity of a Court of Common Law which together with some evasive and insupportable Assertions and an evident Misconstruction of your Most Excellent Majesty's Charter formed the Joinder of the said Complainant to your Petitioners joint and Seperate Demurrer which said amended Bill of Complaint of the said Complainant the joint and seperate Demurrer of your Petitioners together with the joint and seperate Demurrer of the other Defendants who appeared to the said Amended Bill as Executors and Defendants as aforesaid also the Joinders of the said Complainant to the several Demurrers your Petitioners shew unto your Most Excellent Majesty in Council came on and was determined by the Honble the Mayors Court at Madraspatnam the Twentieth day of June One thousand Seven hundred and Eighty three in manner and Form following.

Present

William Webb Esquire Mayor
James Call. Edwd John Holland
Edward Garrow Thomas Cooper
Hugh Maxwell & Edward Trowd
Aldermen

Verdapully

Vedapully

vers

Charles Edward Jones John Snow George Maule Sere=
=mannum Arnachillum Moodelliar Court Dubash
Davy Naick Moodelliar Balla Chingleroyah Moodelliar
Coongatoore Chingleroyah Moodelliar Sawmy Ayar
and Ayah Sawmy.-

Bill with copy of an Account annexed Read.

Joint and Seperate Demurrer of Seremannum Arnachillum
Davy Naick and Ayah Sawmy Read.

Joinder thereto Read.

Demurrer of John Snow and George Maule Read.

Joinder thereto Read.

Joint and seperate Demurrer of Balla Chingleroyah and
Coongatoor Chingleroy Moodelliar Read.

Joinder thereto Read.-

The Demurrers of Seremannum
Arnachillum Moodelliar Court Dubash Davy Naick
Moodelliar Ayah Sawmy John Snow George Maule Balla
Chingleroy and Coongatoore Chingleroy Moodelliar the Execu=
=tors named in the last will and Testament of Combatchie
Comaroo Coroonadum Deceased and the Complainants'
Joinders thereto coming on to be Argued and determined
this Day in the Presence of the Attornies on both Sides
and the Court having had due Consideration thereon are of
Opinion that the Pleas made Use of by the Defendants
in their Demurrer are in Sufficient This Court doth
therefore think fit to Order and doth accordingly order that the
Defendants Demurrers be thrown out with Costs to be paid by
the Defendants out of their own Pockets.-

This Court doth further think fit
to order and decree and doth accordingly order and Decree that
the Defendants do pay unto the Complainant out of the Estate
and Effects of Combahrie Comaroo Coroonodum deceased the
full and just Sum of Three thousand one hundred and
Twenty Pagodas (Pagodas 3120) together with such
Interest as now is or shall hereafter become due thereon untill
full Payment is made also all Costs of the Amended Bill
of Complaint.-

Pour

(Signed) James Taylor
Regr.

which said Order Decree or Judgment of the said Mayor's
Court your Petitioners conceiving to be erroneous and
themselves to be thereby aggrieved did appeal therefrom to
the Right Honble the Governor President and Council of
Fort Saint George as the Court of Appeals established by Royal
Charter for Madraspatnam and the Districts thereof In
which said Petition and Appeal so preferred on the Part of
your Petitioners to the Honble the Court of Appeals at
Madraspatnam was in like manner briefly Recited all
the foregoing Matters and Circumstances and praying
Relief for your Petitioners against the said order Decree or
Judgment

Judgment to which said Petition and Appeal of your Petitioners the said Complainant by his Attorney put in his Answer thereby pretending because your Petitioners had applied to the Mayor's Court for a Probate of the Will of the said Combahrie Comaroo Coroonadum and which Application was so made by your Petitioners to the said Honble Mayor's Court in their ecclesiastical Capacity only that your Petitioners had necessarily submitted the whole of the Matters respecting the Estate of the said Testator Combahrie Comaroo Coroonadum to the Determination of the said Honble Mayor's Court but which your Petitioners by no means admit as it would be creating a Power in the said Honble Mayor's as to their legal and equitable Capacity expressly Contrary to that Clause of your Most Excellent Majesty's Charter which prohibits all Indian Natives of Madraspatnam to Commence Suits or Actions in the Honble the Mayor's Court at Madraspatnam against each other and expressly orders directs that all Differences and Disputes between such Indian Natives be determined among themselves your Petitioners further shew unto your Most Excellent Majesty in Council that your Petitioner's said appeal and the Respondents said Answer came on to be heard and Determined before the Honble the Court of Appeals at Madraspatnam on Thursday the Twentieth day of May last past and in this present year of our Lord One thousand Seven hundred and Eighty four when the said Court of Appeals at Madraspatnam were pleased to order and decree and did Accordingly Order and Decree that the Order and Decree of the said Mayor's Court against your Petitioner's

Do

Do stand affirmed and that your Petitioners do pay all Costs of Suit all which will more fully and at large appear by an attested Copy of the said Order or Decree hereunto annexed and which is prayed by your Petitioners to be taken and received as part of this his Petition and Appeal by which said Order Sentence or Decree of the said Honble the Court of Appeals at Madraspatnam so made and given against your Petitioners on the said Twentieth day of May last past your Petitioners conceive themselves are much aggrieved and injured and therefore humbly appeal to the Judgment and final Determination of your Most Excellent Majesty in Council for the following among other Reasons.-

Because your Petitioners together with the other Defendants being named by the said Combahrie Comaroo Coroonadum Deceased as his Executors in his last Will and Testament as his Representatives cannot have acquired a greater Right Title Interest and Claim in and to all the Estate and Effects Debts Dues and Demands of the said Testator than he would have been entitled to during his life time And every Claimant's Demand is subject to the same Privileges and Restrictions and to be made in like manner and Form as if he the said Testator had been living.-

Second Because the words in your Most Excellent Majesty's Charter directing all matters in dispute or Difference between Indian Natives of Madraspatnam are plain express direct and unequivocal and such as will admit of no forced or false Construction your Petitioners as the legal Representatives of the said Deceased Combahrie Comaroo Coroonadum do say that they are strictly and legally entitled to the Benefit thereof notwithstanding

any

any thing that may have been or may hereafter be urged to the Contrary and therefore they do conceive that the Judgment Order or Decree of the said Mayor's Court and the Order and Decree of the said Court of Appeals are erroneous and ought to be reversed set a Side and held for Nought.-

Third BECAUSE your Petitioners as the legal Representatives of the said deceased Pombatvie Comaroo Coromadum considering it their Duty to act as much as in them lye for the Benefit of the Estate Also of the Heir at Law and Residuary Legatee a Minor humbly conceive that they are bound to insist upon the Rights Benefits and Advantages which they Conceive the said Testator was entitled unto in his life time and under no Pretence whatever to give them up without the Judgment of your Most Excellent Majesty in Council in whose equitable and gracious Decision they your Petitioners firmly rely for a just and proper Construction of the Rights Privileges and Advantages Attendant upon or descending to the Executors or Legal Representatives of deceased Indian Natives and doubt not but upon due Consideration of the Premises that your Most Excellent Majesty in Council will be graciously pleased to reverse the said Order and Decree of the said Honble Mayor's Court so passed in this Cause on the said Twentieth day of June in the year of our Lord One thousand Seven hundred and Eighty two as also the said Order and Decree of the said Honble the Court of Appeals so past in this Cause on the said Twentieth day of May last past.-

Fourth BECAUSE your Petitioners humbly begs leave to represent unto your Most Excellent Majesty in Council that at the time they

they your Petitioners entered upon their Defence to the said amended Bill of Complaint of the said Complainant they your Petitioners acted from a Consciousness and Conviction of doing Right and have not in any way or Manner or by any means whatsoever Committed any Waste or Devastavit whereby to render or make your Petitioners liable to pay law Costs and Charges as Defendants out of their own Estates nor is any Proof adduced in Support of the pretended Debt or Claim of the said Complainant sufficient to found a Decree or Judgment of any Court upon.-

For All which Reasons and for such Others as may be heard at the Hearing of Counsel learned in the Law or Solicitors on the Part of your Petitioners they your Petitioners most humbly pray that the said Order and Decree of the Mayor's Court at Madraspatnam so made and given against your Petitioners on the said Twentieth day of June which was in the year of our Lord One thousand Seven hundred and Eighty two and also the said Decree or Judgment of the said Court of Appeals at Madraspatnam of the Twentieth day of May last past and in this Present year of our Lord one thousand Seven hundred and Eighty four be reversed and for ever set a Side with Costs to be paid unto your Petitioners and your Petitioners Most humbly pray that your Most Excellent Majesty in Council will be graciously pleased to grant him such other General and Particular

Relief

Relief in all and Singular the Premises as shall appear agreeably to Law and Equity.

And your Petitioners as in Duty Bound will Ever Pray &c.

Charles Baker
for Appellant

Court of Appeals at Madraspatnam } ss

Thursday the 20th May Anno Domini 1784

Between Tereemannum Arnachillum Moodeliar Court Dubash Davy Naick Moodeliar and Ayah Sawmy three of the Executors Named in the last Will and Testament of Pombahvie Comaroo Coroonadum deceased Appellants and Verdapillah Respondent.

This Cause coming on this day to be heard and debated before this Court by the Attornies on both Sides upon hearing the Petition and Appeal and Answer and the Several Exhibits of the Honble the Mayor's Court together with the Order of the said Court given in this Cause on Friday the 20th

20th day of June Anno Domini 1783, likewise the Decree of the said Court given in the said Cause on the said 20th day of June Anno Domini 1783, upon due Consideration had of the matters therein severally Contained and of the Pleadings and Arguments used by the Attornies on both Sides. This Court doth think fit to Order and Decree and doth Accordingly Order and Decree that the Order of the Honble the Mayor's Court dated the 20th day of June Anno Domini 1783 likewise the Decree of the said Court dated the said 20th day of June Anno Domini 1783, do stand Affirmed and that the Appellants Petition be hence Dismissed with Costs.

Vcur
Charles Freeman Cr

To

To the Kings Most Excellent Majesty in Council

Between Verdapillah of Madras Inhabitant Complainant and Charles Edward Jones John Snow George Maule Temannum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar Balla Chengleroy Moodeliar Poongatoor Chengleroy Moodeliar Sawmy Ayah and Ayah Sawmy Executors named in the last Will and Testament of Pombahvie Comaroo Coroonadum deceased Defendants.

The Answer of the said Verdapillah to the Petition and Appeal to your Most Excellent Majesty in Council of Teremannum Arnachellum Moodelliar Court Dubash Davy Naick Moodelliar and Ayah Sawmy three of the above named Defendants.

This Respondent by way of Answer to the said Petition and Appeal to your Most Excellent Majesty in Council of the said Appellants or unto so much thereof as Concerns this Respondent to make Answer unto saith he Admits it to be true that this Respondent did on the Seventh day of February which was in the year of our Lord One thousand Seven hundred and Eighty three file his Amended Bill of Complaint in the Honble the Mayor's Court at Madraspatnam against the said Appellants together with Charles

Filed in my Office the 9th Sept. 1784
Chas. Freeman
Clk.

Charles Edward Jones John Snow George Maule Balla Chengleroy Moodelliar Poongatoor Chingleroy Moodelliar and Sawmy Ayah as Executors named in the Last Will and Testament of Poombavie Comaroo Coroonadum Deceased for the Recovery of the Sum of Three thousand one hundred and Twenty Pagodas current Money of Madras being the Ballance of an Account Current arising upon a Bond or obligation executed by the said Poombavie Comaroo Coroonadum, in his Life time in favor of this Respondent, and bearing date on or about the Eighteenth day of July which was in the year of our Lord One thousand Seven hundred and Seventy Two, and this Respondent did therein amongst other things shew and establish a fair and just demand of this Respondent against the said Appellants as Executors as aforesaid having stated in his said Bill of Complaint that the said Poombavie Comaroo Coroonadum had setforth as part of his Last Will and Testament the Bond he owed unto this Respondent as being the same mentioned in this Respondents said Bill of Complaint and that therefore this Respondent had the same Title to Judgment and Satisfaction for his said demand which the Petitioners had to Probate of the Will and to act in the Concerns of the said Testator. to which said Amended Bill of Complaint this Respondent admits that the said Appellants appeared by their Attorney at Law and in due Course filed their Joint and Seperate Demurrer thereto and did therein pretend that the said Amended Bill of Complaint of this Respondent Contains no just Cause Charge Matter or thing in Law or in Equity good or sufficient to call the said Appellants in question before the said Mayor's Court either as Executors of the said Poombahvie Coomaroo Coorroonodum deceased or otherwise, and this Respondent

Respondent doth also admit the several Matters Contained in the said
Joint and Seperate Demurrer of the said Appellants to be such as
for that purpose particularly setforth in the said Petition and
Appeal to which said Joint and Seperate Demurrer of the said
Appellants this Respondent did on the Seventh day of April
which was in the year of our Lord One thousand Seven hundred
and Eighty Three, file a Joinder and did therein Amongst other
things setforth that his Majestys Charter mentioned and referred
to by the said Appellants in their said Demurrer was meant and
intended to aid and assist the purposes of Justice and that
and by virtue thereof the Honble the Mayors Court is authorised
to try hear and determine all Civil Suits actions and Pleas
between party and party that shall or may arise or happen
that have already arisen or happened within the said Town
Madras Patnam or within any of the Factories Subject or
Subordinate unto Fort Saint George aforesaid or to the Governor
or President and the Council of Fort Saint George aforesaid and
such Suits or actions shall be between the Indian Natives
Madraspatnam only in which Case the same is to be determined
among themselves unless both parties shall by Consent Submit
the same to the determination of the said Mayors Court which
this Respondent humbly insisted that the Appellants have
as far as in them lay by applying unto the Honble the Mayors
Court for Probate of the Will of the said Poombavie Comaros
=nadum which they obtained under the Seal of the said Court
by force and virtue whereof the Appellants have Submitted
the Concerns of the said Estate to the Consideration of the Mayors
Court and have also been enabled to entermeddle in the Affairs

of the Testator and to receive money and to give Receipts for and on
behalf of the Testator and to Commence actions and institute Suits
and file Petitions or to defend and Answer actions Suits and
Petitions Relating to the affairs of the said Testator or of his
Residuary Legatee now an Infant by name Annah Sawmy
whether as Executors to the said Will or as Guardians to the
said Infant in all or most of which Matters and things
the said Appellants or some of them have acted and entermeddled
as Executors named in the Last Will of the Testator or as Guardians
to the said Infant Annah Sawmy as Residuary Legatee under
and by virtue of the said Will, and in most of which matters
and things Relating to the Estate of the said Testator the said
Appellants might have acted and entermeddled of their own
accord and according to their own Customs without the aid or
Sanction of the said Mayors Court unless called upon in due
form of Law before the said Mayors Court and according to the
said Charter to answer any matter or thing Respecting the same
And this Respondent for further Joinder did setforth that instead
of determining the matters and things Relating to the said Estate
among themselves according to the said Charter and which
determination among themselves they the said Appellants presume
to be the only mode in which they are Answerable they the said
Appellants did in the first instance Crave the said Sanction and
Authority of the said Mayors Court in the affairs of the said
Testator by proving the said Will of the said Testator and
Obtaining Probate thereof under the Seal of the said Mayors
Court and that therefore at the same Instant that the said
Appellants derived a Title to sue under the Sanction and

authority

authority of the said Mayors Court in all matters Relating to the Estate of the Testator they Subjected themselves to be sued for the Recovery of all Claims against the said Estate for was it other wise and that the Suggestions of the Appellants in their Demurrer and Appeal were to be held good and sufficient it would follow that a Native might have an opportunity of Amassing Wealth to an Unlimited Amount on his personal Credit while alive and make his Will in such a manner as to give his Executors a right to Receive all monies which might be due to the Deceased without Subjecting them to be sued for the Recovery of the Sums so borrowed by the Testator in his life time than which nothing can be more Repugnant to Law and Equity and the Sound Principles of Substantial Justice and this Respondent for further Joinder doth setforth that the very Charter to which the said Appellants have Referred in and by their said Demurrer gives this Respondent a Right to sue in manner as he hath done for the said debt gives to the Natives an Exemption from the process of the said Mayors Court in the following words to wit.— "Except such suits or actions shall be between the Indian Natives of Madrasapatnam only." And this Respondent did further Setforth that in the present instance this Respondent hath instituted his Suit against Charles Edward Jones John Snow and George Maule who are not Natives as well as against the said Appellants and others the Executors named in the said last Will of the said Boombavie Oomaroo Oorroonadum and this Respondent did further setforth that altho the said Charles Edward Jones John Snow and George Maule as Executors as aforesaid may be said to Represent the said Testator and to possess the

the same Rights nevertheless they possess them in as full and ample a manner by being Executors as they would by an assignment thereof from the Testator and have as full and ample a Right and title to sue for the same as any person not a native hath under and by Virtue of a Transfer or assignment for that purpose given and granted And this Respondent did further in his Joinder setforth that the same Instrument under and by virtue of which the Appellants appear as Executors as aforesaid gave this Respondent a Title to Judgment or a Decree for the amount due unto this Respondent upon the Testator's said Bond, for the proof of the Execution of the Will is a proof of the debt of the Testator the same being stated and setforth by the Testator in his said Will then and now of Record in the said Mayor's Court therefore according to that part of their said Demurrer and Appeal wherein the Appellants say they are Ready to account and become Subject to every Claimants action in like manner as he the said Testator was in his life time this Respondent hath a Title to Judgment or a Decree for the Sum for which he hath so sued because the said Testator hath Acknowledged and the Appellants have by their said Probate proved this Respondents claim before the said Mayors Court and this Respondent did further Setforth that wherever any Remedial Law Charter or act of Parliament is expressed in terms which are at all ambiguous the interpretation of such Law Charter or act of Parliament ought to be as beneficial towards the General Relief of the Subject as the words can possibly admit and this is done upon the same principles of General and extensive good which Require that all penal Statutes should be Construed Strictly.— And for further

Joinder

Joinder this Respondent did Setforth that under and by virtue of a certain Statute or act of Parliament made in the Twenty Seventh year of the Reign of Queen Elizabeth Chapter the fifth and also under and by Virtue of one other Statute or act of Parliament made in the fourth year of the Reign of Queen Anne Chapter the Sixteenth and which is Confirmatory of the said Act of Queen Elizabeth this Respondent is entitled to Judgment for the Amount due under and by virtue of the Bond or Obligation stated by the said Testator in his said Will and mentioned and referred to by this Respondent in his Bill of Complaint and the Account Current thereunto Annexed Because that the Pleadings made use of by the Appellants in their said Demurrer are frivolous and vexations nor have they advanced one Argument in Law or Equity why Judgment ought not to pass against them and that therefore and as this Respondent hath fully Joined to the Demurrer of the said Appellants he humbly hopes that it would appear in Justice Equity and Right that this Respondent is not by any thing the Appellants have alleged precluded or deprived of his Right of Action and to the Recovery of his just demands and this Respondent did further and lastly Pray the Judgment of the said Mayors Court with such Exemplary Costs in this Matter as to the said Mayors Court might appear Right and this Respondent saith that the said Amended Bill of Complaint of this Respondent The Joint and Seperate Demurrer of the said Appellants together with the Joint and Seperate Demurrer of the other Defendants who appeared to the said Amended Bill of Complaint as Executors and Defendants as aforesaid also the Order of this Respondent came on to be heard and Determined before the

the said Mayors Court on Friday the Twentieth day of June which was in the year of our Lord one thousand Seven hundred and Eighty Three when the said Court were pleased to order and Decree and did Accordingly Order and Decree that the Sum sued and demanded by this Respondent in and by his Amended Bill of Complaint and Account Current thereunto annexed together with the Interest then due and to grow due thereupon together with the Costs on the Amended Bill of Complaint be paid out of the Testators (meaning the said Deceased Combavie Cornaroo Cooroonadumé) Estate and Effects and that the said Appellants and the other Defendants do pay all Costs of the Demurrer out of their own Pockets and this Respondent saith that the said Appellant did Appeal to the Honble the Court of Appeals of Madraspatnam pretending the said Decree to be Erroneous and that they were Aggrieved thereby — To which said Petition and Appeal this Respondent did put in his Answer thereto and did therein amongst other things fully state that the said Appellants had not any Cause whatever to Consider themselves aggrieved by the said Order or Decree of the said Mayor's Court either by any thing setforth by the Appellants in their said Demurrer or in their said Petition and Appeal — The Reasons therein urged by the Appellants Containing no good Argument to warrant any other Judgment than what has been given as aforesaid by the said Mayors Court for this Respondent in Answer to the First Reason Contained in the Appellants said Petition and Appeal to the Honble the Court of Appeals at Madraspatnam did Setforth that this Respondent allows the Executors to have the same Right title Interest and Claim and to be under the same privileges and Restrictions in all matters

Concerning

Concerning the said Testator as he the said Testator would enjoy or be subject to if alive and therefore as the Executors have submitted all his Concerns to the Jurisdiction of the said Mayors Court This Respondent has the same Right to sue the said Executors as he would have had to sue the Testator had he done so during his life time this Respondent in Answer to the Second Reason in the said Petition and Appeal did setforth that it is true that the words of the Charter are plain Express direct and unequivocal and therefore as the Executors have as aforesaid submitted all matters Relating to the Estate of the said Testator to the Jurisdiction of the Mayors Court and as this Respondent by preferring his Complaint for their decision hath also Submitted to the same Jurisdiction and as the Charter is Restrictive only where the Cause of Action is between the Indian Natives of Madras Patnam only the said Court was under either Reason Competent to take the Merits of this Respondents Claim into Consideration and give Judgment thereon. This Respondent in Answer to the Third Reason urged in the said Petition and Appeal did setforth that he Allows it to be the duty of the Appellants as legal Representatives of the said deceased Combahvie Comaroo Coroonadum to act the most in their power for the benefit of the Estate and of the heir at Law and Residuary Legatee and this Respondent did further setforth that the Conduct of the Appellants would have more Accorded to those Principles had they paid this Respondents Claim rather than to have subjected the Testators Estate to Expense and this Respondent to vexation by a Suit the issue of which is upon the same ground of Validity as the Right of Interference of the Appellants. the same Instrument to wit the well of the Testator under which the

Appellants

Appellants act expressly Acknowledging under the hand and Seal of the Testator the Justness of this Respondents Claim.— This Respondent in Answer to the fourth Reason urged by the Appellants did setforth that their demurring to this Respondents Right of Action under the Circumstances above stated is in itself an injury to the Estate of the said Infant whose Rights as Residuary Legatee the Court is bound to protect and is also an act of oppression to this Respondent and therefore well deserving that Censure of the Mayors Court which they inflicted by Ordering the Appellants to pay Costs of such Demurrer out of their own Pocket This Respondent in Answer to the fifth Reason of the Appellants did setforth that the Bond in question being the same as is specially stated by the Testator in his Will was established in proof before the Court at the same instant the Will was proved. And this Respondent did further Setforth that the Demurrer being an admission of the fact such fact cannot afterwards be brought in question by the person Demurring, the Law arising thereon being the only point at issue before the Court besides as the demurrer states not any doubt of the existence of the Bond it is irregular in the Appellants to depart from the Demurrer by urging any matter as ground of Appeal which was not setforth in the said demurrer.—

This Respondent did further setforth that it Appears by this Respondents Bill of Complaint that several Claims have been admitted and satisfied which were not stated by the Testator in his Will and that the European Executors being Conscious of the Justness of this Respondents Claim from time to time promised to settle with him altho' they afterwards failed in the performance thereof and it also is stated in the

said

said Bill of Complaint that the said European Executors had assigned over the Effects of the Testator to the Appellants and the other Native Executors in order that they might settle the several claims still due on account of the Testator, under a Consciousness of all which and of the Justice of the said Decree of the Mayors Court the said European Executors have submitted thereto nor have they appealed therefrom.—

And this Respondent saith that the said Petition and Appeal and Answer having Come on to be heard and determined on the Twentieth day of May in this present year of our Lord One thousand Seven hundred and Eighty four before the said Court of Appeals at Madraspatnam they were Pleased to confirm the Decree of the said Honble the Mayors Court with Costs of Suit in the said Court of Appeals as will appear by the said Decree as well as by the sevisal Proceedings in this Cause now before your Most Excellent Majesty in Council Reference being thereunto Respectively had to which this Respondent braves leave to refer and to have such full and Ample benefit thereof and of every part thereof as if the same were herein fully Setforth.— From which said Decree or Order of the said Mayors Court and Court of Appeals the said Appellants did Appeal to your Most Excellent Majesty in Council pretending that they are much Aggrieved and injured by the said Decrees of the said Mayors Court and Court of Appeals and the Appellants having stated in their said Petition and Appeal to your Most Excellent Majesty in Council the same Reasons which they stated in their said Petition and Appeal to the Court of Appeals at Madraspatnam all which were Answered by this Respondent in

in manner as is above Setforth this Respondent humbly braves that the Appellants have not any Cause to Consider themselves aggrieved by the said Decrees of the Mayors Court and Court of Appeals.

Wherefore and for such other Reasons as may be offered at the hearing of this Cause this Respondent Prays that your Most Excellent Majesty in Council will be Graciously Pleased to confirm the said Decrees of the said Mayors Court and Court of Appeals and be further Pleased to dismiss the said Petition and Appeal of the Appellants with Costs to be paid by the said Appellants.

Stephen Popham
for the Respondent.

In the Honble Court of Appeals at Madraspatnam

Between John De Fries John Balfour and Robert Ewing Respondent and George Smith Appellant.

The Humble Petition of the said Respondent

Shew

That this Honble Court were pleased on the Eleventh day of March last past to confirm the Decree of the Honble the Mayors Court whereby the said Appellant therein Respondent was Decreed to pay unto your Petitioners the Sum of Two thousand three hundred and fifteen Pagodas Nine fanams and thirty Cash with Interest and Costs

Filed in my Office the 20th May 1784
Chas. Freeman Clk

Your Petitioners further Shew that the said George Smith the Appellant did some time after the Commencement of the said Suit take his departure for Europe and did leave his attorneys for some Special purposes among which they have Reason to believe the Right of Defending the present Suit was not included and

that

that he the said George Smith Some time after his said Arrival in England became a Bankrupt as is notoriously and publickly known that it is incident to his said State of Bankruptcy for him to assign over all his Estate Real and Personal and the Right of Commencing as well as Defending Suits and Actions to Assignees pursuant to the Different Acts of Parliaments in force respecting Bankrupts by which said Bankruptcy and consequent Assignment Your Petitioners Shew that all Previous Powers or Letters of Attorney became Superceded so that no person can action commencing carrying on or Defending Suits and Actions for or on behalf of the said George Smith but under the Said Powers of the said Assignees Notwithstanding which your Petitioners find that an Appeal hath been lodged in the Office of the Clerk of this Honble Court from their said Order of the Eleventh March last past To His Most Excellent Majesty in Council without as your Petitioners believe and have reason to Assert their being any Power to enter and Prosecute Such Appeal.

Your Petitioners therefore in Consideration of the injury they do and may hereafter sustain by the delay and other eventual wrongs and hardships deriving therefrom your Petitioners Most humbly Submit the Premisses to the Judgement of this Honble Court how far the said Appeal Lodged to His Most Excellent Majesty in Council under above incapacities to prosecute the Same can and ought to be allowed of and your Petitioners therefore pray that the Same May be taken off the file and be disallowed as irregular and unauthorized.

And Your Petrs as in duty Bound
Shall Ever Pray
Henry DuPuy
Atty Petitioners

Court of Appeals &c

Between John de Fries John Balfour and Robert Ewing Respondent and George Smith Appellant

Interlocutory Petition of the Abovenamed Respondents being filed and read as above Ordered that a Copy of the said interlocutory Petition be sent to the Attorney for the above Named Respondent and that he do file his Answer thereto before the Next Court Day being thursday the 27th Day of this Instant May.

Fort St George
the 21st May 1784

Hur

(Signed) Chas Freeman
Clk

Court of Appeals &c.

Thursday 27th May 1784
Present
Anthony Sadlier
John Turing Robert Maunsell

Between Manoel Pignon and Vicinta his Wife ~~Vlts~~ and Robert Kelly

Mr. Stephen Popham as Solicitor for Manoel Pignon and Vicinta his Wife acquaints the Court that he called on Mrs. Douglas the Mother in Law of Robert Kelly the Appellant in the above Cause to Acquaint her According to the Order of Court of the 20th Instant that the above Cause was to be heard on this day on which Mrs. Douglas wrote a note to Mr. Du Puy to Request his Appearing for Robert Kellys.

Mr. Henry Du Puy acknowledges the receipt of the Note but does not Consider himself authorised by the above Note to Appear.

The Court then Orders Mr. Henry Du Puy to act as Solicitor on the part of the Appellant in the above Cause.

Pour

(Signed) Chas. Freeman Clk

To the Right Honble George Lord Macartney
President and Governor &c. Council of Fort St. George.

In the Court of Appeals

Between Manoel Pignon and Vincenta his Wife Complainant and Robert Kelly Lieutenant Colonel in the Service of the Honble the United Company of Merchants of England Trading to the East Indies Defendant.

The Petition and Appeal of Robert Kelly the Abovenamed Defendant.

Sheweth

That the said Manoel Pignon and Vincenta his Wife did on or about the fourth day of the Month of February in this Present Year of our Lord One thousand Seven hundred and Eighty three Exhibit and file in the Honble the Mayors Court at Madraspatnam their Bill of Complaint Against your Petitioner for the Recovery of the Sum of three hundred and Seventy Six Pagodas Current Money of Madras by them the said Complainants Charged to be due and Owing unto them as the Representatives of Captain Peter James Poovery Deceased upon a Certain promissary Note of hand Said to be given and Granted by Your Petitioner unto the said Captain Peter

Filed in my Office the 14th July 1783
Charles Freeman

James

Peter James Poovery Deceased bearing date in Trichinopoly on the Ninth day of the Month of January, which was in the Year of our Lord One thousand Seven hundred and Seventy One; your Petitioner further Sheweth that your Petitioner did Appear to the said Complainants said Bill of Complaint and did file a Plea and Answer thereto, Wherein your Petitioner stated and Setforth, that your Petitioner, by Virtue of the Paper Writing or promissory Note of Hand introduced and referred to by the said Complainants in their said Bill of Complaint in Support of their pretended demand upon your Petitioner, ought not to be Charged with the Debt Claimed by the said Complainants by Virtue thereof, because it appeared of the said Complainants own Shewing, that the said Paper Writing or promissory Note of Hand, if any such existed, was given and granted by your Petitioner on the Ninth Day of the Month of January which was in the year of our Lord One thousand Seven hundred and Seventy One, which was above six years before your Petitioner was Served with any Process from and out of the said Honble the Mayor's Court to Answer the said Complaints said Bill of Complaint, and that if the said Complainants ever had any Cause or Ground of Action Against your Petitioner for or Concerning any of the Matters or things in the said Complainants said Bill of Complaint Mentioned, which your Petitioner in no sort Admitted, that the same did Accrue and Arise above six years before the said Complainants filed their said Bill of Complaint or Served your Petitioner with any Process, and the said Complainants did not even

pretend

pretend or charge that your Petitioner had at any time within Six years promised and engaged to pay the said Complainants any money for or Account of such pretended paper Writing or promissory Note of Hand, Wherefore your Petitioner did plead the Act of Parliament or Statute of Limitations made in the Twenty first year of the Reign of his Majesty King James the first in Bar to the said Complainants said Bill of Complaint and of their pretended Claims and Demands, and your Petitioner prayed the benefit of the said act of Parliament for the Limitation of Actions, and humbly demanded the Judgement of the said Honble the Mayor's Court thereon, your Petitioner further Sheweth that your Petitioner in no wise Waiving the Benefit of the said Plea in Bar or of any part thereof, but wholly insisting and relying thereon, did Answer to the Residue or unto such parts of the said Complainants said Bill of Complaint as was not particularly pleaded unto, and for Answer your Petitioner did say, that your Petitioner Admitted it to be true, that some time in the Year of our Lord One thousand Seven hundred and Seventy One your Petitioner did Borrow and Receive of and from the said Captain Peter James Povey the Sum of Two hundred Star Pagodas, which, to the best of your Petitioners Recollection at so great a distance of time, your Petitioner borrowed for the Use of the Mason's Lodge at Trichinopoly to which your Petitioner did at that time belong, And your Petitioner also Admitted it to be true, that at the time of borrowing and Receiving the said Sum of Two hundred Star Pagodas, your Petitioner did give and grant unto the said Captain Peter James Povey Deceased a

Written

Written Acknowledgement for the same, but whether of the same Tenor, Words, and Figures with the One Annexed to the said Complainants said Bill of Complaint your Petitioner Could not Setforth, your Petitioner further Sheweth that your Petitioner positively denied Standing indebted unto the said Complainants, as the Representatives of the said Captain Peter James Povey Deceased, in the Sum of Three hundred and Sixty Six Pagodas, as was most unjustly Charged, Stated, and Setforth in the said Complainants said Bill of Complaint, or in any other Sum or Sums of money whatsoever for or on Account of such Written Acknowledgement so given and granted by your Petitioner, for your Petitioner did most Solemnly declare and Aver, that your Petitioner had paid to the said Captain Peter James Povey Deceased the full Amount due upon such Written Acknowledgement so given and granted by your Petitioner, but how or by what means it happened that such Written Acknowledgement was not delivered up to your Petitioner to be Cancelled your Petitioner Could not, at so great a distance of time, recollect or Setforth, your Petitioner further Sheweth that the Circumstances of the said Captain Peter James Povey were so very indifferent as to render it very improbable that he should permit an Acknowledgement or Note of Hand of the Tenor and Purport with that Exhibited by the said Complainants in their said Bill of Complaint to remain undischarged for so great a length of time as five years, Reckoning from the time limited for the payment of such Acknowledgement or Note of Hand to the Death of the said Captain Peter James Povey, without frequent

or

or ever any demand being made upon your Petitioner for the Amount thereof, which your Petitioner solemnly declares Never was done, your Petitioner further Sheweth that the said Complainants did file a Replication to your Petitioner's said Plea and Answer, and did therein urge that the said Act of Parliament or Statute of Limitations, as pleaded by your Petitioner in your Petitioners said Plea, ought not to be pleaded in Bar to their, the said Complainants, Demand, Because they, the said Complainants, said, that the said Act of Parliament or Statute of Limitations Contained the following Clause, Vizt.

"Provided Nevertheless and be it further enacted, that if any person or persons that is or shall be entitled to any such Action of Trespass, Detinue, Actions of Trover, Replication, Actions of Accounts of Debt, Actions of Trespass for Assault, Battery, Menace, Wounding or Imprisonment, Actions upon the Case for Words, be or shall be at the time of any such Cause of Actions given or Accrued fallen or Come within the Age of Twenty One years, Feme Covert, Non Compos Mentis, imprisoned or beyond the Seas, That then such person or persons shall be at liberty to bring the same Actions, so as they take the same within such times as are before limited, after their Coming to or being of full Age, Decovert, of Sound memory, at large, and returned from beyond the Seas, as other persons having no such impediment should have done."

And therefore they, the said Complainants, said, that as your Petitioner had been frequently Absent from Madrass and out of the Jurisdiction of the said Honble the Mayor's Court upon public Service, and as they, the said Complainants had

had been also Absent from Madrass and out of the Jurisdiction of the said Honble the Mayors Court, therefore the said Act of Parliament or Statute of Limitations ought not to be pleaded in Bar to their, the said Complainants, Demand, your Petitioner further Sheweth that the said Complainants did in their Said Replication further Urge, that by the Death of the said Captain Peter James Povery and the After Marriage of the said Manoel Pignow with the said Vincenta his Wife, the Right to Recover the Sum due upon the said promissory Note of Hand had Accrued unto them, the said Complainants, and that the said Death of the said Captain Peter James Povery and the said after Marriage of the said Manoel Pignow with the said Vincenta his Wife had happened and taken place within Six years from the Date of the Account Current, for the Recovery of the Ballance whereof, they, the said Complainants, had filed their said Bill of Complaint Against your Petitioner, and therefore their Right had Accrued within Six years from the time that they, the said Complainants, had filed their said Bill of Complaint, Wherefore your Petitioner's said Plea ought not to be Admitted in Bar to their, the said Complainants, said Demand your Petitioner further Sheweth that your Petitioner did file a Rejoinder to the said Complainants said Replication, wherein your Petitioner did urge, that the Act of Parliament or Statute of Limitations Made in the Twenty first year of the Reign of his Majesty King James the first, and by your Petitioner pleaded in Bar to the said

Said Complainants pretended demand up your Petitioner, was properly and legally pleaded, and that your Petitioner was entitled to the full and Ample Benefit thereof, According to the true Intent, meaning, Purport and Tenor thereof, Notwithstanding what the said Complainants had in their Replication Averred to the Contrary, as, if the said Complainants intended to Avail themselves of the Clause Contained in the said Statute of Limitations and by them, the said Complainants, Mentioned and quoted in their said Replication, it was incumbent upon them, the said Complainants, to have Shewn, in Order to have entitled themselves to the Benefit and Advantage of the said Clause, that they, the said Complainants, had been in parts beyond the Seas and out of the Jurisdiction of the said Honble the Mayor's Court from the time that such Cause of Action Accrued until the filing of their said Bill of Complaint, which they the said Complainants, did not and in fact Could not pretend, it being Notorious that the said Vincenta Pignon was and Continued within the Jurisdiction of the said Honble the Mayors Court from and before the giving and granting the pretended Note of Hand in Question until and After the expiration of Six years from the Date of such pretended Note of Hand, whereby all Right of Action Against your Petitioner for, upon, by, or under such pretended Note of Hand, by Virtue of the said Statute of Limitations by your Petitioner pleaded in Bar to the said Complainants Demands, became forfeited and extinct your Petitioner further Sheweth that no Right of Actions whatever Against your Petitioner, under or by Virtue of the pretended Note of Hand in Question,

Could

Could ever have Accrued unto Manoel Pignon, One of the said Complainants, as it Appears of their, the said Complainants, Own Shewing, that the pretended Note of hand in question was given and granted on the Ninth Day of the Month of January, which was in the year of our Lord One thousand Seven hundred and Seventy One, and that the Inter Marriage of the said Manoel Pignon with Vincenta his Wife, was had and Solemnized on the Eighteenth Day of the Month of May, which was in the year of our Lord One thousand Seven hundred and Seventy Eight, which being Above Six Years from the Date of the pretended Note of Hand in Question, all Right of Action for the Recovery of the Amount due upon the pretended Note of Hand in Question was, by force and Virtue of the said Statute of Limitations, barred and utterly extinct and void before such Intermarriage of the said Manoel Pignon with Vincenta his Wife, your Petitioner further Sheweth that Issue being Joined upon these Proceedings and Publication having passed, the same was set down for hearing, and the same Coming on to be heard before the said Honble the Mayor's Court on the first day of the Month of July in this present year of our Lord One Thousand Seven hundred and Eighty Three, the said Honble the Mayor's Court, disregarding and setting Aside the said Act of Parliament or Statute of Limitations as pleaded by your Petitioner in Bar to the said Complainants said Bill of Complaint, were pleased to Order and Decree, and did Accordingly Order and Decree, that your

Petitioner

Petitioner should pay unto the said Complainants the
and just Sum of Three hundred and Seventy Six Pagodas
together with such Interest as then was or should thereafter
become due thereon until full payment was Made with
all Costs of Suit, as will more fully and at large Appear
by a Copy of the said Decree hereunto Annexed for the Inspec-
tion of this Honble Court and prayed by your Petitioner to be
taken and Admitted as part and parcel of this your Petitioner's
Petition and Appeal, your Petitioner further Sheweth unto
this Honble Court that your Petitioner Conceiving the said
Order, Sentence and Decree of the said Honble the Mayor's
Court of the said first day of July in the year of our Lord
One thousand Seven hundred and Eighty Three to be Erroneous
and that he is much Aggrieved thereby, doth Appeal
therefrom unto this Honble Court for the following
Among other Reasons.—

First.— Because the said Honble the Mayor's Court being
Constituted by and deriving its authority from the
Crown of Great Britain, all Laws made and enacted
by the Crown and Parliament of Great Britain are
binding upon the said Honble the Mayor's Court
in the same Manner and Degree as upon his
Majesty's Justices in Great Britain and the said
Honble the Mayor's Court is bound to afford the
Benefit of such Laws to all persons who shall
demand and Claim the same, which Right and
Privilege your Petitioner is deprived of by the
said Order, Sentence and Decree of the said
Honble

Honble the Mayor's Court of the said first day of July, your
Petitioner being thereby denied the Benefit of an Act of Parlia-
ment, though your Petitioner had Specially pleaded the same
and prayed the Benefit thereof, which the said Honble the
Mayors Court ought to have Afforded your Petitioner and to
have dismissed the said Complainants said Bill of Complaint,
the said Act of Parliament being a public and perpetual Act,
and all Judges and Justices being therein Commanded to
take Notice thereof.—

Secondly Because the Clause of the said act of Parliament quoted and
Set forth by the said Complainants and urged as a Reason why
your Petitioner should be deprived of the Benefit of the said Act,
was not in any Degree Applicable to the Situation of the said
Complainants, who had Always been Resident within the
Jurisdiction of the said Honble the Mayor's Court and did not
labour under any Incapacity that Could divest them of the
Jurisdiction of the said Honble the Mayor's Court, and
therefore ought not to have deprived your Petitioner of the
Benefit of your Petitioner's Plea in Bar to the said Complai-
nants said Bill of Complaint.—

Thirdly Because Manoel Pignon, One of the said Complai-
nants, had no Right of Action whatsoever Against your
Petitioner on Account of the Note in hand in Question,
upwards of Six years having elapsed between the date
of the said Note of Hand in Question and the
Intermarriage of the said Manoel Pignon with Vincenta
his Wife, whereby all Right of Action for the Recovery
of the Amount due upon the said Note of Hand in

Question

Question by force and Virtue of the said Statute of Limitations was barred and utterly extinct and void before the said Manoel Pignow had or Could pretend to have any Right or Claim relative thereto.—

For Which Reasons and such others as may be Offered at the Hearing your Petitioner prays that this Honble Court will be pleased to Reverse the said Order, Sentence and Decree of the said Honble the Mayor's Court of the said first day of July, and to dismiss the said Complainants said Bill of Complaint with full Costs to be paid by the said Complainants.— And your Petitioner as in Duty Bound Shall Ever Pray.—

Thomas Jones.
Solicitor for Appellant.

Mayor's

Mayor's Court at Madraspatnam

Tuesday the 1st Day of July Anno Domini 1783.

Present

William Webb Esquire Mayor
Edward Garrow and John Menzies
Aldermen

Between Manoel Pignow and Vincenta his Wife Complainants and Robert Kelly Esquire Lieutenant Colonel in the Honble the United East India Company's Military Establishment at Fort Saint George Defendant.—

This Cause Coming on to be Heard and Debated this Day in the Presence of the Attornies on both Sides, on Reading the Complainants Bill with Copies of a Note of Hand and an Account Annexed, The Defendant's Plea and Answer, The Amended Replication, The Rejoinder, On Hearing the Pleadings made use of by the Attornies and on due Consideration had thereon, This Court doth think fit to Order and Decree, and doth Accordingly Order and Decree that the Defendant shall pay unto the Complainant the full and just Sum of Three Hundred and Seventy six Pagodas (Pgs. 376.—) together

together with such Interest as now is or shall hereafter become due thereon until full Payment is made, Also all Costs of this Suit.

Ver

James Taylor
Regr.

A true Copy
Thomas Jones
Solicitor for Appellant.

To the Right Honble George Lord Macartney K.B. President and Governor &c. Council of Fort St. George

In the Court of Appeals

Between Manoel Pignor and Vincenta his Wife Complainants and Robert Kelly Lieutenant Colonel in the Service of the Honble the United Company of Merchants of England Trading to the East Indies Defendant.—

The Answer of Manoel Pignor and Vincenta his Wife to the Petition and Appeal of the said Robert Kelly.—

These Respondents by way of Answer

Filed in my Office
the 30th August 1783
Charles Freeman Actr.

Answer to the said Petition and Appeal or unto so much thereof as Concerns these Respondents to make Answer unto say they Admit it to be true that these Respondents did on or about the fourth day of February in the present year of our Lord One thousand Seven hundred and Eighty three file their Bill of Complaint in the Honble the Mayor's Court at Madras Patnam against the Appellant for the Recovery of the Sum of Three hundred and Seventy Six Pagodas Current money of madras due and owing unto these Respondents as the Representatives of Captain Peter James Povey Deceased upon a Certain Promissary Note of hand given and Granted by the said Appellant unto the said Captain James Peter Povey Deceased bearing date in Trichinopoly on the Ninth day of January which was in the year of our Lord One thousand Seven hundred and Seventy one and these Respondents do further Admit that the said Appellant did appear to these Respondents said Bill of Complaint and did file a Plea and Answer thereto and did therein Pretend that the said Promissary Note of hand which was Given and Granted by the said Appellant on the Ninth day of January which was in the year of our Lord one thousand Seven hundred and Seventy One was above Six years before the said Appellant was Served with any Process from and out of the said Mayor's Court to Answer these Respondents said Bill of Complaint And did therefore Plead the Act of Parliament or Statute of limitations made in the Twenty first year of the Reign of His Majesty King James the first in Bar to these Respondents said Bill of Complaint and did therein Pray the Benefit of the said Act of Parliament for the limitation of Action and demanded also the Judgment of the said Mayor's Court And the said

Appellant

Appellant did Amongst other things Setforth in his said Plea and Answer that some time in the year of our Lord One thousand Seven hundred and Seventy One the said Appellant did Borrow and Receive of and from the said Captain James Peter Povey the Sum of two Hundred Star Pagodas and that to the best of the Appellants Recollection at so great a distance of time that the said Appellant borrowed for the use of the Masons Lodge at Trichinopoly and the said Appellant did also Admit it to be true that at the time of borrowing and Receiving the said Sum of Two Hundred Star Pagodas that the said Appellant did give and Grant unto the said Captain James Peter Povey Deceased a Written Acknowledgment for the same but Pretending that he Cannot Setforth whether of the same Tenor words and figures with the one Annexed to these Respondents Bill of Complaint and did further Pretend that the said Appellant had paid to the said Captain Peter James Povey the full Amount due upon such written Acknowledgement given and Granted by the said Appellant but how or by what Means it happened that such written Acknowledgment was not delivered up to the said Appellant to be Cancelled that the said Appellant Could not at so great distance of time Recollect To which said Plea and Answer these Respondents did file a Replication and did therein Urge that the said Act of Parliament or Statute of Limitation as Pleaded by the said Appellant in his said Plea Ought not to be Pleaded in bar to these Respondents Demand and did therein Allege the Reason as Stated and Setforth in the said Replication of these Respondents and to the Petition and Appeal of the said Appellant to which said Replication these Respondents do Admit that the said Appellant did file a Rejoinder in Support of his said Plea and Answer as Stated in the said Petition and Appeal And these Respondents do further Admit and Say that Issue being Joined and Publication Passed upon these Proceedings the same was set down for hearing and the same Come on to be heard before the said Mayors Court on the first day of July in this Present year of our Lord One thousand Seven hundred and Eighty three the said Mayor's Court were pleased to order and Decree and did Accordingly order and Decree that the said Appellant (meaning the said Robert Kelly) should Pay unto these Respondents the full and Just Sum of three hundred and Seventy Six Pagodas together with such Interest as then was or should thenafter become due thereon until full Payment was made with all Costs of Suit as by the said Order as well as by the other Proceedings in this Cause now of Record in this Honble Court Reference being thereunto had may more fully Appear to which these Respondents Pray leave to refer and to have as full and Ample benefit therefrom as if the same were herein fully setforth from which said Order or Decree of the said Mayor's Court the said Appellant hath Appealed to this Honble Court Pretending the said Order or Decree to be Erroneous and that he is Aggrieved thereby - But these Respondents say that the said Decree is just and Consonant to the Principles of Law and Justice —

First — Because the Statute for the Limitation of Actions being intended for the prevention of Frauds by ensuring Claims which were Absolute ought not to extend to any Other Cases Save only those which are intended to be Remedied by the Intention

Intention of the said Act, and should therefore be construed Strictly Against those who Attempt to Advantage themselves thereof Against honest and forbearing Creditors whose Liberty is the only Argument urged Against the Legality of the Demand:—

Secondly Because By the Absence of the Appellant upon Service, by the Death of the said Captain Peter Povery, by the Subsequent Marriage of the Widow of the said James Peter Povery with the Respondent Manoel Pignon, by the Tenor of the Answer of the Appellant which is different from the Express Words of his own Letter Mentioned in the Replication, and by the other Evasive pretences of the Appellant as Stated in this Respondents said Replication the Statute of Limitations ought not to operate to the prejudice of these Respondents.—

For which Reasons and such others as may be offered at the hearing of this Cause these Respondents humbly hope that the said Decree of the Honble the Mayor's Court of the first day of July last be Affirmed And the Appeal of the Appellant be dismissed with exemplary Costs.—

Stephen Popham
Attorney for Respondents

Court

Court of Appeals at Madraspatnam } ss

Thursday the 27th May Anno Domini 1784.

Between Robert Kelly Lieutenant Colonel in the Service of the Honble the United Company of Merchants of England Trading to the East Indies Appellant and Manoel Pignon and Vincenta his Wife Respondent.—

This Cause coming on this day to be heard and Debated before this Court by the Attorneys on both Sides upon hearing the Petition of Appeal and Answer and the several Exhibits of the Honble the Mayor's Court together with the Decree of the said Court given in this Cause on Tuesday the 1st Day of July Anno Domini 1783 and upon due Consideration had of the Matters therein severally contained and of the Pleadings and Argument used by the Attorneys on both Sides This Court doth think fit to order and Decree and doth accordingly order and Decree that the said Decree of the said Honble the Mayor's Court do Stand affirmed and that the Appellant's Petition be hence dismissed with Costs.—

Ellis
(Signed) Chas. Freeman Clk

To

To the Right Honble George Lord Macartney
President and Governor &^ac Council of Fort St George.

In the Court of Appeals.

Between Jamaloodeen by his Attorney Joseph de Sylva of Madrass Inhabitant, Complainant, and Miyah Hamed of the same place Inhabitant Defendant.

The Petition and Appeal of Miyah Hamed the abovenamed Defendant.

Sheweth.

That the said Jamaloodeen, by his said Attorney Joseph de Sylva, did on or about the Tenth day of the Month of March, in this present year of Our Lord One thousand Seven hundred and Eighty three, exhibit and file his Bill of Complaint in the Honble the Mayor's Court at Madraspatnam against your Petitioner for the Recovery of the Sum of Four thousand Two hundred and Ninety Seven Pagodas Current Money of Madras, which he, the said Complainant, pretended and charged to be due and owing unto him, the said Complainant, from your Petitioner upon the Ballance of an Account arising upon a Bond or written Agreement said to have been given and granted by your Petitioner, your Petitioner further Sheweth, that the said Complainant hoping to a Advantage himself of your Petitioner's Residence at Tranquebar and Nagapatam exhibited and filed his said Bill

Filed in my Office the 22^d Septr 1783 Charles Freeman

Bill of Complaint in manner before mentioned during your Petitioner's Absence from Madrass, and having made the Oath prescribed and Required by the Charter, a Warrant of Sequestration against the Estate and Effects of your Petitioner by the said Honble the Mayor's Court awarded and issued, by Virtue of which the Sheriff of Fort St George &^ac seized upon and sequestered the Property of your Petitioner to a Considerable Amount, which Remained in the Hands, Custody and Possession of the said Sheriff of Fort St George &^ac until Notice was sent to your Petitioner then at Tranquebar of the unfair practices of the said Complainant, and the Advantage that he, the said Complainant, would gain, unless an Appearance was entered in the said Honble the Mayors Court on the part of Your Petitioner, your Petitioner further Sheweth, that as soon as your Petitioner was apprized of the Measured pursued by the said Complainant, your Petitioner did, with a View of Contesting the said Complainant's demand and of Substantiating and of exposing the unfair and unjust Attack made upon your Petitioner by the said Complainant, immediately send Instructions to your Petitioner's Attorney at Madrass, to enter an Appearance and file Bail in the Suit instituted against your Petitioner by the said Complainant, and to take the necessary Steps for your Petitioner's Defence therein, for the effecting of which, your Petitioner trusted that his Situation as an Absentee would have been taken into Consideration by the said Honble the Mayor's Court, and that such Indulgence in point of Time would be extended to your Petitioner, was might enable your Petitioner to make a fair, just and equitable defence, your Petitioner further Sheweth,

that

that in Consequence of your Petitioner's Instructions, your Petitioner's Attorney did enter an Appearance and file Bail to the said Com=plainants said Action, and agreeable to the Directions of your Petitioner, a Plea and Answer to the said Complainants said Bill of Complaint was by your Petitioner's Attorney at Law prepared and exhibited in the said Honble the Mayors Court, and a Commission prayed and granted to swear your Petitioner to the Truth thereof, which was immediately dispatched to the Commissioners therein named, but before the same could be returned duly executed, owing to the difficulty of procuring a safe Conveyance in these times of War and Invasion, on the ninth Day of the Month of September in the year of our Lord One thous=sand Seven hundred and Eighty three the said Honble the Mayor's Court were pleased at the Instance and Prayer of the Attorney for the said Complainant, the period fixt for the Return of the said Commission being elapsed, to Grant a Decree against your Petitioner for the Sum of four thousand Two hundred and ninety Seven Pagodas Current Money of Madras, which said Sum your Petitioner was ordered and Decreed to pay unto the said Complainant with such Interest as was due thereon all Costs of Suit, as will morefully and at large appear by a Copy of the said Order Sentence and Decree of the said Honble the Mayor's Court of the said ninth day of September in the year of our Lord one Thousand Seven hundred and Eighty three hereunto annexed for the inspec=tion of this Honble Court, which said Sentence, Order and Decree of the said Honble the Mayor's Court of the said

Ninth

Ninth day of the said Month of September in the year of our Lord One thousand Seven hundred and Eighty three, your Petitioner Conceives to be Erroneous and that your Petitioner is particularly aggrieved thereby, such Sentence, Order and Decree of the said Honble the Mayor's Court not being founded either in Reason or Justice, in Condemning your Petitioner to pay a Sum of money upon the mere Suggestions of the said Complainant without permitting your Petitioner to urge such matters and things as were proper and Necessary for your Petitioner's defence and exculpation in the said Suit, and which would, if your Petitioner had been indulged with that privilege which every man has a Right to claim, the Liberty of being heard before he is Condemned, have induced the said Honble the Mayor's Court to have dismissed the said Complainants said Bill of Complaint with exemplary Costs, as being Repugnant to the established Law of the Land and fraught with Injustice, Oppression and Imposition, which your Petitioner particularly pointed out and insisted upon in your Petitioner's said Plea and Answer, wherein your Petitioner alledged, that your Petitioner ought not, by Virtue of the Bond or Writing Obligatory introduced by the said Complainant in his said Bill of Complaint in Support of his pretended demand upon your Petitioner, to be charged with the Debt claimed by the said Complainant by Virtue thereof, because your Petitioner was, at the time of giving, granting, making, and executing the said Bond or Writing Obligatory, an Infant within the Age of Twenty One years and incapable of entering into any Contract or Obligation of any kind or nature whatsoever that could, in Law, be binding upon or valid against

your

Your Petitioner, Wherefore your Petitioner did Plead such Minority in Bar to the said Complainants said Bill of Complaint and to the Relief ought therein and thereby, and humbly demanded the Judgement of the said Honble the Mayors Court, whether your Petitioner by Virtue of the Bond or Writing Obligatory aforesaid ought to be charged with the Debt aforesaid. And your Petitioner, in no wise waiving the Benefit of his said Plea in Bar, but wholly Relying and insisting thereon, did, by way of Answer to the said Complainants said Bill of Complaint, further alledge, that your Petitioner ought not, by reason of any Bond or Obligation introduced and Referred to by the said Complainant in his said Bill of Complaint; as and for his ground and Cause of Action against your Petitioner, to have been harrassed and brought into Judgement before the said Honble the Mayor's Court by reason or on account thereof, because the said Complainant did on or about the Twenty second day of the Month of November, which was in the year of our Lord One thousand Seven hundred and Eighty two, exhibit and file his Bill of Complaint in the said Honble the Mayors Court against your Petitioner for the Recovery of the Sum of three thousand Six hundred and Ninety Six Pagodas Current Money of Madras, charged to be due and owing unto him, the said Complainant, from your Petitioner for, upon, and on Account of Two Bonds or Obligations, bearing date the twenty eighth day of the Month of May, which was in the year of our Lord One thousand Seven hundred and Eighty two, as will appear by the Records of the said Honble the Mayors Court, Reference being had thereto, to which said Bill of Complaint your Petitioner did appear, and at the Instance of the said Complainant, Rules were granted and issue out

out of the said Honble the Mayors Court requiring your Petitioner to Answer thereto, which your Petitioner was ready and willing to do, in order that the pretended Cause or Ground of Action of the said Complainant against your Petitioner might be fully and fairly enquired into and discussed, and the same be finally determined upon Consonant to the Principles of Equity and Justice, for the effecting of which, your Petitioner prayed Oyer of the said Bond or Writings Obligatory, being necessary to enable your Petitioner to make a fair and proper defence, which the said Honble the Mayors Court were pleased to grant, and a Rule was granted by and issued out of the said Honble the Mayor's Court requiring the said Complainant to produce and exhibit before the said Honble the Mayors Court at a day therein appointed the said two Bonds or Writings Obligatory; which the said Complainant neglected doing and wholly deserted the prosecution of the said Suit against your Petitioner, thereby renouncing, and giving up all Right, Claim and Demand upon and against your Petitioner, in Consequence of which the said Honble the Mayors Court were pleased, on the Seventeenth day of the Month of December, which was in the year of our Lord one thousand Seven hundred and Eighty two, to dismiss the said Complainants' said Bill of Complaint with Costs, as will more fully appear by a Copy of the said Order of the said Honble the Mayors Court hereunto annexed for the Inspection of this Honble Court, your Petitioner further Sheweth, that your Petitioner did in his said Answer further set forth, that the Bond or Writing Obligatory Annexed to the said Complainants present Bill of Complaint, is the same

Bond

Bond or Writing Obligatory, whereon the said Complainants' former Bill of Complaint was founded, and that the same is now again introduced by the said Complainant to harrass, perplex and distress your Petitioner, and with an Intention and Expectation of taking an unfair Advantage of your Petitioner's Absence from Madrass, and thereby, gaining a Decree against your Petitioner, (on a supposition of your Petitioner's Incapacity on account of his Situation of defending the said Suit,) for a Debt which the said Complt was Conscious he could not recover by due Course of Law, and therefore deserted the prosecution thereof on account of your Petitioner being upon the Spot and disposed to Contest the same, your Petitioner further Sheweth, that by the said Order, Sentence and Decree of the said Honble the Mayors Court of the said ninth day of the said Month of September in the year of our Lord One thousand Seven hundred and Eighty three, your Petitioner is deprived of the Benefit of his said Plea and Answer and prevented from doing himself Justice by setting forth the especial Matters which he might and would have urged in his defence to his full Exculpation and Justification against any demand whatever that the said Complainant could set up against your Petitioner, Wherefore your Petitioner doth Appeal therefrom to this Honble Court, Because it is the invariable practice of the said Honble the Mayor's Court, as well as of all other Courts where a Similar Mode of process prevails, to grant Commissions to swear Defendants to their Answer, for the effecting of which and for the furtherance of Justice, such Time is usually allowed for the Returns of such Commissions as the Situation of the place and the Circumstances of the Case

Case merequires, which if insufficient, either thro' the difficulties of executing such Commission or of procuring a Safe Conveyance whereby to return the same a further time for the Return of such Commission is usually granted and to which your Petitioner Conceived himself entitled, as well from the difficulty of procuring a Safe Conveyance for such Commission, when executed, in these perilous times, as from the Nature of the Action of the said Complainant against your Petitioner, which if Considered in its proper point of View will not entitle the said Complainant to any extraordinary Mark of Protection from a Court of Justice, it being but fair to enfer that the said Complainants' desertion of his Suit when your Petitioner was present to defend it, and his recommencement of it when your Petitioner was Absent, is an infallible proof of the Injustice of his Cause, and pointedly marks the Impropriety of a Decision in his favour, without first hearing what your Petitioner has to Urge in his Defence, Wherefore your Petitioner most humbly prays that this Honble Court will be pleased to reverse the said Order, Sentence and Decree of the said Honble the Mayors Court of the said ninth Day of the Month of September in the year of our Lord One thousand Seven hundred and Eighty three, and to grant your Petitioner a further Time to swear to his said Plea and Answer, and to grant your Petitioner such further and General Relief in all and Singular the Premises as to this Honble Court Shall Seem Meet.—

Thomas Jones
"Solicitor for Appellant."
Mayors