Register's

Military dept

Abs & letter Received

Volvo. 21-1

year 1835

[illegible] 9th March Which was in the year of Christ One
thousand Seven hundred and Eighty Eight and exhibit and file his
Bill of Complaint in the Mayors Court at Madras patnain against
the Defendant above named for the recovery of the sum of Fifteen thousand
Two hundred and Twenty five Pagodas thirty eight fanams and
Seventy three Cash Current Money of Madras which was due and
owing to him and which your Petitioners said Intestate did in an
by his said Bill state would more fully and at large appear by t
Copies of an Account Current a Bond or Obligation and two Assignments to
said Bill annexed and which he did therein pray might be admitted as part the

And your Petitioner Sheweth that to the said Bill so filed by your
Petitioners said Intestate as aforesaid the Defendant above named did some
time on or about the Twenty seventh day of May Which was in the year
of Christ One thousand Seven hundred and Eighty Eight exhibit & file his Answer

And your Petitioner Sheweth that soon afterwards your Petitioners
said Intestate having departed this life the said suit instituted by him as aforesaid
did cease and abate until Shreenevasiah Branmin your Petitioners said Intestate
late Administrator had prayed for and obtained Letters of Administration to all
and singular his goods and Chattels rights & credits and on the Eleventh day of Nov.r
and year of Christ aforesaid by filing his Bill of Revivor did receive the same

And your Petitioner Sheweth that the said suit having
Accordingly stood Revived the Defendant above named did
some time on or about the Sixteenth day of December and in the
year

year of Christ One thousand [illegible] an Amended Answer and did therein and thereby set forth that it was be-
cause within a few Months he had taken upon himself the task and
burthen of an Administrator by which he was entitled to act in and
concerning the affairs of the said late Dawsonne Drake deceased.
that previous to his having so done, he was Totally ignorant of every
Transaction relative to the said Estate, but that he had since
Endeavoured to Acquire a Competent knowledge thereof in Order
that he could be enabled to discharge his duty with satisfaction to
himself and Justice to all those who had any demands upon him as
Administrator and that as from the insight he had already had
[illegible] great waste and abuse thereof owing in a great measure as he
pretended to the want of Attention and proper management during
the late Administratorship the Defendant as well to prevent he
being involved in any censure which could thereafter be conveyed by the
who expected ultimately to be benefited by the said Estate as to avoid
all Responsibility in case any steps be pursued by them in
consequence of the Measures adapted in several Instances relating ther
were he to concur therein thought it as he pretended incumbent upon him
to withhold his Acquiescence with respect to such demands as were
in his opinion Exceptionable and that the Defendant considering
the demand made by your Petitioners said Intestate was on

[illegible] that discription he pretended he could not
comply with the payment and begged leave to lay before the said Court
his Reasons for declining the same, and that he the Defendant having
premised so much begged leave to proceed in stating to the said
Court the grounds upon which the demand by your Petitioners
said Intestate on the Defendant as Administrator as aforesaid was ma
and the mode by which the Sum sued for by your Petitioners sai
Intestate still appeared in his favor the Defendant thereupon
stating that some time on or about the year One thousand seven
hundred and seventy seven the said Dawsonne Drake having
at that time obtained a Cowle or Lease from the then President and
Council of Fort Saint George of the Beetle and Tobacco Farm
for the term of ten years an Agreement was on or about the Month of
August in the same year entered into between your Petitioners
said Intestate and the said Dawsonne Drake in his life time
whereby it was Amongst other things mentioned agreed and understood
that your Petitioners said Intestate should pay to the said Dawsonne
Drake the Sum of Four thousand Pagodas every year in quarterly
payment so long as the said Cowle should continue in the hands of
him the said Dawsonne Drake and that he the said Dawsonne
Drake in consideration thereof was to have no further concern in
the said Farm nor to be in any way either entitled or subject to
any profit or loss which should arise or Accrue therefrom, but
to

to afford your Petitioners said Intestate all the necessary Assistance
which he your Petitioners said Intestate could from time to time stand
in need of from the said President and Council Agreable to the terms
or proposals on which the said Cowle or Lease had been as aforesaid
granted by them for the space of ten years That in pursuance of the
said Agreement so made and Entered into between your Petitioners
said Intestate and the said Dawsonne Drake as aforesaid your
Petitioners said Intestate did in and by an Account Current dated
the thirty first day of August One thousand Seven hundred and
Eighty and signed by your Petitioners said Intestate which he
furnished the said Dawsonne Drake he did allow and give Credit
to the said Dawsonne Drake for the aforesaid allowance of Four
Thousand Pagodas per Annum for and during the term of three years
that was to say from the first day of August which was in the year of
Our Lord One thousand Seven hundred and Seventy Seven to the
thirty first day of July which was in the year of Our Lord One
Thousand Seven hundred and Eighty as by Copies thereof Marked
A and **B**, to his said Answer annexed and by the Defendant praid
to be taken as part thereof he did state would more fully and at large
appear And your Petitioner Sheweth the said Defendant did state
that notwithstanding your Petitioners said Intestate did in and by
the said Account Current so acknowledge himself to stand indebted
and be Accountable to the said Dawsonne Drake in the aforesaid
three

three several Sums of four thousand Pagodas each yet that after the death of the said Dawsonne Drake which took place on or about the ninth day of February and in the year of Our Lord One thousand Seven hundred and Eighty One and after the said Nathaniel Barlow the late Administrator to the Estate and Effects of the said Dawsonne Drake deceased had become duly and fully empowered to act, your Petitioners said Intistate had brought forward another Account Current Marked C. between himself and the said Dawsonne Drake Deceased on the debit side of which although he suffered the dates and Respective Amounts of the several Items as set forth to correspond Exactly with the dates and Respective Amounts of the Items on the debit side of the Account Current thereinbefore alluded to and Marked B. your Petitioners said Intestate not only omitted to mention on what Account the said several and similar Sums had been paid to the said Dawsonne Drake or to give the said Dawsonne Drake Credit for the annual payment in pursuance of the before mentioned Agreement Relative to the Betle and Tobacco Farm all which had been regularly and properly done in the said Account Current Marked B, and delivered by your Petitioners said Intestate to the said Dawsonne Drake in his life time, but which the Addition of another charge of One thousand and Eight hundred Pagodas which your Petitioners said Intestate had paid at several times to Mr. John Sykes as Attorney to the said Dawsonne Drake by the desire of him the said Dawsonne Drake but which if paid at all was done in Compliance with the said Agreement Marked A and what the said Dawsonne Drake had nothing to do with, nor could he in any degree be Accountable for had he brought in the said Dawsonne Drake his debtor for Fourteen thousand five hundred and Seventy two Pagodas Whereas by the balance of the said former Account Marked B, it was reduced to Seven hundred and Seventy two Pagodas and that by way of giving the said Account Current so latterly brought forward a greater Appearance of Authenticity and that the said Nathaniel Barlow might be the more easily prevailed upon to Admit and allow of the same as the Defendant said he believed was the Case your Petitioners Intestate the said Trevengadiah procured a kind of underwritten Certificate from One Alvar Chitty who Called himself Cash and Book keeper to the said Dawsonne Drake certifying that the Sum of Twelve thousand Seven hundred and Seventy two Pagodas as part of the said Account Current had been received by him on Account of the said Dawsonne Drake but by the grounding of which it rather Appeared that the said Sum of Twelve thousand Seven hundred and Seventy two Pagodas was so received on Account of the said Dawsonne Drake as being due to him than as money lent and Advanced by your Petitioners said Intestate Notwithstanding which the Defendant said it Appeared by the said Account Current the said Nathaniel Barlow who was a person of Weak intellects and

and easily intimedatid so as to do and agree to almost whatever was Required of him especiably if threatened with a prosecution at Law should he refuse and Which the Defendant stated he believed might have been the case in that instance Admitted at the foot of the said Account Current that the said Certificate appeared from the Books of the said Dawsonne Drake deceased to be true but even which the Defendant did state he did not conceive could have been at all binding on the said Nathaniel Barlow that having done so he could have bin Obliged to grant the Bond he Afterwards had the Receipt of the aforesaid Sum of Twelve thousand Seven hundred and Seventy two Pagodas being a matter there was no necessity to attempt a denial of but your Petitioners said Intestate having formed the Evil design of depriving the said Estate of so much property might suppose his obtaining the Signature of the said Alvar Chitty would in a great Measure tend to ensure his succes inasmuch as it would be sufficient to Confirm the said Nathaniel Barlow who was a Weak easy indolent and inactive Man and by no means fit to cope with one of your Petitioners Intestates subtle designing disposition of the Justnes of his demand and which Appeared to have been the case for had the said Nathaniel Barlow turned to and consulted the Books and papers belonging to the Estate of the said Dawsonne Drake he would have seen by the very Account Current Marked **B**, and signed by your Petitioners Intestate himself that although the said Sum of Twelve thousand Seven hundred and Seventy two Pagodas had been received by the said Dawsonne Drake it was so received in pursuance of the Agreement Entered into between your Petitioners said Intestate and the said Dawsonne Drake Relating to the said Beetle Farm and not as Money borrowed by the said Dawsonne Drake of your Petitioners said Intestate and that your Petitioners said Intestate could not have the smallest Grounds or pretensions for charging the same back to his own Credit as in and by the Account Current whereof a Copy Marked C, and to his said Answer annexed he had done And your Petitioner Shewith the Defendant did in and by his said Answer further state that he hoped by Exhibiting the Said two Accounts Current Marked **B** and C, he had furnished the said Court with what would afford them a sufficient insight into the Conduct and manifest Intentions of your Petitioners said Intestate and that standing in the Situation he did of one Entrusted by the said Court with the Management of the Estate and Effects of the said deceased bound to a faithful Administration of the same and to render a Just and true Account thereof and knowing that your Petitioners Intestates demand Originated in the way he had stated the Defendant was induced to belive that the said Court would deem him warranted in the dispasition he had made of the same instead of Complying with the payment thereof

thereof especially when the Defendant was fully in his conscience convinced that such demand was not Justly due and owing And your Petitioner Sheweth the Defendant did in and by his said Answer further state that your Petitioners said Intestate having so far succeeded in the Establishment of his Claim on the Estate of the said Dawsonne Drake as to have obtained the Signature before mentioned of the said Nathaniel Barlow Appeared to have been for some time satisfied therewith and not to have taken any further steps with regard to the payment thereof until the begining of the year One thousand Seven hundred and Eighty four when the said Nathaniel Barlow being in a bad state of Health and having formed an intention of proceeding to the Cape of Good Hope for the purpose of Effecting the Restablishment thereof your Petitioners said Intestate previous to the departure of the said Nathaniel Barlow after holding out various threats and menaces as the Defendant had heard and believed through the means of his Attorney at law respecting his determination to commence a prosecution Against the said Nathaniel Barlow provided he did not comply with the payment of his said demand at length prevailed upon the said Nathaniel Barlow who had Notwithstanding being furnished by his own Agents with an Account Current made out by them and bringing in your Petitioners said Intestate a debtor to the said Estate to the Amount of Seven hundred and twenty five Pagodas to Cause a Bond for the Sum of Seven thousand five hundred Pagodas payable to him your Petitioners said Intestate out of the first dividends which should or might be declared or paid by his Highness the Nabob Wallaw Law Law or his successor to his or their new Consolidated Creditors a Copy of which said Bond Marked D. was thereto annexed for the inspection of the said Court and the Defendant did state that your Petitioners Intestate having obtained the said Bond from the said Nathaniel Barlow and which Appeared to have been taken and Accepted by him in lieu of all demands whatsoever took no further steps respecting the same until the Return of the said Nathaniel Barlow from the Cape of Good Hope when knowing the person with whom he had to deal delivered in a Subsequent Account Current to the said Nathaniel Barlow Against the Estate of the said Dawsonne Drake brought down to the fifth of September One thousand Seven hundred and Eighty five wherein besides the Balance of the said Account Current Marked C. Amounting to Fourteen thousand five hundred and Seventy two Pagodas he introduced a Bond said to have been granted to him by the said Dawsonne Drake for the principal Sum of One thousand five hundred Pagodas and stated the before mentioned Bond granted by the said Nathaniel Barlow for the Sum of Seven thousand five hundred Pagodas as if it had been so granted in part of the said Subsequent Account Current a Copy whereof Marked E was

was thereunto annexed although the charge of the said Bond for One Thousand five hundred Pagodas did not Appear to have been any where until that time brought forward and the said Nathaniel Barlow however the Defendant did state it Appeared rejected the last mentioned Account Current of your Petitioners said Intestate and also hesitated as to the payment of the Bond before granted by him for the said Seven thousand five hundred Pagodas alledging as the Defendant said he had heard that the same was obtained from him during the hurry and confusion of his departure for the Cape of Good hope as before said and at a time that his situation from a bad state of Health was rendered such as not to have allowed his investigating the Affairs of the concerns of the said Estate which were connected with your Petitioners said Intestate in that full and Ample manner they required And the Defendant did further state that your Petitioners said Intestate still persisting in his said demand the said Nathaniel Barlow was as the Defendant said he had heard and believed at length prevailed upon to submit the same to a reference but that notwithstanding he had so consented thereto and although he must have been in possession of the aforesaid Agreement **A** and Account Current signed by the said Tewingadiah Marked **B**, (as the same were delivered over to the Defendant by the Attornies of the said Nathaniel Barlow) the same essential as they were the Defendant said he was informed were never brought forward by the said

said Nathaniel Barlow and which the Defendant pretended must have been the Case for it would have required nothing more to have effectually frustrated the intention of your Petitioners said Intestate and to have made it evident that the very Sums of Which the Account Current Marked C, was composed and to which your Petitioners said Intestate had obtained the Signature of the said Nathaniel Barlow were the very identical Sums paid to the said Dawsonne Drake in his life time by your Petitioners said Intestate pursuant to the Agreement before mentioned to have been Entered into between your Petitioners said Intestate and the said Dawsonne Drake relative to the said Bettle and Tobacco Farm and particularly set forth and Expressed so to be in the Account Current Marked **B**, thereunto Annexed And the Defendant did state that he therefore hoped and conceived that a decision made upon documents so fallacious misrepresented and opposite to the real state of Accounts as those produced by your Petitioners said Intestate would not be considered by the said Court in any degree or respect whatsoever as binding either on the Estate of the said Dawsonne Drake or the Defendant as the present Representative thereof and the Defendant said that so far from the said Estate being indebted to your Petitioners said Intestate he conceived that there was a Balance due and owing from your Petitioners said Intestate to the said Estate and for which he was about to file a Cross Bill in the said Court and he prayed that his

said

said Answer together with the Exhibits annexed thereto might be taken as part and parcel thereof And your Petitioner Sheweth that on or about the twenty fourth day of December and year of Christ One Thousand Seven hundred and Eighty Eight the Defendant did accordingly Exhibit and file his Cross Bill in the said Mayors Court against Sreenevasiah Brahminy then and since late Administrator of your Petitioners said Intestate for the Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash Current Money of Madras and pretending that the same would more fully and at large Appear by the Copy of an Account Current he had thereunto annexed and which he prayed might be taken as part of his said Cross Bill -

And your Petitioner Sheweth that to the Defendants said Original Answer Sreenevasiah Brahminy your Petitioners Intestates late Administrator did on or about the First day of September which was in the year of Christ One thousand Seven hundred and Eighty nine Exhibit and file his Replication and therein and thereby did aver that he would in due time prove that the Defendant was Justly and truly indebted unto him in the full and Just Sum of Fifteen thousand two hundred and twenty five Pagodas thirty Eight fanams and Seventy Cash as was set forth in his said Bill of Complaint and in the Account Current thereunto Annexed Notwithstanding the Defendant had endeavoured by improper Statements and false Reasonings to Shew the Contrary and by plausible pretext and artful insinuations prejudice the minds of the said Court against the propriety and Justice of your Petitioners Intestates demand and he did in and by his said Replication further state that the Answer of the Defendant Entered into a variety of Arguments and attempted to prove many things that were in no wise pertinent to or in fact connected with the matter on which your Petitioners Intestate demand had grounded his Action but that whilst the Defendant was thus assidious in bringing forward Extraneous subjects Multiplying words in discussing the same and drawing conclusions therefrom he studiously avoided the proper Answer to the charge in your Petitioners Intestate Bill of Complaint contained and therefore had not said positively whether he was or was not as administrator aforesaid Justly and truly indebted unto your Petitioners said Intestate in the Sum of Fifteen thousand two hundred and twenty five Pagodas thirty Eight fanams and Seventy Cash and which your Petitioners Intestate late Administrator did state was out of the Defendants power to have done because such debt had arisen out of a Bond duly Executed According to the forms of law he therefore evaded the question and Aimed at confusing a clear Case fully persuaded no doubt that such was the only means from which he could hope any kind of success, and throughly convinced that your Petitioners Intestate late Administrator however desirous he might be of entering into a Circumstantial detail of it in a full Replication

to

to the several particulars Contained in the Defendants said Answer yet he had not the power so to do because he had not the materials ~~~ Necessary for that purpose for your Petitioners Intestate late Administrators did in and by his said Replication state that some time in the year of Christ One thousand Seven hundred and Eighty five the said Nathaniel Barlow the then Administrator to the Estate of the said Dawsonne Drake but since deceased being desirous of avoiding all ~~~ proceedings at Law relative to your Petitioners said Intestates Claims on the Estate of the said Dawsonne Drake and conceiving an Amicable Adjustment the most eligible mode to arrange and settle the same did in consequence thereof propose to your Petitioners said Intestate that such Claims should be submitted to Arbitration, that to which proposal your Petitioners said Intestate consenting Josias Dupre Porcher and Cotton Bower Bank Dent Esquires were indifferently chosen by the said parties as their Arbitrators and that thereupon the said Nathaniel Barlow and your Petitioners said Intestate did enter into penalty Bonds to stand to, abide by, perform fulfill and keep the Award Order Arbitrament final end and determination of them the said Cotton Bower Bank Dent and Josias Dupre Porcher and which said Bonds were made a rule of the said Mayors Court and all which matters your Petitioners Intestates said late Administrator did in his said Replication state would more fully and at large appear by a Copy thereof thereunto annexed and which was by him

him prayed to be taken as part of his said Replication And your Petitioners said late late Administrator did in and by his said Replication further set forth that the said Arbitrators having on the twenty first day of ~~~ November and at sundry other days subsequent thereto Examined into and duly considered the Allegations and proofs urged by both parties and having at length after mature deliberation had thereon come to a ~~~ determination relative thereto they the said Arbitrators did on the fifth day of December in the said year of Christ One thousand Seven hundred and Eighty five make and publish their Award in writing and did thereby adjudge Award and Order that all Suits differences and disputes or controversies had moved arisen or depending between the said parties should cease and be no further prosecuted and they did also adjudge and Order that the said Nathaniel Barlow as Administrator of the said Dawsonne Drake should pay or Cause to be paid out of the first Assets belonging to the said Estate unto your Petitioners said Intestate his Heirs Executors and Administrators the full and Just Sum of Fourteen thousand Star Pagodas Current Money of Madras together with Interest at twelve per Cent per Annum from the day of the date of the said Award to the day of payment and they did further Award adjudge Order and direct that the said Nathaniel Barlow as Administrator aforesaid should secure the certain payment of the said Sum of Fourteen thousand Star Pagodas and Interest thereon to be paid within twelve Months from the day of the date of the said

Award

Award to your Petitioners said Intestate his Heirs Executors
Administrators or Afsigns in the best manner and by the most
effectual ways and means the Circumstances of the Estate of the
said Dawsonne Drake would allow or admit of by Afsignment of
Bonds Mortgages or other modes secure and satisfactory to your
Petitioners said Intestate his Heirs Executors Administrators or
Afsigns and that the said Arbitrators did further and lastly Award
Order and direct that on the Receipt of the said Sum of fourteen thousand
Pagodas and Interest by your Petitioners said Intestate his Heirs Executors
Administrators or Afsigns, or Security for the good Certain and effectual
payment thereof that he your Petitioners said Intestate should cancel
and give up all Bonds Bills Notes Accounts or other securities for
Monies which he had in his possession and on any wise relating to the
Matter in dispute a Copy of which Award your Petitioners Intestates
late Administrator did annex to his said Replication and pray that
the same might be taken as part thereof And for further Replication
did state that some short time Afterwards to wit on the twenty first day
of December in the said year of Christ One thousand Seven hundred and
Eighty four the said Nathaniel Barlow did Execute unto your Petitioners
said Intestate a Bond or Obligation Conditioned for the payment of the
said Sum of Fourteen thousand Pagodas and also an Afsignment for
Securing the same a Copy of which said Bond and Afsignment was
Annexed to your Petitioners said Intestates Bill of Complaint whereby
the

the said Nathaniel Barlow had fulfilled as far as in his power lay
The said Award of the said Arbitrators And your Petitioners said
Intestate had thereupon and in conformity to the said Award of the
said Arbitrators given up to the said Nathaniel Barlow all Bonds
Bills Notes Accounts or other Securities for Monies which he had in
his possession relative to the matter in dispute and therefore it was
impossible for your Petitioners Intestates said late Administrator
to Enter into an investigation of Accounts that were existing
previous to the said Arbitration because as he had therein before
Shewn every document and Voucher relative thereto were delivered
up by your Petitioners said Intestate to the said Nathaniel
Barlow and were then as your Petitioners Intestates said late
Administrator believed in the possession of the Defendant and
who had Actually and very unfairly brought forward such
part thereof as he had found convenient to his purposes and had
annexed the same to and Exhibited them with his said Answer
hoping by such partial and unfair Shewing to impose upon the
Judgment of the said Court and deprive the Administrator of your
Petitioners Intestate of that which was Justly due to him
contrary to that benevolent principle which perwaded the English
Laws that he who would have Equity should render Equity and
in addition to the conduct of the Defendant and the more
effectually to illustrate the injustice and want of candor which

very

very strongly Marked it your Petitioners Intestates late Admini=
=strator did Observe that the Defendant whilst he attempted by
Various means to do away the Validity of the Bond granted by the
said Nathaniel Barlow to your Petitioners Intestate had with
held every information relative to the Arbitration thereinbefore
mentioned and annexed and upon which such Bond was Execute
because he well knew that had he produced the said Award so
granted thereon in favor of your Petitioners said Intestate all his
plausibilities would have been ineffectual and the ungenerous
blemishes thrown on the memory of a dead man of no kind of force
whatever as it would have Appeared that the said Bond had not been
granted as the Defendant insinuated by the said Nathaniel Barlow
either under the impulse of force or a Weakness of intellects but that
in fact he was under an absolute necessity of giving the same in
conformity to the Award of Arbitrators chosen by himself and your
Petitioners said Intestate as above set forth men of Experience
Ability and of honor and to the performance of whose Arbitrament
he had bound himself in the penalty Bonds thereunto annexed
and therein above referred to, And your Petitioner Sheweth your
Petitioners said Intestates late Administrator did thereupon state
that the said Arbitrators would not have awarded any Sum to your
Petitioners said Intestate had they not been perfectly satisfied from
a full investigation into the documents papers and Accounts
which

which were laid before them that your Petitioners Intestate was
Justly and truly Entitled thereto and he thereon insisted that
the Defendant as Administrator to the Estate of the said Dawsonne
Drake unadministered by the said Nathaniel Barlow was as much
bound to abide by the said Award and the Bond and Securities
granted thereon as the said Nathaniel Barlow would have been,
had he been living for it was the true intent and meaning of the
Specific powers under which he the Defendant defended the Suit,
that he should stands to and be in the place or stead of the said
Nathaniel Barlow as Administrator to the Estate of the said
Dawsonne Drake unadministered to by the said Nathaniel
Barlow, that the Award of the said Arbitrators was to all intent
and purposes a final decision and that the question therein
involved was as fully and effectually determined and the right
thereof as clearly and distinctly defined and settled as it could
have been had the parties mutually agreed thereto or after a length
of litigious process the said Court could have passed a Judgment
thereon because an Award could not be set aside but under certain
particular Circumstances such as Collusion of parties or other abuse
of the Authority deligated to the Arbitrators and the trust and
Confidence reposed in them and that then and in such case
Exceptions on Oath ought to be made within a certain space after
the making and publishing of such Award, and in the present
matter

matter no Exceptions had ever been taken, nor any Objection made to the said Award granted in favor of your Petitioners said Intestate on the Contrary every part thereof was approved of and Completed with by the said Nathaniel Barlow as far as it lay in his power so to have done, nor had the Defendant himself made any Objection to the said Award but on the Contrary had tacitly confessed it and by such means had approved of the Cause: tho he attempted to raise Obstacles to destroy the effect which was a kind of inconsi=stency that the Law could not sanction and that common sense would Condemn and he therefore hoped under the particular Circumstance of the case and the fairness and legality of the demand made by your Petitioners Intestates late Administrator that the said Court would consider the Defendants Answer as litigious and Vexatious framed purposely to harrass and distress him and that the defence therein set up was with the evident design of taking an Advantage of your Petitioners Intestates late Administrators ignorance of the several transactions and dealings that took place between the said Dawsonne Drake and your Petition=ers said Intestate and the several Accounts and Vouchers belonging thereto or connected therewith because your Petitioners Intestates late Administrator was an infant at the time when such transactions and dialings had taken place, and because the said several Accounts and Vouchers belonging thereto or connected therewith

therewith were given up as thereinbefore mentioned to the said Nathaniel Barlow by your Petitioners said Intestate whereon and in conformity to the said Award the said Nathaniel Barlow had Executed in favor of your Petitioners said Intestate the said Bond annexed to his said Original Bill of Complaint at which time and Agreeable to the Express direction of the said Award your Petitioners said Intestate had granted unto the said Nathaniel Barlow a full and sufficient release and discharge of and from all Claims and demands which he your Petitioners said Intestate had Against the said Estate of the said Dawsonne Drake previous to the Execution of the said Bond—

And your Petitioners said Intestates late Admini=strator did in and by his said Replication further Shew that it was strikingly evident that the Answer of the Defendant was calculated for the purpose of harrassing and distressing your Petitioners said Intestate from the methods taken to conceal the real matters of fact and under the cloake of plausibility and Argument establish others of a very different complexion contrary to Equity and good conscience and in opposition to truth and Candour for that the Defendant had Endeavoured to impress the said Court with an Idea that the said Nathaniel Barlow was taken by surprize and during the hurry and confusion of his departure for the Cape of Good Hope had been prevailed upon to submit

submit the Claims of your Petitioners said Intestate to a reference, that the said Nathaniel Barlow was a man of Weak intelects so as to have done and Agreed to almost whatever had been regularly of him and again that the said Nathaniel Barlow was a Weak indolent and inactive Man and by no means fit to Cope with one of your Petitioners said Intestates subtle designing disposition — whereas your Petitioners Intestates late Administrator did charge and so the truth was that no such measures as the Defendant — suggested ever took place but that the said Nathaniel Barlow after Mature deliberation and with the sentiments of an honest and worthy Man desirous of Acting for the benefit of the Estate by the best means in his power and fully persuaded that from the nature of the demand of your Petitioners said Intestate an Action at Law would injure the said Estate submitted the same to the Arbitration of two men of established Reputation and who after a due investigation into the merits thereof had granted the said Award in favor of your Petitioners said Intestate and that it was in consequence thereof and in Obedience thereto that the said Nathaniel Barlow had Executed the said Bond for the said Sum of Fourteen thousand Pagodas and not as the Defendant had unfairly insinuated upon a Simple Account Current for that although the Defendant — mentioned a reference he artfully and studiously avoided mentio=ning as before observed that on Award in Consiquence of such

Reference

reference had been given in favor of your Petitioners said Intestate and that Notwithstanding the degrading and under the particular Circumstances of the case the very cruel manner in which the Defendant spoke of the said Nathaniel Barlow Repeatedly holding him up as an indolent easy Man of Weak intelects it would be very Obvious that the said Nathaniel Barlow was not only a Man of Respectable Abilities but worthy of a Considerable trust when it was considered that he was a Senior Merchant in the Service of the Honourable Company and of Council at Vezagapatam it was not very probable that such a Man was unfit to Cope with your Petitioners said Intestate and it was absurd to imagine that such a Man would have been intimedated as the Defendant Endeavoured to Shew by the threats and menaces of a native and be in a manner forced to have done an Act which as the Defendant would infer he knew in his conscience to be wrong And your Petitioner Sheweth that your Petitioners said Intestates late — Administrator did in and by his said Replication Shew that as unadministrators he the said Nathaniel Barlow was Account=able to the Creditors and to the Heirs of the said Dawsonne Drake and if he committed a Devastavit he would be liable to make good the Amount thereof out of his own proper Goods and Chattels and therefore it was to be presumed that a Conviction of doing that which was perfectly right and legal Accompanied the

Act

Act of his Submitting the dispute between him And your Petitioners said Intestate to Arbitration and the subsequent Act of Granting the said Bond for the Sum of Fourteen thousand Pagodas in conformity to the said Award given in favor of your Petitioners said Intestate and that he your Petitioners said Intestates late Administrator was informed and Verily believed that had he your Petitioners said Intestate commenced an Action against the said Estate of the said Dawsonne Drake instead of submitting his Claims to Arbitration he would have Recovered a much greater Sum than that which had been Awarded him and in which belief your Petitioners said Intestates late Administrator did say he was strengthened by a Reference to the said Award and the Opinion of Cotton Bower Bank Dent one of the said Arbitrators which he did thereunto annex for it therein Appeared that your Petitioners said Intestates demand on the said Estate Amounted to the Sum of One hundred and Twenty Nine thousand Pagodas a great part of which would in all probability have been Recovered the said Sum of Fourteen thousand Pagodas most undoubtedly would and it was Equally certain that the Expences Attending the litigation would have Amounted to Many thousands and lastly your Petitioners said late Administrator did in and by his said Replication state that he had as aforesaid faithfully Narrated as far as in his power lay the several Circumstances relative to, or connected with his Claim as charged

charged in your Petitioners Intestates Bill of Complaint and that he had replied to the Answer of the Defendant as far as it was material or necessary for him to have done and thereon did say that the several Accounts and papers mentioned annexed and referred to in the Defendants said Answer of a date antecedent to the said Arbitration and Award had nothing to do with the matter in dispute that that together with the Assertions insinuations Suggestions of the Defendant in his said Answer contained were irregular unjust and impertinent and introduced with the Evil design of enveloping the whole in intricacies and confusion deluding where it was impossible to convince and finally to Attempt by Artifice and design to deprive your Petitioners said Intestates late Administrator of his right contrary to Equity and Justice and being Advised thereto did state that the said Award was the source from whence his demand arose and beyond which the Defendants had no right nor could he trace, for that all Accounts were disposed of by the said Award that were of a prior date thereto and in course centered in the said Bond for the said Sum of Fourteen thousand Star Pagodas for all which reasons your Petitioners said Intestates late Administrator hoped it would fully Appear to the said Court and thereon humbly insisted that the Defendant was Justly and truly indebted to him in the said Sum of Fifteen thousand Two hundred and twenty five Pagodas thirty Eight fanams and Seventy Cash—

And

And your Petitioner Sheweth that to the Defendants said Cross Bill hereinbefore mentioned to be filed your Petitioners said Intestates late Administrator did on or about the fifteenth day of September and in the year of Christ One thousand Seven hundred and Eighty Nine Exhibit and file his Cross Answer and did therein and thereby deny that as Administrator aforesaid he stood indebted unto the Defendant as Administrator aforesaid or under any other Title or Authority in the Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash as was falsly and unjustly charged in the Defendants Cross Bill of Complaint and in the pretended Account Current thereunto annexed or in any other Sum or Sums of Money whatever but on the Contrary that the Cross Complainant stood Justly and truly indebted unto him your Petitioners said Intestates late Administrator as Administrator as aforesaid in the full and Just Sum of Fifteen thousand two hundred and twenty five Pagodas thirty Eight fanams and Seventy Nine Cash as was charged and setforth in your Petitioners said Intestates Original Bill of Complaint and the Account Current thereunto Annexed, and in and by your Petitioners said Intestates late Administrators Replication to the Defendants Original Answer and the several Exhibits to the said Replication annexed to which said Original Bill and Replication your Petitioners said Intestates late Administrator begged leave to refer and prayed the same might be taken as part of your Petitioners said Intestates late Administrators said Cross Answer

And your Petitioner Sheweth that to your Petitioners said Intestates late Administrators Original Replication the Defendant did on the fifteenth day of December and in the year of Christ One thousand Seven hundred and Eighty nine Exhibit and file his Original Rejoinder and therein and thereby deny that he was as Administrator as aforesaid or otherwise indebted unto your Petitioners said Intestates late Administrator in the Sum of Fifteen thousand two hundred and twenty five Pagodas thirty Eight fanams and seventy Cash or in any other Sum or Sums of Money in manner and form setforth by him on the contrary that your Petitioners said Intestates late Administrator did Justly and truly stand indebted unto the Defendant as Administrator as aforesaid in the Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash as was charged in his Cross Bill And the Defendant did state that he had not Endeavoured by improper Statements and false reasonings or otherwise to Shew the injustice of your Petitioners Intestates Claim or to prejudice the minds of the said Court by the means alledged by your Petitioners said Intestates late Administrator Against his demand which the Defendant denied to be founded on propriety or Justice and the Defendant did state that his Answer did not simply setforth Arguments but

but facts which he would Shew and prove to be pertinent to, and connected with the matter in which your Petitioners Intestate had grounded his Action whereto your Petitioners said Intestates late Administrator had not in any degree replied and had by such Silence and omission Acknowledged that such pretended facts were true in all and every part thereof that the Defendant had not in any instance Evaded or avoided properly Answering the charge in your Petitioners Intestates Bill of Complaint contained which the Defendant did say was not only unjust but wrongly founded because it Appeared that the foundation on which he had built his said charge was grounded on an Award upon Accounts pretended to have Existed between the said Dawsonne Drake deceased and your Petitioners said Intestate in their lives time and as the Defendant did Know that such Accounts were fictitious and framed for the sole purpose of misleading the Arbitrators of the said Award into an Admission thereof the Defendant stood Justified in Shewing what Accounts there really were Existing between the said persons in their lives time and thereby to prove that there could not be any Accounts to ground the said Award and Consequently that the Defendant could not in Justice, allow of payment to be made to your Petitioners said Intestates late Administrator out of the Afsets of the said deceased Dawsonne Drake to discharge the said Bond given upon an Award so illegally obtained and the Defendant said that the said Bond could not legalize the said Award, nor the Award stamp reality truth or Justness upon Accounts that had not any of those requisites to Warrant them but on the Contrary that were Entirely deficient in, and Void of all of them the said charge of your Petitioners said Intestate in his said Bill contained the same being illegal and unwarrantable in its foundation no Act of collusion between your Petitioners said Intestate and the said Nathaniel Barlow, nor any Advantage that might have been taken of the said Nathaniel Barlow to have induced him to allow of debts to be owing by the said Dawsonne Drake to your Petitioners said Intestate which were not owing, could upon the principles of Law or Equity make the Estate of the said Dawsonne Drake responsible for the payment of such debts Credited in fraud or Ignorance or Error but According to those principles that which was once a Fraud must always be so And your Petitioners said Intestates late Administrator could not lawfully Claim under a Bond upon so unfair a Consideration, nor could he lawfully Keep or detain the said Bond and the Afsignments Copies whereof were annexed unto your Petitioners said Intestates Bill of Complaint nor that part of the Afsetts of the Estate of the said Dawsonne Drake he became possessed from the said Nathaniel Barlow by means thereof and the Defendant for the reason upon the said pretended facts denied that your Petitioners Intestate debt

debt arose of a Bond legally Executed or that the Defendant had Evaded the question of the debt but on the Contrary he had traced it up to its Original illegal Source and he had so done not from the hope of confusing as your Petitioners said Intestates late Administrator stated but in that of Shewing by the best demonstrable and unequivocal lighty the unequity of the foundation of the Claim set up &c Against him as Administrator to the Estate of the said Dawsonne Drake –

And the Defendant did in his said Rejoinder pretend that the Evasion used by your Petitioners said Intestates late Administrator for not entering into a Circumstantial detail of and a full Replication to the several particulars contained on his Answer because he had not the materials necessary for that purpose did shew that your Petitioners said Intestates late Administrator was convinced of the truth of such particulars and which the Defendant insisted he ought to have replied unto because he could as well recognize the reality thereof from the Accounts composing such particulars by the Exhibition thereof made by the Defendant as if they were actually in your Petitioners said Intestates &c Administrators own posession and the Defendant said that it was not possible that your Petitioners said Intestates Administrator could be ignorant of the Existence of the Articles of Agreement &c between the said Dawsonne Drake and your Petitioners said &c

Intestate

Intestate Copy whereof marked **A** was annexed to his said &c Answer or labor under any difficulty to reply to the real state of facts asserted and to the Arguments used by the Defendant therefrom to combat the demand set up by your Petitioners said Intestate in his said Bill nor could your Petitioners said Intestates Administrator be less able to reply to the matters setforth by the Defendant upon the ground of the Account Current marked **B** to Shew that the said &c Dawsonne Drake was not indebted unto your Petitioners said Intestate on the twenty first day of August One thousand Seven hundred and Seventy any more than the Sum of Seven hundred and Seventy two Pagodas And the Defendant said that your Petitioners said Intestates Administrator ought to have made it a particular object to reply to that part of the Defendants Answer and also to Shew why the said Dawsonne Drake was not Credited in the Account Current thereunto annexed marked **C** for the Annual payment of Four thousand Pagodas Amounting to Twelve thousand Pagodas in pursuance of the Articles of Agreement before alluded to, in like manner as he had been Credited for the same in the Account Current Marked **B** &c although it Appeared that both Accounts were specifically the same on the debit side in the several Items of dates and Sums Except that a debit of One thousand and Eight hundred Pagodas was made on the said Account **C** after the said Dawsonne Drakes death which was not made in the Account **B** made and Signed by your

Pettrs

Petitioners said Intestate in the said Dawsonne Drakes life time
as having been paid to Mr. John Sykes which the Defendant had
in his Answer said if paid at all was done in Compliance with the
aforesaid Articles of Agreement and with which the said Dawsonne
Drake had not any thing to do and that by such unjustifiable means
the Defendant did pretend your Petitioners said Intestate by the
Account Marked C. made the said Dawsonne Drake after his
death indebted to him in the Sum of Fourteen thousand five hundred
and Seventy two Pagodas whereas by the Account B, he was only
indebted in the Sum of Seven hundred and Seventy two Pagodas
and the Defendant said that your Petitioners said Intestates
Administrator could not be ignorant of the particulars of the Exhibit
E, because he had annexed a Copy thereof to his Replication and
the Defendant did state that your Petitioners said Intestates
Administrator ought also to have replied particularly to the matters
set forth respecting the Account brought against the said Estate
of the said Dawsonne Drake marked D. because the same
Appeared to be composed of the Balance of the said Account Current
C, being the Sum of Fourteen thousand five hundred and Seventy
two Pagodas and of the Sum of One thousand five hundred Pagodas
the Amount of the deceaseds Bond to your Petitioners said Intestate
dated the fifth day of September One thousand Seven hundred and
Eighty

Eighty and of Interest thereon making together the Sum of Twenty
five thousand Seven hundred and fifteen Pagodas and Nine
fanams and further because the said Sum of Fourteen thousand five
hundred and Seventy two Pagodas was charged in the said Account
to have arisen upon the omission or Suppression of the Credit
of the Sum of Twelve thousand Pagodas in the aforesaid Account
Marked C. for three years allowance According to the aforesaid
Articles of Agreement and by the unfair addition of the Sum of
One thousand and Eight hundred Pagodas paid to Mr. John
Sykes the first whereof was duly Credited in the Account B, and
the latter was not at all - And the Defendant said that if your
Petitioners said Intestates Administrator had not been satisfied
with the reality of the said Exhibits he ought to have prayed
that the Originals might be produced but as he had not called
for the Originals and as he had totally neglected to Reply to the
matters alledged upon the Grounds thereof the said Exhibits and
the matter alledged thereupon were admitted by practice and
the course of the Law to be true in Every part and for the full
purpose and Effect that the same were set forth and made use of -

And your Petitioner Sheweth the Defendant did in
and by his said Rejoinder deny that there were any Accounts
between the said Dawsonne Drake in his life time, nor at the time
of his death which happened on or about the Ninth day of February
One

One thousand Seven hundred and Eighty One save and Excpt ~~~
what was due unto him at that time on Account of the Four ~~~
thousand Pagodas per Annum by the aforesaid Articles of Agreement
Covenanted to be paid quarterly to the said Dawsonne Drake by
your Petitioners said Intestate so long as the Cowle for Betle
and Tobacco &c.a Farms therein referred to, should Continue to
wit from the thirty first day of August One thousand Seven ~~~
hundred and Eighty until which day the aforesaid payment
was last made until the said Ninth day of February the day
on which the said Dawsonne Drake died and from which
aforesaid Thirty first day of August One thousand Seven hundred
and Eighty until the thirty first day of March One thousand
Seven hundred and Eighty One the day on which the said Cowle
was discontinued by the then President Governor and Council
at Fort Saint George the Defendant had in his Account Current
annexed unto his Crofs Bill debited your Petitioners said Intestate
at the rate of four thousand Pagodas per Annum making the
Sum of two thousand three hundred and thirty three Pagodas
and fourteen fanams and save and Excpt the Sum of Seven ~~~
hundred and Seventy two Pagodas owing by the said Dawsonne
Drake unto your Petitioners said Intestates for the balance of the
aforesaid Original Account Current dated the thirty first day of
August aforesaid and the only further Sum of One thousand
and

and five hundred Pagodas for the said Dawsonne Drakes Bond of the
fifth day of September One thousand Seven hundred and Eighty for
both which Sums the Defendant had given due Credit in the said
Account annexed to his said Crofs Bill —

And your Petitioner Sheweth that the Defendant did
in and by his said Rejoinder further state that in Order to Shew
that the said Dawsonne Drake could not be indebted to your Petitioners
said Intestate in any Sum to Warrant his demand upon the Estate
did setforth that he your Petitioners said Intestate did some time
in the year of Our Lord One thousand Seven hundred and Eighty One
make up an Account as between him and the Estate of the said
Dawsonne Drake in his own hand Writing wherein he debited the
said Estate for the said Balance of the beforesaid Account Current of
the thirty first day of August One thousand Seven hundred and
Eighty being the Sum of Seven hundred and Seventy two Pagodas
and also for the Sum of One thousand and five hundred Pagodas the
principal of the aforesaid Bond from the deceased to him and did
calculate Interest thereon up to the thirty first day of May in
the said year One thousand Seven hundred and Eighty One
Whereby he did make himself a Creditor of the said Estate in
the Sum of two thousand four hundred and Eighty One Pagodas
twenty Nine fanams and thirty Cash Copy of Which Account
the Defendant did annex to his said Rejoinder and pray the

same

same might be taken as part thereof – And the Defendant did further state that your Petitioners said Intestate had actually received from the said Nathaniel Barlow as a Creditor of the said Estate of Dawsonne Drake the Sum of Three hundred and Twenty five Pagodas for a Dwidend of twenty five per Cent upon the said Bond on the twenty Seventh day of February One Thousand Seven hundred and Eighty three as the Defendant said did Appear by an Item thereof in the Account Current annexed unto the Defendants Crofs Bill which clearly Shewed that your Petitioners said Intestate did not at that time regard the said Estate indebted to him in a greater Sum than Two thousand four hundred and Eighty One Pagodas twenty Nine fanams and thirty Cash and nevertheless that not even that Sum was due to him because he should have given the Estate Credit for a Proportion of the four thousand Pagodas by him your Petitioners said Intestate yearly Covenanted to be paid by the before said Articles of Agreument from the thirty first day of August One thousand Seven hundred and Eighty the last day of Settlement on Account thereof until the Ninth day of February One thousand Seven hundred and Eighty One the day of the death of the said Dawsonne Drake and from that day until the first day of March following when the Cowle for Betle and Tobacco was discontinued which would have Amounted According to the aforesaid Account current annexed into unto the Defendants Crofs Bill to the Sum of Two thousand three hundred and thirty three Pagodas and fourteen fanams to be sett off Against the Sums of Seven hundred and Seventy two and One thousand five hundred making together Two thousand two hundred and Seventy two Pagodas and the Interest thereon whereby the Defendant did state it Evidently Appeared that the said Dawsonne Drake could be indebted to your Petitioners Intestate at the time of his death in only a very inconsiderable Sum of Money which the Defendant said could not be an Object for Arbitration as the Account on which the same Existed was clear and Simple and the Defendant said that if your Petitioners said Intestate had made any other demand upon the said Nathaniel Barlow after the said Dawsonne Drakes death than what could proceed from the said three Articles of Account one at the debit and two on the Credit of his Account the same was false fictitious and unwarrant=able, and such as the said Nathaniel Barlow ought to have rejected and refused to allow and in any manner to admit of as the Subject of Dispute and Controversy before Arbitrators – and the Defendant said that if the said Nathaniel Barlow by a Collusion with your Petitioners said Intestate or that he was ignorant of his right as Administrator of the deceased Dawsonne Drake or that your Petitioners said Intestate had taken any unfair advantage of the Ignorance or Weakness of the said Nathaniel

Nathaniel Barlow to have induced him to Arbitrate any other Accounts framed after the death of the said Dawsonne Drake, than those before Shewn the Defendant was humbly of Opinion and he was advised that he had Law and Equity in his favour that an Award obtained by such consent and means could not operate to defraud the Creditors and Legatees of the said Estate of their Just Claims thereupon, nor would the Artful formality of Executing Arbitration Bonds and making a Submission to an award by those means intended to be procured a Rule of Court at all avail to make that legal which had already been illegal in its foundation the Defendant therefore stated he was advised that the point previously to be determined was not whether Arbitration Bonds were Executed in the formality Shewn by your Petitioners Intestates said Administrator or that an Award was given in Consequence thereof in the manner by him Shewn but whether there were any differences disputes and Controversies at the time Existing between the said Nathaniel Barlow sole Administrator with the will annexed of Dawsonne Drake deceased and your Petitioners said Intestate Beetle and Tobacco farmer or Rentor under the Honorable English East India Company whether the Claims Debts and demands relating thereto were legal or just or had Existence in the life time of the said Dawsonne Drake or whether the same had arisen from any Act done by the said Nathaniel Barlow after his death connected

connected with any duty or thing for the performance and Execution whereof the deceased had bound himself his Executors and Administrators the Reverse and Contrary of which Cases could not have given an Authority to the said Nathaniel Barlow to have bound the Estate or to have given away any part of it upon grounds that were not strictly legal consequently if the Submission had not been to such matters as the said Nathaniel Barlow could legally Consent as Administrator that the Award given upon such Submission could not have a legal operation to have bound the Estate of the said Dawsonne Drake or to have Sanctioned the keeping using and Conversion of any part of the Assets thereto belonging and the Defendant did pretend that there were not any other Claims Debts or Demands Existing in the life time of the said Dawsonne Drake and your Petitioners said Intestate which could warrant the Submission and Consequent award thereupon, nor were there any covenant between the said parties whereby the said Dawsonne Drake had left any duty or thing to be performed by his Administrator the only Covenant that was between them was the aforesaid Articles of Agreement which the Defendant said were dissolved by the Act of God in the death of the said Dawsonne Drake as the part by him to be performed was a mere personal duty that could Extend no further in him than during his life — And the Defendant did further state that he denied that the said

said Arbitrators were properly instructed and informed by the said Nathaniel Barlow of the real state of Accounts between the said Dawsonne Drake in his life time And your Petitioners said Intestate because if they had been so informed it would not have been possible that they could have Awarded that the said Nathaniel Barlow as Administrator of the said Dawsonne Drake should pay or Cause to be paid unto your Petitioners said Intestate out of the first Assets belonging to the Estate the Sum of Fourteen thousand Pagodas because it was nowhere Shewn that the said Estate was indebted unto your Petitioners said Intestate but by the Account Marked C. before alluded to by him, Certified by Alvar Chitty and signed by the said Nathaniel Barlow debiting the deceased in the Sum of Fourteen thousand five hundred and Seventy two Pagodas which was a fictitious Account framed after the death of the said Dawsonne Drake for the purpose of Setting a side the Account Marked B. whereby he was duly indebted in the Sum of Seven hundred and Seventy two Pagodas as settled between your Petitioners said Intestate and the deceased in his life time and by the Account Marked D. which was grounded upon the fictitious Balance and Account and the Amount of the deceaseds Bond for One thousand and five hundred Pagodas and also by a most Extravagant Account (as the Defendant did pretend) referred to in the Opinion of the Arbitrators delivered with their award and which the Defendant said Appeared to have been

been the Ground on which it was made Amounting to the Sum of One Lack twenty thousand two hundred and fifteen Pagodas which Sum was reputed to be composed of the twelve thousand Pagodas paid by your Petitioners said Intestate to the said Dawsonne Drake for three years payment at Four thousand Pagodas each in conformity with the aforesaid Articles of Agreement for Losses by the Farm having been taken away Seven years before its Expiration and for Seizure of Tobacco by the new Renter and for Interest on the Charges the Defendant prayed to Observe that those charges Appeared by the aforesaid Writing to be grounded upon supposed losses occasioned by the Surrender of the Cowle obtained by Mr. Drake in his life time by the said Nathaniel Barlow after his death and before he had taken out letters of Administration to the Estate of the said Dawsonne Drake and that in Consequence of such personal Act of the said Nathaniel Barlow your Petitioners said Intestate in Collusion with the said Nathaniel Barlow or taking an unfair Advantage of his great Weakness of understanding demanded from the said Nathaniel Barlow as Administrator of the said Dawsonne Drake a restitution of the said Twelve thousand Pagodas paid on Account of the said Articles of Agreement and for the payment of the said other charges Amounting to the Sum of One hundred and Twenty Nine thousand two hundred and fifteen Pagodas in all for which the Defendant said he had been informed and

and which Appeared to be the Sense of the Opinion of the said Arbitrators that your Petitioners said Intestate had threatened him the said Nathaniel Barlow with a prosecution at Law if he had not paid him Fourteen thousand Pagodas from the Estate of the said Dawsonne Drake But the Defendant said that previous to the Execution of the said Arbitration Bonds referring the fictitious Account some time on or about the Month of January One thousand Seven hundred and Eighty four the said Nathaniel Barlow either Confederating with your Petitioners said Intestate or by means of the dishonest Advantage taken by him your Petitioners said Intestate of his the said Nathaniel Barlows ignorance with a View to wrong and defraud the Creditors and Legatees of the said Dawsonne Drake he the said Nathaniel Barlow had on or about the Twenty ninth day of the said Month of January Executed unto your Petitioners said Intestate a Certain Deed or Instrument falsely Acknow=ledging that there was a Considerable balance due and owing from the Estate of the said Dawsonne Drake to your Petitioners said Intestate which the said Nathaniel Barlow had therein Covenanted to Account and make Satisfaction or Cause the same to be Accounted for or made satisfactory to your Petitioners said Intestate after his the said Nathaniel Barlows return from the Cape of Good Hope whereto the said Nathaniel Barlows was then about going by the advice of his Physicians for the recovery of a very dangerous

dangerous disorder that greatly affected his Body and mind And the Defendant said that the said Nathaniel Barlow had on the said Twenty Ninth day of January Executed to your Petitioners said Intestate one Certain Bond or Obligation therein binding himself his Heirs Executors and Administrators in the penal Sum of ~~₰~~ Fifteen thousand Pagodas Conditioned for the payment of the Sum of Seven thousand five hundred Pagodas by him the said Nathaniel Barlow his Heirs Executors and Administrators out of the first Monies or dividends received or declared by the Nabob of the ~~₰~~ Carnatick or his Successors to his or their new Consolidated Creditors together with Interest at the rate of twelve per Cent per Annum which said Bond or Obligation altho only personally binding the said Nathaniel Barlow his Heirs Executors and Admini=-strators was Executed and Signed by the said Nathaniel Barlow as Administrator to the said Dawsonne Drake deceased which said Bond was the same referred to in the said Opinion of the said Arbitrators and in the Account Current marked **D**. before recited Copies of which Deed as also of the said Bond or Obligation marked **F**. and **G**. he did annex to his said Rejoinder and pray the same might be taken as part thereof - And the Defendant said that it Appeared by the said Deed and by the said Nathaniel Barlows Bond of even date therewith that your Petitioners said Intestate had in the Month of January One thousand Seven hundred and Eighty four thought

thought he had prevailed sufficintly for in his Veiws to injure the Estate of the said Dawsonne Drake and that he was satisfied with the said Nathaniel Barlows Bond for Seven thousand and five hundred Pagodas as the utmost length he could have gone in a &c Conjunction with the said Nathaniel Barlow towards depredating and defrauding the said Estate But the Defendant said that after the said Nathaniel Barlows return from the Cape of Good Hope your Petitioners said Intestate had made use of the said Deed of the Twenty Ninth day of January One thousand Seven hundred and Eighty four to threaten him the said Nathaniel Barlow &c with a prosecution for the aforesaid Balance owing to him by the said Dawsonne Drake which he had at that time made to have Consented to the Enormous Sum of One Lack twenty Nine thousand two hundred and Twenty five Pagodas to wit some time on or about the Month of November One thousand &c Seven hundred and Eighty five when the Defendant stated &c that the said Nathaniel Barlow had been prevailed upon and by some unfair means induced and instigated to Confiderate himself with your Petitioners said Intestate to refer the said demand on him as Administrator of the said Estate of Dawsonne Drake to Arbitration and that the said Arbitrators the said Collon &c Bower Bank Dent and Josias Dupre Porcher had on the fifth day of December in the said year of Our Lord One thousand Seven hundred

hundred and Eighty five given their said Award and Opinion to the purport and Effect in the Copies thereof to your Petitioners said &c Intestates Administrators Replication setforth which the Defendant pretended he was Advised could not be more binding on the Estate of the said Dawsonne Drake than the other preceeding Acts of the said Nathaniel Barlow and your Petitioners said Intestate on which the same was founded Because the Defendant Stated that there were not any Accounts between the said Dawsonne Drake in his life time and your Petitioners said Intestate than such as the Defendant had setforth and that the Admission of the Accounts &c before the Arbitrators mentioned by them in their said Opinion was irregular and unfair and which could not have been so &c allowed of and Admitted by the said Nathaniel Barlow with any other Veiw or design than that of saving himself from that personal Responsibility he was threatened with by your Petitioners said Intestate in respect of his said illegal demand at the Expense of betraying the Intestates of the Estate of the said Dawsonne Drake to the dishonest and fraudulent Veiws of your Petitioners said &c Intestate and because it did not Appear by the said Opinion of the said Arbitrators delivered with their said Award and which was the Ground thereof that any Accounts or Documents were produced on the part of the Estate of the said Dawsonne Drake by the said Nathaniel Barlow but that the said Award was entirely grounded upon

upon Accounts produced by your Petitioners said Intestate &c
which Connivance and Collusion of the said parties was as hereas
Advised Sufficient to Vitiate the said Award Even if the said &c
Nathaniel Barlow could legally have submitted matters to
Arbitration as Administrator to the said Estate which had not
any Connexion with it and further more because the said &c
Accounts so unfairly Exhibited were not Composed of any Article
Except that of - Twelve thousand Pagodas for three years payments
at four thousand Pagodas each that had the most distant Connexion
with any Act or Deed of the deceased Dawsonne Drake in his
life time and it might have Appeared by the Account Current
Marked **B**. before referred to of the thirty first day of August One
thousand Seven hundred and Eighty as it then did appear that
Article was therein fully allowed by mutual debit and Credit
in Case the same had been produced before the said Arbitrators
but instead thereof there was every reason to conclude that the &c
Account made up after the said Dawsonne Drakes death and signed
by Alavar and the said Nathaniel Barlow wherein the said &c
Credit to the Estate was suppressed was substituted in the place
of the said Account wherein it was allowed by your Petitioners said
Intestate - and the Defendant said that the deceased had not
done any Act in his life or otherwise Authorize anyone after his
death to have done any Act which could have Amounted to a
breach

breach of the Articles of Agreement or Covenants Entered into between
him and your Petitioners said Intestate on the fifteenth day of &c
February One thousand Seven hundred and Seventy Seven and &c
afterwards ratified and Confirmed on the first day of August in the
same year but that the said Covenants Continued mutually binding
and were reciprocally fulfilled by the parties thereto until they were
dissolved by the death of the said Dawsonne Drake and therefore that
the said Sum of Twelve thousand Pagodas paid by your Petitioners
said Intestate was so paid for and upon a good legal and bona fide
Consideration Expressed and Acknowledged thereon and the Defendant
said that if necessary he could prove that your Petitioners said Intestate
was benefitted by the means of the said Dawsonne Drake procuring
a remission of Four thousand and five hundred Pagodas Annually on
the Sum Agreed by him to be paid to Government for the said &c
Butte and Tobacco farm and that it Appeared by the Copy of the &c
Arbitration Bond annexed to your Petitioners Intestates Admini-
-strators Replication that your Petitioners said Intestate was at
the time of Signing thereof Butte and Tobacco farmer and that he
had obtained a Cowle or grant of the said Farm for the remaining
unexpired term of the said Cowle obtained by the said Dawsonne
Drake from the first day of March One thousand Seven hundred and
Eighty two one year after the discontinuance of the aforesaid Cowle by
Government the said Arbitrators therefore had made a wrong &c

Conclusion

Conclusion upon the Case of your Petitioners said Intestates being deprived of the farm Seven years before the Expiration of the Coovle That if Mr. Drake had he been living he would have been bound in honor to have given your Petitioners said Intestate Compensation with respect to the demand for the Seizure of Tobacco Because had the said Dawsonne Drake lived until the Expiration of the Coovle the same would have been Continued in his name and your Petitioners said Intestate would have Continued to Enjoy the profits of it in Consideration of his paying Four thousand Pagodas per Annum to the said Dawsonne Drake so long as it should remain in his hands and the Defendant said that the said Dawsonne Drake had not been bound in honor or by Law to have made good any Losses from any Event whatever the same right arose for as he was precluded from all profits arising from the Farm he had been in like manner Guarranted Against all Losses arising therefrom which the said Arbitrators might have observed if the said Articles of Agreement had been laid before them which it was to be presumed they were not by giving an Opinion so Contrary to their very Spirit and Essence and the Defendant said that the whole of the reasoning of the said Arbitrators in their said Papers stiled their Opinion delivered in with the said Award had Clearly Shewn a want of information and almost a necessity of determining as they had by their Award Which Appeared to be as the fact was grounded on the

the Extravagant Exaggerations of one party Assisted in his dishonest Views by a pretended Opponent and both confederating in the perpetration of the Evil design of imposing on their Judges and by that means to have made their Award the Support of unjust Claims on the deceased to the manifest wrong and injury of Just and lawful Creditors –

And your Petitioner Sheweth that the Defendant in an by his said Rejoinder further setforth that it was mere Evasion in your Petitioners said Intestates Administrator to pretend that it was not possible for him to Enter into an investigation of Accounts previous to the said Arbitration without that he equivocated by Reasoning to himself a meaning, that no Accounts were previous thereto existing whereupon the said Award could be legally grounded and the Defendant said that he was not in possession of any Document or Voucher whereon he knew, or did believe that an Award could be legally founded nor had the Defendant brought forward only such as he found Convenient to his purposes nor had he concealed any that he Apprehended or believed would tend to throw any favorable light on the unjust and ill founded demanded of your Petitioners said Intestates Administrator which he conceived to be impossible but that he the Defendant had candidly and fairly enlarged upon every Document or Voucher he had in his possession relating to the business in question in Order that the said Court might by a through investigation thereof determine According to Right and Justice

Justice and that he had not Suppressed any One Circumstance to his knowledge that would tend to Cast a Stronger light upon the truth of the whole Case - and of Course he could have no hope from a partial and unfair Shewing to impose upon the Judgment of the Court but on the Contrary that such seemed to be hope and design of your Petitioners said Intestates Administrator who under pretence of ignorance of the Grounds on which the Award in question was given and that all that he knew of the matter in dispute was confined to the period of the Execution of the said Nathaniel Barlows Bond and Asignment concealed from the Court as the Defendant unjustly insinuated those real facts he in his Conscience ought to be convin=ced would if discovered have given such an unfavorable Appearance to his pretended demanded as would have Compelled him to relinquish it in dispair of that succes he had hitherto Cloaked himself with, and to do the Defendant on behalf of the Creditors of the deceased Dawsonne Drake the Justice he had thereto with held from him. And the Defendant said that it could not be Credited by any person however uninformed of the nature of Accounts and important Money transactions that so large a Sum as One Lack Twenty Nine thousand two hundred and fifteen Pagodas could have had but the Appearance of a day or during the short time the Account of Which that Sum was stated to have been the Balance was before the said Arbitrators and then immediately after

after to have Vanished and that not trace track or Memorandom of that Voluminous Sum should have remained in the posession or memory of your Petitioners said Intestates Administrator Except that the said Account had been framed for no longer duration than till it had worked the bad purpose for which it had been created and the Defendant said he might with Justice Apply to the Conduct of your Petitioners said Intestates Administrator in that Remarkable instance the maxim in Equity he himself had quoted that he who would have Equity should do Equity - And the Defendant did deny that he had used any means to Shewn the invalidity of the Bond and Asignments in question than such as were Strictly Conformable to the known principles of Law and Equity and the Defendant said that he had not with held any information respecting the Arbitration which had been requisite for him to have given thereof by producing all the Accounts that were Existing between the said Dawsonne Drake in his life time and your Petitioners said Intestate and that proof of Accounts of the Ligality of the proceedings before the said arbitra=tors did then rest with the Administrator of your Petitioners said Intestate, and he could not be allowed to Exempt himself from the duty of giving so reasonable a Satisfaction to the said Court upon a matter he was called upon so particularly to declare himself and his declining so to do was of itself

Sufficient

Sufficient to have Justified and Established as the Defendant
pretended the truth of the matters he had charged and stated
Against the said Bond the said award and the fictious upon which
it had been grounded And that in addition to what the Defendant had
before observed Respiting the illegality of the said Nathaniel Barlow
and your Petitioners said Intestates – Collusion or of the unfair advantage
that had been taken by your Petitioners said Intestates by threats and
menaces to prosecute him for enormous Sums of Money unless he
Complied and Confederated with him to favour his unjust designs
Against the said Estate the Defendant said that it Appeared that the
demand made by your Petitioners said Intestate Against the said
Nathaniel Barlow before the said Arbitrators and for which he menaced
and Threatined a prosecution at Law was to the Sum of One Lack
Twenty Nine thousand two hundred and fifteen Pagodas yet that the
penalty of the Obligation Bond by a fatal oversight in the said parties
was only made to be thirty thousand Pagodas which the Defendant
said was a full detection of the real Sentiments of your Petitioners
said Intestate upon his said demand that it was not Just nor true
nor warrantable upon any principle of Law or Equity the Conclusion
therefrom ought therefore to have been that it had been fictitious and
false and a mere Contrivance of the parties to make the said demand
of such an Enormous Sum in Order better to give a Colour to the
means used by them to have induced the said Arbitrators to have
awarded

awarded the Sum of Fourteen thousand Pagodas as a Sum your
Petitioners said Intestate had been Willing to receive in full discharge
of his said Enormous Claim of one Lack Twenty Nine thousand
Two hundred and fifteen Pagodas from whence the Defendant
pretended it was fair to infer that the said Nathaniel Barlow had
not said any thing or produced any proofs in opposition to the
said Sum having been awarded upon the Grounds of your Petitioners
said Intestates false Account produced before the Arbitrators marked
D. grounded upon the said Account made up after the death of the
said Dawsonne Drake signed by him marked C. wherein a
Credit in favour of the said Dawsonne Drake of the Sum of Twelve
thousand Pagodas was purposely omitted as it could not be believed
that the said Nathaniel Barlow was ignorant that Sum of Twelve
thousand Pagodas had been Admitted in the Account B. upon a
mutual Settlement of Accounts between the said Dawsonne
Drake in his life and your Petitioners said Intestate and the
Defendant said that there could have been no greater necessity
for the said Nathaniel Barlow to have given the Bond in question
than there was necessity for his Conniving at the means used by
your Petitioners said Intestate to obtain it and the Defendant said
that he denied that the said Arbitrators could have Awarded
any Sum to have been paid to your Petitioners said Intestate
if they had been in possession of all the Documents Papers and
Accounts

Accounts and the necessary information respecting the same that were then — before the said Court nor could they legally have done so &c because the Defendant denied that there were any Documents &c Papers and Accounts whereby they could legally have Awarded any Sum of Money to be paid out of the Estate of the said deceased Dawsonne Drake and the Defendant denied that he was bound by the said Award and the Bonds and Securities illegally granted thereon and the Defendant denied that as Administrator to the Estate of Dawsonne Drake unadministered by the said Nathaniel Barlow he was bound by any illegal Act done by the said Nathaniel Barlow during the time that he was Administrator thereof But the Defendant admitted that an Award could not be set aside but under particular Circumstances such as Collusion of parties a Want of Authority to deligate and other legal incapacities and abuse of the Authority deligated to the Arbitrators and that the Defendant had particularly charged such Collusion of parties and other frauds and incapacities as were sufficient in Law and Equity to set aside the said Award and also because the said Arbitrators had not legal ground whereon to found their said Award the said Award having been more over Evidently Repugnant and illegal and given without a knowledge of the premises for by the said proceedings it not only Appeared that the said Nathaniel Barlow had Abondoned the Interests of the Estate of the said Dawsonne Drake by not producing the only state of Facts by which the truth could be known to the said Arbitrators but that he allowed of Accounts and other matters to be produced before them &c which were not only without connexion with the deceased in his life time or his Estate after his death but which were false and framed after his death by which means the truth had been Concealed from and misrepresented to the said Arbitrators that the said Nathaniel Barlow had not in those instanes only allowed of the Estate to be prejudiced but that he had also Concealed from the said Arbitrators that there were Creditors on Judgment and Bonds to a very Considerable Amount which to that day were not satisfied and discharged with no view but to induce the said Arbitrators to have given the Award they had upon the said fictitious Accounts and to make them commit under those Concealments and misrepresentations the last Act of injustice that could have been done to the Estate by Awarding that the Estate should pay the Sum of Fourteen thousand Pagodas and more over that Sum should be paid in the best manner and by the most effectual ways and means the Circumstances of the Estate &c would admit and allow of by Asignment of Bonds Mortagages &c and other mode secure and Satisfactory to your Petitioners said &c Intestate which the Defendant said the said Arbitrators could not have legally done if they had known and been informed of the real and true state of Facts and the real and true Situation of the Estate the Defendant therefore said that the said Award was avoided by the

the said Arbitrators having mistaken and by them having been o/
purposely led to mistake the facts as well as the Law upon the premiss
they were to decide and determine upon and the Defendant did
pretend that the said Court could not only Examine the reasons and
Grounds of the proceedings of the said Arbitrators but also into what o/
matter they Considered at the time of making their said Award and
the Defendant did therefore State that your Petitioners said Intestate
having Commenced his Action upon a Bond given under the said
Award his Exceptions to the same were Amply and timely made and
such as he hoped and doubted not but the said Court would deem
sufficient to Adjudge that the said Bond and the Assignments and
Assets of the Estate thereby Assigned were illegally obtained and o/
Without Valid or good Consideration and that the said Nathaniel
Barlow could not legally Execute the said Bond and by Consequence
that your Petitioners said Intestate could not lawfully demand and
sue for payment thereof but that he ought to deliver up the said Bond
and Assignment and the Assets of the Estate thereby Assigned to the
Defendant as part of the Estate of the said Dawsonne Drake o/
deceased as well as the Several Sums by him received thereon and
unlawfully Converted to his own use to the Amount of the Sum
of Two thousand four hundred and fifteen Pagodas Seven fanams
and One Cash as Appeared by the Bill of Complaint of your Petitioners
said Intestates And the Defendant did in and by his said Rejoinder

State

State that he had made most Substantial and Valid Objections to
the said Award by pointing out in his Answer and in his said Rejoinder
Annexing Copies of the said Award that there were not any Accounts
to ground the same and that the pretence of Accounts having Existed
between the said Dawsonne Drake and your Petitioners said Intestate
was false and unjust and done with a View of misleading the o/
Arbitrators and defrauding the Estate of the said Dawsonne Drake
and the Defendant did deny that there were any particular Circum=
=stances in your Petitioners Intestates Case or that there was any
fairness or legality in his demand that could induce the said Court
to Consider the Defendants Answer as litigious or Vexatious or that
the same or that his said Rejoinder were framed with any other design
or hope than that by a fair and Candid and legal defence to your
Petitioners Intestates Bill the said Court might be enabled to
decree According to Right and Justice -

And the Defendant did further deny that the same were
set up with any design of taking an Advantage of your Petitioners
said Intestates Administrators ignorance of the Several transactions
and dealings that had taken place between the said Dawsonne
Drake and your Petitioners said Intestate or that he was ignorant
thereof or of the several Accounts and Vouchers belonging thereto or
connected therewith Notwithstanding your Petitioners said o/
Intestates Administrator had placed himself within the o/

incapacities

incapacities of Minority at that time for the Defendant did State that there were no other Accounts or Vouchers of Transactions and dealings relating to the matter in question or otherwise than what the Defendant had honestly Setforth And the Defendant said that your Petitioners Intestates said Administrator was not such an Infant at the time of the Transactions in question taking place as to have been incapable of understanding and well informed of every thing relating to your Petitioners said Intestates Concerns and Affairs in his life time and his pretence of not being in possession of the said Accounts was merely feigned for the purpose of saving himself from being Compelled to Enter into an investigation of such Accounts if any or to declare what was really the truth, that there were not any Accounts whatever between the said Dawsonne Drake in his life time and your Petitioners said Intestate than such as the Defendant had set forth and Shewn and to have Acknowledged that the Accounts Shewn to the Arbitrators alone were fictitious and framed after the death of the said Dawsonne Drake for the purpose before setforth -

And the Defendant said that no Act of the said Nathaniel Barlow nor any that he could procure or Cause to be done by means of another upon the illegal grounds before fully Stated could make such Act binding upon the Defendant as

as Administrator of the Estate of Dawsonne Drake unadministered by him and therefore that the release and discharge said to have been given by your Petitioners said Intestate of and from all Claims and demands which he your Petitioners said Intestate pretended he had against the Estate of Dawsonne Drake previous to the Execution of the said Bond could not legalize or make good in law, any proceedings illegally had and done between the said Nathaniel Barlow and your Petitioners said Intestate previous thereto but as part of a Superstructure raised upon so illegal a foundation the said Release ought to be Condemned and Sentenced with the other proceedings whereto it was Consequent as Nugatory and Void and ineffectual to any legal purpose -

And the Defendant did in and by his said Rejoinder further deny that the said Nathaniel Barlow had acted in any or part of the premises for the benefit of the Estate or that he was or persuaded from the Nature of your Petitioners said Intestates demand, that an Action at Law could injure the Estate because the Defendant said that the said Nathaniel Barlow had known that the Estate of the said Dawsonne Drake was not at the time of his death indebted to your Petitioners said Intestate if at all, or but a very small Sum of Money and that at the time of the said Arbitration that your Petitioners said Intestate was indebted to the said Estate he ought therefore to have known that no Action that

that could have been Commenced by your Petitioners said Intestate could have prejudiced the said Estate and your Petitioner Sheweth the Defendant did in and by his said Rejoinder further State that the Argument used by your Petitioners Intestates Administrators to Justify his demand to wit that the said Nathaniel Barlow was Accountable to the Creditors and to the Heirs of the said Dawsonne Drake and if he committed a devastavit he would be liable to make good the Amount thereof out of his own proper Goods and Chattels" Shewed that your Petitioners said Intestates Administrator was regardless whether his demand was just or unjust and that he Supported the same under the Act of having led the said Nathaniel Barlow to attempt to do an Act to the prejudice and injury of the said Estate and by taking Advantage of his own wrong seemed to conclude that he ought to have paid the Amount of his illegal demand merely because your Petitioners said Intestate had mislead the Arbitrators to have given an Award in his favor and because the said Nathaniel Barlow had Confirmed that Act by having given a Bond for the Amount Awarded without chusing to Consider whether the matters laid before the said Arbitrators were fraudulent or otherwise he insisted that he ought nevertheless to have been paid that the Bond had Sanctioned all the unfavourable and illegal proceedings upon which it had been obtained and that neither Law or Equity could have interposed their power and Coercion to investigate the grounds on which the said Award had been obtained and the Consequent Consideration of the said Bond or whether any had ever Existed in the life of the said Dawsonne Drake or whether any had been given or accrued to the Estate since his death and that Still your Petitioners said Intestates Administrator under all these disqualifications to create a Just Debt Against the Estate insisted that the Defendant was bound as Administrator to have allowed him to pay himself the Amount demanded by him out of the Assets he under these unwarrantable and illegal grounds had possessed himself of and without Considering that the Defendant would be guilty of the devastavit imputed to the said Nathaniel Barlow and that he the Defendant would in that Case have been liable to make good the Amount he should have paid or allowed to be paid to your Petitioners said Intestates Administrator from the Estate of the said Dawsonne Drake out of his own proper goods But the Defendant said that for the Avoidance of that personal penalty and to Save himself the trouble of a questionable action against the said Nathaniel Barlows Heirs Executors or Administrators for a Devastavit committed by him after having paid a Debt he had illegally created against the said Estate he the Defendant had objected to pay the said unjust

unjust Debt and had Claimed the Afsets detained in your Petitioners Intestates Administrators posfesion in Order that the same might be delivered up to him and Applied to the Lawful purpose of paying the said Dawsonne Drakes Just Creditors and your Petitioners Sheweth the Defendant did in and by his said Rejoinder further deny that a Conviction of doing what had been perfectly right and legal had Accompanied the Act of Submitting the pretended dispute between the said Nathaniel Barlow and your Petitioners said Intestate to Arbitration and the Subsequent Act of granting the said Bond as it was Evident that there were not any disputes between them that could have given him a Conviction of his doing thereby what had been Right or legal but on the Contrary - And the Defendant further denied that if your Petitioners said Intestate had Commenced an Action Against the said Dawsonne Drake instead of Submitting his Claims to Arbitration that he would have had a much greater Sum than what had been Awarded him or any Sum at all because your Petitioners said Intestate was at the time a Debtor to the Estate and the Defendant said that the Opinion of the said Cotton Bower Bank Dent one of the said Arbitrators did not add to the strength of the said Afsertion of your Petitioners said Intestates Administrator as the said Opinion and the Award thereupon given were Evidently founded in Error and Contrary to Every principle of Law or Equity That your Petitioners said

Intestates

Intestates Administrator had not faithfully narrated as far as in his power the several Circumstances relative to and connected with his unjust Claim or that he had replied to the Defendants Answer as far as it was material and necefsary for him to have done and the Defendant did State that the several Accounts and papers mentioned annexed and referred to in his Answer had materially to do with the said Arbitration for the Reason your Petitioners said Intestate had objected thereto namely because they are of a date Antecedent thereto And your Petitioners said Intestates Administrator had not Shewn any other Grounds whereon the said Award could have been legally given but had declined so doing, and the Defendant did pretend that the several facts Afsertions and Arguments alledged charged and made use of in his Answer were true Just regular and pertinent and that they were introduced with no design but that of developing And bringing to light the intrigues frauds and intricacies wherein the Artful mystery of your Petitioners said Intestates Conduct in Respect of the matter in question had laid Cloaked and concealed And the Defendant therefore said that your Petitioners said Intestate and not the Defendant had attempted to delude where it was not posible to convince and by Artifice and design attempt to deprive the Estate of the said Dawsonne Drake of its Lawful Afsets contrary to Right and Justice and the Defendant did deny that the said Award was the source from whence the present question ought to

have

have its rise because the said Award had been obtained from a Source contaminated by fraud fiction and Misrepresentation –

And the Defendant did deny that all Accounts betwixt the said Dawsonne Drake in his life time and your Petitioners said Intestate had been disposed of by the said Award because they had not been produced but instead thereof false and fictitious Accounts had been Admitted to be produced before the said Arbitrators which had not any connection with the Accounts between the said Dawsonne Drake in his life time or it would not have been possible therefrom to have legally made the Estate of the said Dawsonne Drake a Debtor to your Petitioner said Intestate –

And the Defendant did further deny that any Accounts subsisting between the said Dawsonne Drake in his life time and your Petitioners said Intestate had or could Center in the said Bond but that the same had been given without any legal Consideration and the Defendant humbly conceived that it could not appear by any Reason Shewn by your Petitioners said Intestates Administrator that the Defendant was indebted to him in the Sum of Fifteen thousand two hundred and twenty five Pagodas thirty Eight fanams and Seventy Cash or in any other Sum or Sums of Money but on the Contrary that your Petitioners said Intestates Administrator was indebted unto the Defendant as Administrator of the Estate of the said Dawsonne Drake unadministered by the said Nathaniel Barlow in the Sum of One thousand and Eighty Eight Pagodas twenty three fanams and Twenty four Cash for the Balance of the Account annexed to his Cross Bill and that your Petitioners said Intestates Administrator was moreover bound to pay the Defendant the Sum of Two thousand four hundred and fourteen Pagodas Seven fanams and One Cash by him Acknowledged in his Bill of Complaint to have been received from Assets illegally assigned to your Petitioners said Intestate and also to deliver up to be cancelled the said Bond and two Assignments together with the said Assets thereby assigned –

And the Defendant said that your Petitioners said Intestates Administrator by being decreed so to do would thereby only be Compelled to do an Act of Justice to the Estate of the said Dawsonne Drake which was not added to, or benefited in his life nor since his death by any Consideration paid or other Equivalent given by your Petitioners said Intestate in his life or by his Administrator since his death for the said Bond – And that it was Contrary to Law and Every Sound Reason to Construe the Acts of the Administrator of his Estate either before or after he had been involved with that Authority as binding on his Estate because such Acts were not legal and Conformable to his duty and Office as Administrator but Contrary thereto and moreover Because if an Administrator could lawfully alien or dispose of the Estate of

of a deceased person upon illegal Consideration or without any &c
Consideration at all could incumber the Estate by Bonds or other
Deeds merely because he had the power of possession given him by Law
it would be in the power of persons invested with that Authority
to pervert it from a legal to an illegal purpose and such an allowance
of the Law would offer encouragement to Administrators to Combine
and Confiderate with other ill disposed persons to Admit of unjust
Debts set up on the one side and Acknowledged on the other with a
View of Converting the lawful afset of the Estates they so became
Entrusted with by paying therefrom or securing thereby the
payment of such unjust debts or if such a Connivance between
the Administrator and such pretended Creditor could be sanctioned
and put out of the power of Law or Equity to Enquire into by the
medium of an Award procured to have been given by the said parties
upon false Accounts Exhibiting such unjust debts (which was as
the Defendant pretended pointed by the Case) and that an Award
thus obtained was allowed to have been a legal Bar to all &c
retrospection to the grounds upon which such Award could be
given the Defendant said that no person having a Claim upon
the Estate of a deceased person whether as Creditor or Representative
would be secure of Recovering from the said Estate as the means
of Evading their Claims could be so easily effected by a pretence
of the Administrator having already given other Supposed Creditors

Bonds

Bonds and had made away with the afsets of the Estate by &c
Afsignment as a Security for the payment of such Bonds to such
false and suppositions Creditors But the Defendant said that
the Wisdom and purity of the Law favored truth and Justice and
abhorred falshood and that it was the peculiar province of Equity
to relieve Against fraud to rectify mistakes and supply defects that
the Law presumed a trust should be Executed for the Sole purpose
for which it was given and no Person to whom a trust or Authority
was deligated had the power of Enlarging or withholding the
Execution of it Arbitrarily but was bound to Administer it faithfully
for the Sole purposes for which it was dispensed that if he Abused
his trust by illegally converting the property or thing Committed
to his Charge that not only he was Answerable for such Waste but
a Person who under those incapacities in the trustee to dispose
of what was only his own for a legal purpose should receive
such property under an illegal Conveyance was also Answerable
in the Law for the possession thereof and therefore that the &c
Defendant was not Obliged as the only refuge whereto he could
resort for Justice to prosecute the Heirs Executors or Administ=
=rators of the said Nathaniel Barlow or his Surities for a
Devastavit but the Law had provided and did furnish him
with a more direct means of Repairing the injury done to the
Estate of the said Dawsonne Drake by an Action Against

your

Your Petitioners said Intestates Administrator as having in his
posession and detaining and unlawfully Converting to his own
use the identical and marked property of the Estate discribed in the
illegal Asignments thereof as might Appear by Copies of the said
Asignments Annexed unto your Petitioners said Intestates Bill
of Complaint and that therefore the Defendant in Consideration
of the premises humbly Conceived that your Petitioners said
Intestates Administrator was bound to pay to the Defendant as
Administrator aforesaid not only the said Sum of One thousand
and Eighty Eight Pagodas twenty three fanams and twenty four
Cash the Amount of the Account Current annexed unto his Cross
Bill but also to pay the Sum of Two thousand four hundred and
fourteen Pagodas Seven fanams and one Cash Acknowledged
to have been Recived on Account of the said illegal Asignment
from the produce of the property of the Estate of the said deceased
Dawsonne Drake illegally Asigned as Aforesaid and also to deliver
up unto the Defendant the Bond of the said Nathaniel Barlow
to your Petitioners said Intestate under date the Twenty first
day of Decembr One thousand Seven hundred and Eighty four
for the Sum of Fourteen thousand Pagodas and also the said
two Asignments of the Asets and Effects of the said Dawsonne
Drake deceased to be Cancelled and also to deliver up unto the
Defendant the said Asets and Effects thereby Asigned being
three new Consolidated Bonds of His Highness the Nabob of the
Carnatick N. 228 N. 229 and 230 for the principal Sum of
Five thousand Pagodas each all bearing date the Twenty Sixth
day of November One thousand Seven hundred and Seventy
Seven and any other part or parts of the Estate and Effects of the
said Dawsonne Drake he might have in his Custody power
and posession –

And your Petitioner Sheweth that the Defendant
did on or about the said fifteenth day of December and year of Christ
One thousand Seven hundred and Eighty Nine Exhibit and file
his Cross Replication to your Petitioners said Intestates Admini-
=strators Cross Answer and State that your Petitioners said
Intestates Administrator did stand Justly and truly indebted unto
him as Administrator as aforesaid in the Sum of One thousand
and Eighty Eight Pagodas Twenty three fanams and Twenty four
Cash being the Balance of an Account Current Annexed unto his
said Cross Bill and that the Defendant could not be nor was therefore
indebted unto your Petitioners said Intestates Administrator in the
Sum of Fifteen thousand two hundred and Twenty five Pagodas
Thirty Eight fanams and Seventy Nine Cash or in any other Sum
or Sums of Money whatever And the Defendant did pretend that
your Petitioners said Intestates Administrator had not Shewn
the same in any manner requisite and necessary in the Law

or

or otherwise by his Original Bill of Complaint and the Account Current thereunto annexed that the illegality and unwarrantable= =ness of which said Bill of Complaint and the demand thereupon founded were fully and at large setforth by the Defendant in his Answer to the said Bill of Complaint and to which Answer the Defendant did state your Petitioners said Intestates Administrator had put in an Evasive incompleat and insufficient Replication without entering upon or denying the grounds of the Defendants defence and Consequently that your Petitioners said Intestates Administrator has Acknowledged Confessed and Admitted the same to be true and that he had Confirmed and Shewn the same so to be by his Rejoinder to your Petitioners said Intestates Original Replication and which Rejoinder the Defendant did pray might be made and Admitted as part of his said Crofs Replication and proceedings in the Crofs Cause —

And your Petitioner Sheweth that to the Defendants said Crofs Replication your Petitioners said Intestates Admini= =strator did on or about the Ninth day of February and year of Christ One thousand Seven hundred and Ninety Exhibit and file his Crofs Rejoinder thereun and thereby denying as in and by his Crofs Answer he had denied to stand indebted unto the Defendant as Administrator aforesaid or otherwise in the Sum of One thousand and Eighty Eight Pagodas Twenty three fanams and Twenty four

four Cash or in any other Sum or Sums of Money whatever and on the Contrary charging that the Defendant as Administrator of the Estate and Effects of Dawsonne Drake deceasd stood Justly and truly indebted unto your Petitioners said Intestates Administrator in the full and Just Sum of Fifteen thousand two hundred and Twenty five Pagodas thirty Eight fanams and Seventy Nine Cash as was charged and setforth in your Petitioners said Intestates Original Bill of Complaint and the Account Current thereunto Annexed in and by your Petitioners said Intestates Administrators Original Replication to the Defendants Original Answer and the Several Exhibits to the said Original Replication annexed to which Original Bill of Complaint and Replication your Petitioners said Intestates Administrator did beg leave to refer and pray the same might be taken as part of his said Crofs Rejoinder and your Petitioners said Intestates Administrator did in and by his said Rejoinder further State that his Original Bill of Complaint Stood upon the most legal and Warrantable grounds Notwithstanding the Assertion of the Defendant to the Contrary nor that there was any thing setforth in the Defendants said Answer to the said Bill of Complaint which could in the least effect your Petitioners said Intestates Administrators Right of Action or the Justness of his demand for your Petitioners said Intestates Administrator did say that his said Action was brought upon

upon a Bond the due Exeution of which had never yet been &c
impleached by the Defendant in his said Answer on the Contrary
that the said Administrator did not to any positive facts but was full
of doubt and Ambiguity it should merely that the Defendant &c
thought it incumbent upon him to withhold his Acquiescence to
such demand as were in his Opinion Receptionable until he had an
Opportunity of Stating his Reasons it then went into a variety of
Statements Altogether foreign and impertinent and Concluded &c
with Observing that all such Statements carried in his the &c
Defendants Opinion strong Conviction of injustice and then &c
without once denying the Equity of your Petitioners said Intestates
Administrators demand stated he had no other View in the
litigation than that of Acquitting himself in his own Opinion and
your Petitioner Sheweth your Petitioners said Intestates Admini=
=strator did in and by his said Rejoinder state that his Replication
to the Original Answer of the Defendant was full Compleat and
Sufficient much more than was absolutely necessary to establish
his said Original Bill because as the said Bill was brought upon
a Bond and as the due Exeution of which Bond was not denied
by the Defendant in his said Original Answer it of course ought
to stand as fully Admitted – that it was not for him to follow the
Defendant through the mass of absurd and Extraneous matter
in his said Cross Replication setforth nor to enter into a &c

Confutation

Confutation of Accounts which were of a date previous to and done
away by the said Bond Copy of which was annexed to your Petitioners
said Intestates Original Bill of Complaint and that therefore your
Petitioners said Intestates Administrator had neither Confessed
nor Admitted any matter or thing in the Defendants said Answer
contained nor was the same in any wise Confirmed by the &c
Defendants said Original Rejoinder Beause the Rejoinder
grew out of and could not depart from the Answer and that if the
Answer was as the Defendants said Original Answer really had
been incompleat and defective the Rejoinder could not cure the
Defect nor Supply the deficiency and your Petitioners said &c
Intestates Administrator said that the Original Answer of the
Defendant was very incompleat and defective and that his Rejoinder
was still more so Exclusive of the Extraneous and new matter it
contained and which had no relation to or Connection with his
said Repliation but was wholly and entirely a departure there=
=from that it was also Replete with invective of the severest and
most malignant tendency and did dwell on Asertions and
insinuations of the most Scandalous and defamatory nature
Equally untrue as they were irregular and such as your &c
Petitioners said Intestates Administrator humbly Conceived
might deserve the sverest reprehension of the said Court which
Extraneous and new matter and which severe and Malignant

invective

invective and Scandalous and defamatory Assertion and insinuation Your Petitioners said Intestates Administrator humbly hoped might be Expunged from the Records of the said Court —

And your Petitioner Sheweth that thereupon issue did Join and Rules did pass for the Examination of Witnesses and Witnesses were Examined Accordingly on the part of your Petitioners said Intestates late Administrator and on the Defendant And your Petitioner Sheweth that the Witnesses produced on the part of the Defendant were first Alavar Chitty who to the third Interrogatory deposes that he was Book keeper and Accountant to the deceased Dawsonne Drake in his life time and that he the said Dawsonne Drake departed this life sometime in the year One thousand Seven hundred and Eighty One That he the said Dawsonne Drake did during his life time and at the time of his decease by means of an European and two or three native Writers Kept Books of regular entry of Debit and Credit of all Sums of Money by him paid and received on his own and on the Account of other persons to him indebted or to them debted, that it was customary for the deceased to put his Signature in token of his Approbation of the Justness of the said Account and That the said Signature was not Affixed on every leaf but at the end of the Account of every Month and the same person to the fourth Interrogatory says that he did know Tiruvengadiah

Braminy

Braminy in the Title of these Interrogatories named and that he died about three years before, he the Deponent gave his deposition that the said Dawsonne Drake and Tiruvengadiah Braminy had Considerable dealings and transactions together in their life time, that he the deponent did enter the Accounts of such dealings and Money Transactions in the Cash Book of the said deceased Dawsonne Drake in his life time that he had looked at the Account Current Shewn to him at the time of his Examination Marked B. says he has Examined the same and declares that the same contained an Account of all and Singular the dealings and Money transactions between the said Dawsonne Drake and the said Tiruvengadiah Braminy in their life time for and during the period of Commence=ment and conclusion of the said Accounts that the said several Articles of Account are all entered in the said Books of Account of the said Dawsonne Drake kept in his life time, that he does not Know whether the whole of the said Account Current is or is not in the hand Writing of the said Tiruvengadiah but that the words or Signature Tiruvengadiah Braminy thereunto subscribed is of his own hand Writing and Sadasheivah Moodily another Witness on the part of the Defendant to the Fifth Interrogatory deposes that he had seen the Journals Ledgers and Cash Book of the said Dawsonne Drake and that by his direction they were Kept by a person named Alavar Chitty that he came to a knowledge of the

the said Books in consequence of being in the Service of Messieurs Walker and Johnson Attornies of Nathaniel Barlow Administrator of the Estate of the said Dawsonne Drake into whose hands the said Books were putt by the said Nathaniel Barlow sometime in the year of Our Lord One thousand Seven hundred and Eighty three that there is in the said Books of Account one Account with Trevengadiah Braminy that the said Books are in the possession of Porcher Read head and Company Attornies to the Original Defendant and Cross Complainant that he has looked at the Account Current C. under the head of Dawsonne Drake Esquire and certified by Alavar Chitty Cash keeper and Book keeper and Nathaniel Barlow Administrator and says that there is not to the best of his knowledge any Account Current in the Books of the said Dawsonne Drake deceased under the head of Dawsonne Drake that he had looked Attentively at the several Items contained in the debit side of the said Account and that in the Cash Book Journal and Ledger of Dawsonne Drake there Appears under date the Eleventh day of February One thousand Seven hundred and Eighty the Sum of One thousand five hundred Pagodas to the Credit of Trevengadiah Braminy as having been received from him but that the other Items in the said Accounts do not Appear in the said Books of the said Dawsonne Drake under the different dates specified in the said Account that the said Sum of One thousand five hundred Pagodas is specified simply as received from the said Trevengadiah Braminy – That the said Items in the said Account C. are not truly Extracted nor Copied from the Books of the said Dawsonne Drake as Certified by the said Alavar Chitty and Nathaniel Barlow, that there is not any Accounts of the said Dawsonne Drake betwixt the said Dawsonne Drake and the said Trevengadiah Braminy commencing on the Eighth of May One thousand Seven hundred and Seventy Eight and ending on the fifth of March One thousand Seven hundred and Eighty but there is in the said Books an Account Entitled Trevengadiah commencing the Eighteenth July One thousand Seven hundred and Seventy Seven and ending on the fifth of September One thousand Seven hundred and Eighty wherein the said Trevengadiah Braminy stands indebted under date the fourth of May One thousand Seven hundred and Seventy Eight for Three thousand Pagodas Cash paid and under date the Thirty first of August One thousand Seven hundred and Eighty for the Sum of Twelve thousand Pagodas as his the said Dawsonne Drakes yearly allowance According to Agreement made the first of August One thousand Seven hundred and Seventy Seven to the first of August One thousand Seven hundred and Eighty that the said Sum of twelve thousand Pagodas is carried to the Credit of profit and loss in the Books of the said Dawsonne Drake that the

the Cause or Reason why the debits are not included in the aforesaid Account is in consequence of the said Trevengadiah Braminy threatening the said Nathaniel Barlow to sue him in the Mayors Court if he refused to sign the aforesaid Account That there is not any Entry in the said Books of the said Dawsonne Drake whereby John Sykes late of Fort Saint George Attorney at Law is debited and the said Trevengadiah is Credited for the Sum of One thousand and Eight hundred Pagodas as specified in the aforesaid Account and that he does not know any thing relating to the said Sum in the said Account charged to have been paid by the said Trevengadiah Braminy to the said John Sykes And the said Alavar Chitty to the Sixth Interrogatory says he does not know nor has he heard of any other Account between the said Dawsonne Drake deceased and the said Trevengadiah in their lives time and until the day of the death of the said Dawsonne Drake besides the Account whereunto he had been before interrogated and that he knows and believes in his conscience that the same is a true Account To the Seventh Interro=gatory he says that he has looked at the Account Current **C**, and says the said Account he believes was drawn out a few days after the death of the said Dawsonne Drake but cannot say in whose hand Writing the same is drawn Neither does he know by whose Order or direction it was drawn out, that the Signature thereto Subscribed C, Alavar Chitty Cash and Book keeper is of his the Deponents own

own hand Writing that he subscribed his Name thereto by the desire of the said Nathaniel Barlow but he does not know for what purpose and further says that he believes the Certificate commencing with the words "I Nathaniel Barlow" and ending with the words "is true" as also the Signature Nathaniel Barlow Administrator thereto set and subscribed is of his the said Nathaniel Barlows own hand Writing and that he did see him the said Nathaniel Barlow set and subscribe his Name thereto To the Eighth Interrogatory he says he does not know the Cause or Reason that the several Articles of Account on the Credit side of the Account Marked **B**, between the said Dawsonne Drake and Trevengadiah Braminy Amounting together to the Sum of Twelve thousand Pagodas were not Credited in the Account Current whereto he the deponent had been before Examined Marked **C**, To the Ninth Interrogatory he says that he does not know nor has he been informed on what Account or Accounts the said Sum on the debit side of the said Account **C**, were severally paid by the said Trevengadiah Braminy unto the said Dawsonne Drake and further says that it was usual for the said Dawsonne Drake to give a Bond or Note for such Sum of Money as he from time to time borrowed or received from the said Trevengadiah Braminy and that he does not know the Cause or Reason of the Account on which the said Sums were paid and Received being omitted to be specified in the said Account **C**, and the said

said Sidashevah Moodelly to the tenth Interrogatory says that he has looked at the Account Marked with the Letter **B** and says that the several Items on the debit and Credit side of the said Account Current are brought to Account in the Books of the said Dawsonne Drake but not According to the dates mentioned in the said Account that it does Appear by the Books of the said Dawsonne Drake that the balance of the Sum of Seven hundred and Seventy two Pagodas in favor of the said Trivengadiah Braminy is Just that it Appears by the Books of the said Dawsonne Drake that he had Money transactions with the said Trivengadiah Braminy further than what is expressed in the said Account Current **B**. That the said Dawsonne Drake did on his Bond dated fifth &c September One thousand Seven hundred and Eighty Borrow from the said Trivengadiah Braminy the Sum of One thousand five hundred Pagodas To the last Interrogatory he says that on the &c Twenty Seventh day of February One thousand Seven hundred and Eighty the said Trivengadiah Braminy did Receive a &c devidend of Twenty five per Cent on the Aforesaid Bond for One thousand five hundred Pagodas from the said Nathaniel Barlow And Videnadahn Moodelly to the Eleventh Interrogatory says that he was a Writer to the said Dawsonne Drake in the Month of February in the year of Our Lord One thousand Seven hundred and Eighty One and that he had been in his Service About Eight years

years prior to that period and beleives the said Dawsonne Drake died depart this life in the Month of February One thousand Seven hundred and Eighty One, that he does know Alavar Chitty of Madras Account = =ant and that he so known him About Eighteen years, that the said Alavar Chitty was Cash Keeper and Book keeper to the said Dawsonne Drake at the time of his decease and that he had Acted in those Capacities he the Deponent did beleive about Six years prior to the death of the said Dawsonne Drake that the said Alavar Chitty was Employed in the Affairs of the said Estate of the said Dawsonne Drake by the said Nathaniel Barlow after the death of the said &c Dawsonne Drake but knows not how long that he the deponent did receive three Pagodas per Month for the Spaw of Eighteen Months after the death of the said Dawsonne Drake from the said Nathaniel Barlow but that he never was Employed in any &c business, that he had sometime Accefs to the Books of Accounts of the said Dawsonne Drake in his life time but Nuther knew the contents thereof, that the said Alavar Chitty kept the said Books of Account and that to the best of his the deponents recollection they consisted of a Journal Ledger Waste Book and Cash Book, that it was customary for the said Dawsonne Drake to Examine the said Books Monthly and that the said Dawsonne Drake did on such occasions of Examining the said Books put his initials to the Cash Book as a mark of his having done so And Tanapah Moodelly

Moodelly to the same Interrogatory says that he was a Writer to the said Dawsonne Drake in the Month of February One thousand Seven hundred and Eighty One when the said Dawsonne Drake departed this life and that he had been in the Service of the deceased two years or thereabouts previous to the time of his death that he does Know Alavar Chitty of Madras Accountant and that he has so known him about thirteen years, that he was Cash Keeper and Book keeper to the said Dawsonne Drake in his life time and during the time he the Deponent was a Writer to the said Dawsonne Drake but does not know how long previous to that time, That the said Alavar Chitty was Employed in the affairs of the Estate of the said Dawsonne Drake by the said Nathaniel Barlow after his the said Dawsonne Drakes death till the Month of December One thousand Seven hundred and Eighty One but how long after he does not know That he the Deponent was employed in the Affairs of the said Dawsonne Drake after his decease in the capacity of a Writer, that he had Access to the Books of Account of the said Dawsonne Drake after his decease and that he did know the contents thereof but that he had not Access to the said Books of Accounts when kept by the said Alavar Chitty previous to the death of the said Dawsonne Drake and Afterwards by the said Nathaniel Barlows Writer Vencatachellum and that they consisted of a Cash Book day Book Journal and Ledger Account Current

Current and Bill Book, that it was usual for the said Dawsonne Drake to Examine the said Books during his life time but not at any fixed period of time Except the Cash Book which he Examined Monthly and that it was customary for the said Dawsonne Drake on such occasions of Examining the same to put his Signature to the Cash Book in taken of his having done so And the said Tanapah Moodiliar to the twelfth Interrogatory says he doth not know but it appears by the Books of Account of the said Dawsonne Drake that the said Dawsonne Drake had dealings and Money Transactions with the said Trevengadiah Braminy but the particulars he is unacquainted with, does not know whether they had any Interest or concern together in the farming of Beetle does not know nor has he heard or been informed whether any Articles of Agreement or any deed or deeds in Writing or otherwise were entered into by and between the said Dawsonne Drake and the said Trevengadiah Braminy deceased Respecting the said Beetle and Tobacco farm nor whether the said Dawsonne Drake did or did not obtain a Cowle or grant of the said Beetle and Tobacco Farm And the said Videnadah Moodelly to the same Interrogatory says that the said Dawsonne Drake had dealings and Money Transactions with the said Trevengadiah but is not Acquainted with the particulars that the said Dawsonne Drake and the said Trevengadiah Braminy were

were concerned together in the farming of Beetle and Tobacco that he was told by Drake Trevengadiah had Agreed to give him Four thousand Pagodas Annually for his Share of the said Concern, does not Recollect whether there was any Agreement deed or deeds in Writing or otherwise than the said Four thousand Pagodas that the said Dawsonne Drake did obtain the Cowle of the said Beetle and Tobacco farm from the Governor and Council but that he does not Recollect whether the said Dawsonne Drake did Asign or otherwise make over and surrender the same to the said Trevengadiah and Domings Johnson to the same Interrogatory says that the said Dawsonne Drake and Trevengadiah Braminy had considerable dealings and Money Transactions and that they were concerned together in the Beetle and Tobacco Farm but that he is unaquainted with the particulars of the said Concern, that he has heard there was an Agreement in Writing between the said Dawsonne Drake and the said Trevengadiah but that he is unacquainted with the date thereof that he does know that the said Dawsonne Drake did some time in the year of Our Lord One thousand Seven hundred and Seventy Seven obtain a Cowle or grant of the said Beetle and Tobacco farm from the Governor and Council but that he does not know whether the said Dawsonne Drake did or did not make over and Asign or otherwise surrender the same to the said Trevengadiah and Ninnapah Moodelly to the same Interrogatory says

says that the said Dawsonne Drake and the said Trevengadiah had Certain dealings and Transactions together but that he is unacquainted with the particulars, that he has heard they had an Interest and concern together in the farming of the Beetle and Tobacco but that he is unacquainted with the particulars thereof that he hath heard there were Articles of Agreement or deed entered into between the said parties Respecting their Concern in the said farm but that he does not know either the date or particulars thereof, that he has heard the said Dawsonne Drake did obtain a Cowle of the said Beetle and Tobacco farm from the Governor and Council but does not recollect when and further says that he knows not, nor has he heard whether the said Dawsonne Drake did or did not make over and Asign or otherwise surrender the same to the said Trevengadiah Braminy And the said Vidinadah Moodelly to the Thirteenth Interrogatory says that he is Acquainted with the manner of the hand Writing of the said Trevengadiah Braminy and the said Dawsonne Drake that he has looked at the paper Writing Shewn to him at the time of his Examination Marked with the Letter A purporting to be an Agreement under date the fifteenth day of February One thousand Seven hundred and Seventy Seven between the said Dawsonne Drake and the said Trevengadiah Braminy and says that the Names of Dawsonne Drake and Trevengadiah Braminy are severally the hand

hand Writing or Signatures of them the said Dawsonne Drake and Trevengadiah Braminy and further declares that the words "
thereunto Subjoined begining with the words "We declare" and
Ending with the Words "Stand good" and dated the "first" of August
1777" are of the hand Writing of the said Dawsonne Drake and that
the several names or Signatures of Trevengadiah Braminy and
Dawsonne Drake thereto subscribed are severally the hand
Writing or Signatures of them the said Trevengadiah Braminy
and the said Dawsonne Drake And Domings Johnson and
Tanapah Moodiliar to the same Interrogatory Support the same
fact To the fourteenth Interrogatory Videnadah Moodiliar says he
doth believe the said Dawsonne Drake did procure the said
Trevengadiah Braminy considerable Asistance from the Governor
and Council of Fort Saint George respecting the said Beetle and
Tobacco farm during his life time and during the time of his death
but knows not the particulars thereof Tanapah Moodiliar to the
same Interrogatory says he does not know nor has he heard whether
the said Dawsonne Drake did or did not either by himself or by any
other person or persons procure him the said Trevengadiah Braminy
any Asistance from the Governor and Council of Fort Saint George
respecting the said Beetle and Tobacco Farm and that he does
not know nor has he heard that any disagreement existed in the
life time of the said Dawsonne Drake between the said parties
Respecting

Respecting the said farm And the said Domings Johnson to the
same Interrogatory says that he knows that the said Dawsonne Drake
did by himself and by Employing the late Mr. Sykes to whom the
deponent was a Writer procure him the said Trevengadiah Braminy
great and Considerable Advantages from the Governor and Council
Respecting the said Beetle and Tobacco farm at frequent and
different times and periods during his the said Dawsonne Drakes
life time and says he has not heard of any disagreement between
the parties To the Fifteenth Interrogatory Videnadah Moodiliar
says that the said Trevengadiah Braminy did pay to the said
Dawsonne Drake the Sum of Four thousand Pagodas in the said
Agreement mentioned to be paid Annually or every year during
the life time of the said Dawsonne Drake and the said Tanapah
Moodiliar the said Domings Johnson and the said Nineapah
Moodelly Examined upon the same Interrogatory depose that they
know nothing of the particulars to which by the said fifteenth
Interrogatory they are interrogated To the Sixteenth Interrogatory
the said Videnadah Moodelly says he does not know nor has he
heard that there was any Agreement between the said Dawsonne
Drake and the said Trevengadiah Braminy Subsequent to that
whereto he has before been interrogated whereby the said Dawsonne
Drake was made liable to any loss or entitled to any profit on the
said Beetle and Tobacco farm further than is in the said Agreement
Expressed

expressed and declared, that he does not know nor has he heard that the said Dawsonne Drake kept any Books in his life time that had any Relation to the profit or loss of the said farm or otherwise, that the said Truvengadiah Braminy had possession of the said Beetle and Tobacco at the time of the death of the said Dawsonne Drake, but does not know how long he remained in such possession after the death of the said Dawsonne Drake other Witnesses to the same Interrogatory depose nearly to the same effect To the Seventeenth Interrogatory Videnadah Moodiliar says that he does not know nor has he heard of any Settlement of Accounts that has taken place between the said Dawsonne Drake in his life time and the said Truvengadiah Braminy, that he has looked at the paper Writing produced to him at the time of his Examination marked with the Letter **B**, purporting to be an Account Current between the said Dawsonne Drake and the said Truvengadiah Braminy commencing the Eighth day of May One thousand Seven hundred and Seventy Eight and ending the thirty first day of August One thousand Seven hundred and Eighty he says he believes that the whole of the said Account Current is of the hand Writing of the said Truvengadiah Braminy that he does not know whether the said Dawsonne Drake did or did not sign and deliver to the said Truvengadiah Braminy any similar or other Account believes that the aforesaid Account **B**, was a Just Account of all and several the dealings and Transactions between the said parties to the thirty first of August One

One thousand Seven hundred and Eighty, that he believes the said Dawsonne Drake was not indebted unto the said Truvengadiah Braminy in any larger Sum than the balance thereof to be due to him to wit Seven hundred and Seventy two Pagodas, that he doth not know of any Errors or omissions in the said Account nor does he know that the said Truvengadiah Braminy did in the life time of the said Dawsonne Drake pretend that there were any Errors or omissions in the said Account and Tanapah Moodiliar and Groomoorty Braminy to the same deposes nearly to the same effect the latter knows nothing of the balance due To the Eighteenth Interrogatory the said Videnadah and the said Tanapah Moodiliar says that they do not know nor have they heard that there were any further dealings or Money Transactions further than are Expressed in the said Account Marked **B**, between the said Truvengadiah Braminy and the said Dawsonne Drake during the life time of the said Dawsonne Drake and until the day of his death and the said Groomoorty Braminy to the same Interrogatory says that he has heard that the said Truvengadiah Braminy did during the life time of the said Dawsonne Drake and Subsequent to the date of the said Account Current Marked with the Letter **A** lend unto the said Dawsonne Drake the Sum of One thousand five hundred Pagodas and took a Bond from him in the name of the said Mooperalah Casawyah – To the Nineteenth Interrogatory

Interrogatory the said Videnadah Moodelly says he does not know nor has he heard whether the said Mr. Barlow as Administrator of the said Dawsonne Drake or any other person on his Account did or did not publish any Advertizement to persons having any demands on the Estate of the said Dawsonne Drake to send Accounts thereof to the said Nathaniel Barlow or to any other person and the said Tanapah Moodelly Examined upon the same Interrogatory deposes in the Affirmative as to his belief: And the said Groomoorty Examined upon the same Interrogatory deposes thereto in the Affirmative as he has heard and says positively he has seen a Copy thereof in the Books of and belonging to the Estate of the said Dawsonne Drake To the Twentieth Interrogatory the said Videnadah Moodelly says that he doth not know whether the aforenamed Trewengadiah Braminy did or did not send unto the said Nathaniel Barlow as Administrator of the said Estate of the said Dawsonne Drake or unto any other person or persons in his behalf any Account or demand of Money due to him or pretended to be due and Owing by the said Dawsonne Drake in his life time, that he the Deponent hath looked at the paper Shewn to him at the time of his Examination Marked with the Letter **F** purporting to be an Account Against the said Dawsonne Drake in favor of Trewengadiah Braminy and says he believes the whole of the said Account to be of the hand Writing of the

the said Trewengadiah Braminy that the words To Bal. Account Written on the left hand side of the said Account is of the hand Writing of the said Trewengadiah Braminy deceased that he doth not know nor has he heard whether the said Account was or was not sent to the said Nathaniel Barlow as Administrator of the said Dawsonne Drake or to any person or persons on his Account on that behalf by the said Trewengadiah Braminy or by any person or persons on his behalf that he has looked at the Words Trewengadiahs a/c and says he believes that Trewengadiah wrote the said Words that he the Deponent is Acquainted with the said Trewengadiahs hand Writing by having seen him write and by seeing Letters from him to his this Deponents late Master And he further says that the Sum of Seven hundred and Seventy two Pagodas debitted as a balance due from the said Dawsonne Drake first August One thousand Seven hundred and Eighty as per his Account Current he the Deponent believes the balance of the Account **B**, whereto he has before been interrogated, that he doth not know whether the same is or is not Entered in the said Dawsonne Drakes Books in his life time kept According as the same is stated in the said Account that he doth not know whether the further Sum of One thousand five hundred Pagodas for Cash lent him the said Dawsonne Drake as per his Bond on the fifth day of September One thousand Seven hundred and Eighty is or is not Entered in the Books of the said Dawsonne

Dawsonne Drake and he the deponent says further he does not know nor has he heard whether the said Dawsonne Drake had or has not any other dealings or Money transactions after closing the said Dawsons Drakes Account with the said Trevengadiah Braminy on the thirty first day of August One thousand Seven hundred and Eighty save and Except as the same Appears in the aforesaid Account whereto he has before been interrogated And the said Tanapah Moodelly Examined upon the same Interrogatory deposes that he has no knowledge of the matters in the said Interrogatory contained And the said Groomoorty Braminy Examined upon the same Interrogatory to the former part deposes as to what he has heard or what he believes and then further deposes that the Words Trevengadiahs a/c Endorsed on the back of the above mentioned Account he believes were Written by Mr. James Johnson that he is Acquainted with the hand Writing of the said James Johnson who he believes wrote the same, by having seen him Write, and by having Received Letters from him, that the Sum of Seven hundred and Seventy two Pagodas debitted as a balance due from the said Dawsonne Drake first of August One thousand Seven hundred and Eighty as per Account Current is the balance of the Account Current Marked **B**. and believes the same in Entered in the Books of the said Dawsonne Drake in his life time kept & Acording as the same is stated in the said Account and believes that the further Sum of One thousand five hundred Pagodas for Cash lent him the said Dawsonne Drake as per his Bond on the fifth day of September One thousand Seven hundred and Eighty is also Entered in the said Books of the said Dawsonne Drake in his life time, that he doth not believe the said Dawsonne Drake had not any other Account or dealings or Money transactions after the closing of his the said Dawsonne Drakes Account with the said Trevengadiah on the thirty first day of August One thousand Seven hundred and Eighty save and Excpt as the same Appears by the aforesaid Account whereto he has before been interrogated and Tanapah Examined to the same Interrogatory Shews that he is ignorant of the Circumstances to which he is in and by the said twentieth Interro=gatory interrogated To the Twenty first Interrogatory the said Videnadah Moodelly Shews he is unacquainted with the matters and things therein and thereby interrogated unto Excpt with Regard to the Exhibit **D**, purporting to be an Account Current and says he believes the whole thereof to be in the hand Writing of the said Trevengadiah Braminy - That the whole of the Endorsement thereon in the Words "Copy of an Original Account of Money due to Trevengadiah dated 5.th September 1785 Pagodas 25715.9 of which a Bond granted for Pagodas 1500 dated the 29.th January 1784" is in the hand Writing of the said Trevengadiah And Tanapah Examined upon the same Interrogatory says he believes the said Nathaniel Barlow as Administrator of the said Dawsonne

Dawsonne Drake did make a devidend Amongst the Bond Creditors of the said Dawsonne Drake about four Months after the decease of the said Dawsonne Drake but that he the Deponent is unacquainted with the Amount of such devidend and doth not know whether the said Trevengadiah Braminy did or did not Receive any devidends upon the aforesaid Bond of One thousand five hundred Pagodas or not About the time that the said other Bond Creditors Received their Devidends and as to that part of the said Twenty first Interrogatory which has reference to the said Exhibit **D** he Shews he is ignorant thereof Except the Words Trevengadiahs A/C. Endorsed on the said Account which he positively declares are in the hand Writing of Mr. James Johnson Since deceased and further he says that the Sum of Seven hundred and Seventy two Pagodas debitted as balance due from the said Dawsonne Drake is the balance of the Account Marked **B.** that the same is Entered in the said Dawsonne Drakes Books in his life time Kept According as the same is related in the said Account that the further Sum of One thousand five hundred Pagodas for Cash lent him the said Dawsonne Drake is also Entered in the said Books of the said Dawsonne Drake in his life time and that the said Dawsonne Drake had not any other Accounts dealings or Money transactions after the closing of his the aforesaid Dawsonne Drakes Account with the said Trevengadiah Braminy and Groomoorty Braminy Examined upon the same

Interrogatory

Interrogatory says that the said Nathaniel Barlow as Administrator of the said Dawsonne Drake did make a devidend amongst the Bond Creditors of the said Dawsonne Drake some time in the year One thousand Seven hundred and Eighty One and believes it was about five or Six Months after the death of the said Dawsonne Drake, that he the Deponent has heard that the said Trevengadiah Braminy did Receive a Devidend but how much he does not know on the aforesaid Bond for One thousand five hundred Pagodas on or about the time that the other Bond Creditors received their Devidends, but doth not know the exact time nor whether he gave a Receipt for the same That he has looked at the Account Current Marked **D.** Shewn to him at the time of his Examination and says he believes the whole thereof to be Written in the hand Writing of the said Trevengadiah Braminy and so is the Endorsement thereon in the following Words Copy of an Original Account of Money due to Trevengadiah dated 5th September 1785 Pagodas 25.15.9. of which a Bond granted for 7500 dated 29th January 1784 To the Twenty Second Interrogatory the said Videnadah Moodelly says that he doth not know nor hath he heard or been informed whether there was or was not any Account Current between the said Dawsonne Drake in his life time and the said Trevengadiah Braminy under date the fifth day of September One thousand Seven hundred and Eighty the balance thereof was in favor of the said Trevengadiah

Braminy

Braminy Fourteen thousand five hundred and Seventy two Pagodas as by the said Account is Shewn that he doth not know nor hath he Seen or heard of the said Account therein referred to and the said Sanapah Moodiliar and the said Groomoorty Braminy to the same Interrogatory depose in nearly the same Words – To the Twenty third Interrogatory the said Videnadah Moodiliar says he does not know of any Bond from the said Dawsonne Drake deceased to the said Trevengadiah Braminy given for the Sum of One thousand five hundred Pagodas besides the Bond for the like Sum Referred to in the aforesaid Account Marked **F** whereto he was before interrogated and whereupon he was so interrogated touching the Receipt of a certain devidend by the said Trevengadiah nor does he know whether the said devidend was or was not received before or after the fifth day of September One thousand Seven hundred and Eighty five the day up to which Interest is calculated On the said Bond in the said Account And Sanapah Moodiliar and the said Groomoorty to the same Interrogatory depose in nearly the same Words – To the Twenty fourth Interrogatory the said Videnadah Moodiliar says that he does not know nor has he heard or been informed when or what time the said Trevengadiah Braminy did make any demand on the said Nathaniel Barlow as Administrator as aforesaid differing from the Account **F** the balance whereof up to the thirty first day of May One thousand Seven hundred and Eighty One was thus made up to be two thousand four hundred and Eighty One Pagodas twenty Nine fanams and thirty Cash and the said Sanapah to the same Interrogatory deposes to the same effect and to the Last Interrogatory says that Mr. Johnson and Mr. Wasey as Attornies to Mr. Barlow did some time in the Month of August One thousand Seven hundred and Eighty two Write a Letter to Mr. Nathaniel Barlow who was then at Vizagapatnam acquainting him that there Appeared a balance of about two thousand two hundred Pagodas due to the said Trevengadiah Braminy and the said Groomoorthy Braminy to the same Interrogatory says he believes there was not any demand made by the said Trevengadiah Braminy on the said Nathaniel Barlow as Administrator as aforesaid differing from the Account **F** the balance whereof up to the thirty first day of May One thousand Seven hundred and Eighty One was then made up to be Two thousand four hundred and Eighty One Pagodas twenty Nine fanams and thirty Cash To the Twenty fifth Interrogatory Catton Bower Bank Dent says he does recollect a Bond was given by Nathaniel Barlow to Trevengadiah Braminy some time in the year One thousand Seven hundred and Eighty four or One thousand Seven hundred and Eighty five does not recollect which and is of Opinion that the Cause and Consideration of the said

Bond

Bond was to adjust differences arising between the said Nathaniel Barlow as Administrator of Dawsonne Drake and the said Trevengad=diah Braminy late Bettle Farmer to prevent a litigation at Law in the Honorable the Mayors Court of Madras prejudicial to the Estate of the late Dawsonne Drake but that he does not recollect the Amount of the said Bond and Josias Dupre Porcher Examined to the same Interrogatory Shews that he is totally ignorant of the matters and things therein contained To the Twenty Sixth Interrogatory the said Cotton Bower Bank Dent says he doth not recollect whether the said Nathaniel Barlow was or was not about to depart from Madras some time in the month of February One thousand Seven hundred and Eighty four and says that the said Nathaniel Barlow was generally whilst he the Deponent knew him in a bad state of health and that he was so most probably at that time that the Nature of his Complaint was nervous and hypochandriac and that to his Certain knowledge he went two or three times to Europe by Medical advice on Account of such his Complaints and a general relaxation of Constitution To the Twenty Seventh Interrogatory the said Cotton Bower Bank Dent says he has looked at the Deed or Agreement Marked with the Letter C shewn to him at the time of his Examination by the said Nathaniel Barlow as Administrator of the Estate of the said Dawsonne Drake unto the said Trevengadiah Braminy given and Executed under date

date the twenty Ninth day of January One thousand Seven hundred and Eighty four that his the Deponents Name C. B. Dent and also H the Words acting Justice are of his the Deponents own proper hand Writing and further says there was a great deal of conversation between him and Trevengadiah Braminy and the said Nathaniel Barlow at the time the said Bond was signed but doth not recollect the nature or particulars of such Conversation further than that he the Deponent used his Exertions to bring them to some Agreement and prevent their going to Law in the Mayors Court, that he supposes the Balance on which the said Balance is said to arise had a connexion with the Bettle and Tobacco Farm by the said Dawsonne Drake in his life time Rented and as the Deponent doth not imagine that the said Dawsonne Drake had any other transaction with the said Trevengadiah Braminy further than the Concern in the said Bettle and Tobacco Farm that he does not recollect whether the said Trevengadiah Braminy did or did not threaten and give out that he would prevent the said Nathaniel Barlows intended departure from Madras if he did not comply with some request or demand that the said Trevengadiah Braminy then had, or pretended to have upon him the said Nathaniel Barlow as Administrator of Dawsonne Drake but says that the said Nathaniel Barlow Appeared particularly anxious to leave the matter in dispute compromised and brought to a Settlement

To

To the Twenty Eighth Interrogatory the said Cotton Bower Bank Dent says he has looked at the paper Writing Shewn to him at the time of his Examination Marked with the Letter H purporting to be a Bond or Writing obligatory from the said Nathaniel Barlow Administrator of the Estate of the said Dawsonne Drake with the said Trevengadiah Braminy given and granted under date the twenty Ninth day of January One thousand Seven hundred and Eighty four for securing the payment of the Sum of Seven thousand five hundred Pagodas and says that his the deponents Name C. B. Dent subscribed thereto is of his the Deponents own hand Writing – He does not recollect whether he was directly or indirectly informed by the said Nathaniel Barlow or the said Trevengadiah Braminy whether any and what consideration was paid or given by the said Trevengadiah Braminy for the said Bond or writing obligatory unto the said Nathaniel Barlow but conceives that the Consideration and Cause of it was to settle and accomodate the differences subsisting between the parties and further says that he does not recollect whether the same was or was not Executed at the same time and day that the Deed was Executed whereto he has before been interrogated but that it appears from the date of the said Deed and the said Bond that they were Executed at the same time – he does not recollect whether it was or was not pretended that any further

further or other debts were due or Owing to the said Trevengadiah Braminy by the said Nathaniel Barlow as Administrator as aforesaid save and Except the Consideration for which the said Bond or Writing Obligatory was given and Executed To the Twenty Ninth Interrogatory the said Cotton Bower Bank Dent says he thinks he was chosen by and between the said Nathaniel Barlow as Administrator of the Estate of Dawsonne Drake and the said Trevengadiah Braminy Jointly with the said Josias Dupre Porcher to arbitrate of and concerning certain differences Existing between them some time in or about the twenty first day of November One thousand Seven hundred and Eighty five says he does not recollect whether he did or did not make an Award touching the same Jointly with the said Josias Dupre Porcher some time in or about the fifth day of December One thousand Seven hundred and Eighty five but thinks it very probable there was an Award made that he has looked at the paper Shewn to him at the time of his Examination Marked with the Letter E. purporting to be a Copy of the Opinion of the Arbitrators delivered with their Award on the fifth day of December One thousand Seven hundred and Eighty five and after having read over the same says he believes the same from the stile and manner of it to be a true Copy of an Opinion delivered by him and the said other Arbitrator Josias Dupre Porcher whose Name is thereunto subscribed – says he

does

does not recollect but believes it very likely that they did severally Subscribe the same as in the said Copy is declared to be as their Opinion delivered in with their said award between the said Nathaniel Barlow as Administrator aforesaid and the said Trevengadiah Braminy and says that he does not recollect the nature of the Account produced by the said Trevengadiah Braminy whereby he debited the said Nathaniel Barlow as Administrator aforesaid in the Sum of One hundred and Twenty Nine thousand two hundred and fifteen Pagodas but thinks it was for losses sustained in the Beetle and Tobacco Farm and other matters says he does not know but thinks it likely that the three years douceurs mentioned in the said paper were for four thousand Pagodas per Annum paid by the said Trevengadiah Braminy to the said Dawsonne Drake in his life time during that term for his Assistance with the Government respecting the Beetle and Tobacco Farm and says that he does not recollect the Bond for the Amount of Losses for the seizure of Tobacco by the New Renter and for Interest and says he believes the said Trevengadiah Braminy was in possession of the Beetle and Tobacco farm after the death of the said Dawsonne Drake and that he was dispossessed of it some time in the year One thousand Seven hundred and Eighty or One thousand Seven hundred and Eighty One by the Honorable Charles Smith Esquire president and Governor &c. Council of Fort Saint George

in Consequence of a Complaint from the Inhabitants and says that the Cowle or grant of the said Beetle and Tobacco Farm was to the best of his the Deponents recollection in the name of the said Dawsonne Drake, that he has heard that the said Nathaniel Barlow did &c surrender the same after the death of the said Dawsonne Drake but doth not recollect for what Causes or Reason the said Surrender was made or whither he had or had not at that time obtained Letters of Administration to the Estate of the said Dawsonne Drake and the said Josias Dupre Porcher Examined to the same Interrogatory says he was chosen by and between the said Nathaniel Barlow as Administrator as aforesaid and the said Trevengadiah Braminy Jointly with the said Cotton Bower Bank Dent to Arbitrate of and concerning certain differences subsisting between them some time as the Deponent believes on or about the Twenty first day of November One thousand Seven hundred and Eighty five and says that he did Jointly with the said Cotton Bower Bank Dent make and &c declare an award touching the same some time he believes on or About the fifth day of December One thousand Seven hundred and Eighty five but that he cannot call to his recollection at this &c distance of time the particulars of the said Award that he has looked at the paper Writing Marked with the Letter **E**. purporting him at the time of his Examination and has read over the same and declares he has not Sufficient recollection of the Original

at

at the time to say whether it is or is not a true Copy of the Original Opinion delivered in by him and the other Arbitrator whose names thereto Subscribed and to the remainder of the said Interrogatory the said Josias Dupre Porcher Shews he is ignorant thereof Except as to the Cowle or grant of the Buttle and Tobacco Farm which he says he believes was in the name of the said Dawsonne Drake To the Thirtieth Interrogatory the said Cotton Bower Bank Dent says he does not recollect whether he did or did not regard the said Arbitration between the said parties as a matter of convenience and Accomodation previously agreed to by them or as a matter that would be disputed and contested before the Arbitrators – does not recollect whether the said Nathaniel Barlow did or did not deliver into the Arbitrators any Accounts Vouchers or Testimony of any Kind or Nature in Apposition to the Accounts Vouchers or Testimony produced by the said Trewengadiah Braminy or whether the said Nathaniel Barlow did or did not deliver into the Arbitrators any State of his Case as Administrator as afresaid

same Interrogatory says he did regard the said Arbitration as a matter of Convenience and Accomodation to both parties but of course subject to such Award as the Arbitrators might think proper to give from the materials laid before them, that he does not recollect whether the said Nathaniel Barlow did or did not deliver in any Accounts Vouchers or Testimony of any kind or Nature in Opposition to the Accounts Vouchers or Testimony produced by the said Trewengadiah Braminy upon the said Arbitration or whether the said Nathaniel Barlow did or did not deliver into the said Arbitrators any state of his case as Administrator aforesaid for their information or whether he did or did not admit of the Accounts Vouchers and Testimonies produced by the said Trewengadiah Braminy and says he believes two Lawyers Mr Baker and Mr Ellis were present at the time of the Arbitration but doth not now know for whom they respectively appeared To the thirty first Interrogatory the said Cotton Bower Bank Dent says that the Bond mentioned in the paper Writing or Coby of the Opinion as follows " with respect to the Bond

hundred and Seventy two Pagodas and says he does not Recollect but believes it was not produced before him during his said Arbitration and previous to his said Award by the said Nathaniel Barlow or by any other person on his behalf, he says he has Compared the two Accounts **B**, and **C**, together and says he does not Remember ever to have seen the Books of the said Dawsonne Drake and to have heard of them and that he did not of course refer to them to see whether the Account was just according as the same is Certified by Alavar Chitty to be, and further so informed by the said Nathaniel Barlow and further says that if he had both the Accounts **B**, and **C**, before him previous to his giving his said Award he must undoubtedly would have thought it necessary to Examine which of them was Just and the said Josias Dupre Porcher Examined upon the same Interrogatory deposes to the same effect with the said Colton Bower Bank Dent except that he says he does not Recollect whether the Exhibit **B**, was or was not produced before him during the said Arbitration To the thirty fifth Interrogatory the said Colton Bower Bank Dent says he has looked at the paper Writing Shewn to him at the time of his Examination Marked with the Letter **F** purporting to be an Account before the decease of the said Dawsonne Drake in favour of the said Trevengadiah Braminy whereby the said Dawsonne Drake is debitted for the Sum of Seven hundred

hundred and Seventy two Pagodas as the balance due from him on the first day of August One thousand Seven hundred and Eighty and also in the further Sum of One thousand five hundred Pagodas for Cash lent him by the said Trevengadiah Braminy on the fifth day of September One thousand Seven hundred and Eighty and with Interest calculated on these Sums up to the Thirty first day of May One thousand Seven hundred and Eighty One and says he believes the said Account was not produced to him during the said Arbitration on the Contrary it Excites his Astonishment and says he was not informed at that time or at any other time previous to his giving his said Award that the said Trevengadiah Braminy had sent the same to the said Nathaniel Barlow in Consequence of an Advertizement to the Creditors of the said Dawsonne Drake to send into the said Nathaniel Barlow the Amount of their several demands upon the Estate of the said Dawsonne Drake and says that he was not informed by the said Nathaniel Barlow or by the said Trevengadiah Braminy that he had in Consequence received a dibidend on the said Bond and the said Josias Dupre Porcher Examined upon the same Interrogatory Shews by his deposition thereto that he has no manner of Recollection of the matters and things in the said thirty fifth Interrogatory contained To the thirty Sixth Interrogatory the said

said Cotton Bower Bank Dent says that he has looked at the o-
paper Writing produced and Shewn to him at the time of his o-
Examination Marked with the Letter A. purporting to be
articles of Agreement between the said Dawsonne Drake and
the said Trevengadiah Braminy in their lifetime under date
the fifteenth day of February One thousand Seven hundred and
Eighty Seven and the first of August One thousand Seven hundred
and Eighty Seven and says he does not Recollect it was produced
by either party during the said Award and the said Josias Dupre
Porcher Examined upon the same Interrogatory Sheuns he has
no manner of Recollection of the matters in the said thirty-
Sixth Interrogatory contained and the said Cotton Bower
Bank Dent to the last Interrogatory says that the four o-
thousand Pagodas agreed to be paid by the said Trevengadiah
Braminy to the said Dawsonne Drake was for the use of his
Name only he Mr. Drake being the Nominal Buttle and
Tobacio Farmer when the said Trevengadiah Braminy was
the real one and Enjoyed all the Advantages of the said Farm
that to his the Deponents certain knowledge the said o-
Dawsonne Drake took an infinity of trouble to compromise
and Settle different disputes and Complaints brought before
Government against Trevengadiah and thinks and Verily
beleives that the Estate of Mr. Drake was indebted only a

mere

mere trifle to Trevengadiah and that the Chibits which have been
produced to him the Deponent Specifying the several Sums said to
be owing by the late Dawsonne Drake deceased by the said Trevengadiah
Braminy he conceives to be paid in part of the Annual Allowance
of four thousand Pagodas to the said Dawsonne Drake for the use of
his name and Assistance with Government and he further says
that the said Trevengadiah Braminy was of a very designing trouble
some and litigious disposition and universally known to be so and
with Respect to the said Nathaniel Barlow he was a Man of Weak
Intellects Caused by repeated illness of debility of constitution and
very unqualified on that Account to have the Management of so
large a concern as that of the Estate of the late Dawsonne Drake
and the said Josias Dupre Porcher Examined upon the same o-
Interrogatory says that it is impossible for him at this distance
of period to Recollect the particulars of the Circumstances to which
he has been interrogated relative to the dispute in question as
he was not any wise Interested therein further than at the time
the Award aforesaid was given To the thirty Seventh Interrogatory
Ninapah Moodiliar says he was Employed by John Sykes
late of Fort St. George Attorney at Law in the Capacity of head
Dubash in the year One thousand Seven hundred and Seventy
Seven and until the year One thousand Seven hundred and
Eighty two and that he was Dubash to the said John Sykes at

the

the time the said Dawsonne Drake departid this life and further says that the said Trevengadiah Braminy did pay unto the said John Sykes the Sum of Six hundred Pagodas Annually in Quarterly payments during the life time of the said John Sykes as in the said Agreement A. expressed but he the Deponent does not recollect whether he paid any Sum on that Account after the death of the said John Sykes That he the Deponent does not recollect particularly what Sum or Sums of Money he so paid unto the said John Sykes on that Account and says that the said John Sykes did give receipts to the said Trevengadiah Braminy for the same on his the said John Sykes's own Account and your Petitioner Sheweth unto this Honorable Court that the said Origi=nal Defendant and Cross Complainant did Exhibit and file additional Interrogatories and did thereto Examine one Witness Namely Charles Baker who to the third Interrogatory deposes that he knows there was an Arbitration of Accounts and other matters Entered into between the above named Nathaniel Barlow Deceased and the above named Trevengadiah Braminy deceased in their lives time and saith that he believes it was some time in the year of Our Lord One thousand Seven hundred and Eighty five but does not recollect the Exact period that the said matters Submitted to Arbitration did relate to the said Dawsonne Drake deceased that Cotton Bower Bank Dent and Josias Dupre Porcher were

E

were the persons chosen as Arbitrators of the said matters this deponent saith that he believes the said Arbitration was intended as a matter of mutual Accomodation in the same manner as all other Arbitrations are Entred into To the fourth Interrogatory he says he doth not recollect that the said Nathaniel Barlow did deliver in before the Arbitrators any Accounts Vouchers or Testimonies in Opposition to the Accounts Vouchers or Testimony produced by Trevengadiah Braminy this Deponent saith that he doth not recollect the said Nathaniel Barlow did deliver in before the said Arbitrators any state of the Case of the matter in difference that he doth not believe the said Nathaniel Barlow did personally attend at the said Arbitration that he doth not know whether the said Nathaniel Barlow did or did not directly or indirectly by any means oppose any or put to proof any of the matters and things alledged by the said Trevengadiah before the said Arbitrators that he is not able at this distance of time to recollect particularly what Accounts Testimonies and Vouchers produced by the said Trevengadiah Braminy before the said Arbitrators were or were not admitted by the said Nathaniel Barlow that the said Nathaniel Barlow had the Assistance of Mr. Peter Walker one of the Attornies of the said Mayors Court in the matters in question To the fifth Interrogatory he says he hath looked at the paper Writing produced and Shewn to him

at

at the time of his Examination Marked with the Letter **E**, purporting to be the Copy of an Opinion of the aforenamed Arbitrators delivered in with the Award on the fifth day of December One thousand Seven hundred and Eighty five and saith that the said Arbitrators did deliver in an Opinion in writing with their said Award that he doth not Recollect to whom the same was delivered but that he did see the Original thereof that he hath read over the above Exhibit and says that he believes the same to be a true Copy of an Opinion delivered in by the said Arbitrators and to which Original Opinion they did Severally subscribe their Names To the Sixth Interrogatory he says that he doth not at this time recollect the Exact nature of the Account mentioned in the said Exhibit **E** whereby the said Nathaniel Barlow as Administrator as aforesaid is debited in the Sum of One hundred and twenty Nine thousand and two hundred and fifteen Pagodas but that to the best of his belief it was for Losses and other charges incurred by Trevengadiah during the time he had held the Beetle and Tobacco farm under the said Dawsonne Drake that the three years douceurs in the said Exhibit also mentioned were for four thousand Pagodas per Annum paid by the said Trevengadiah Braminy in his life time during that term Respecting the Beetle and Tobacco Farm that he the Deponent cannot charge his Memory with the Amount of the Bond mentioned in the said Exhibit for seizure of Tobacco by the New Renter believes the said

said Trevengadiah Braminy was in posession of the Beetle and Tobacco farm at the time of the death of the said Dawsonne Drake does not know how long the said Trevengadiah Braminy was in posession of the Beetle Farm after the death of the said Dawsonne Drake but says he was dispossessed by Government, that the Cowle or grant of the said Farm was in the name of the said Dawsonne Drake that he hath heard and believes that the said Nathaniel Barlow did surrender the said Cowle or grant but he doth not Recollect how long after the death of the said Dawsonne Drake that he doth not know the Cause or Reason that induced the said Nathaniel Barlow to surrender the said Cowle or grant and saith he believes the said Nathaniel Barlow had not at the time the said Cowle was surrendered obtained Letters of Administration of the Estate of the said Dawsonne Drake To the Seventh Interrogatory he says that he is acquainted with the manner of the hand Writing of the above named Trevengadiah Braminy Deceased, and that he hath seen him write and received Letters from him, that he has looked at the Exhibit Marked **B**, produced and Shewn to him at the time of his Examination purporting to be an Account Current between the aforenamed Dawsonne Drake and the said Trevengadiah Braminy commencing the Eighth day of May One thousand Seven hundred and Seventy Eight and Ending the thirty first day of August

One

One thousand Seven hundred and Eighty, and says that he is not Certain whether the whole or any part thereof is or is not of the hand Writing of the said Trevengadiah Braminy but says that the Signature thereto Subscribed Trevengadiah Braminy is of the hand Writing of the said Trevengadiah Braminy – To the Eighth Interrogatory that the said matters in dispute before the said Arbitrators had relation to and connection with the aforesaid Butte and Tobacco Farm in the life time of the said Dawsonne Drake deceased and after his death To the Ninth Interrogatory he says he has looked at the paper Writing produced and Shewn to him at the time of his Examination Marked with the Letter **F** purporting to be an Account Current in favor of Trevengadiah Braminy deceased the balance whereof is said up to the thirty first day of May One thousand Seven hundred and Eighty One to be Two thousand four hundred and Eighty One Pagodas twenty Nine fanams and thirty Cash and says he believes the whole of the said Account is of the hand Writing of the said Trevengadiah Braminy and declares further that the Words Trevengadiahs Account Written in the left hand side of the said Account is of the hand Writing of the said Trevengadiah Braminy – To the Tenth Interrogatory he says he has looked at the paper Writing Marked **D**, Shewn to him at the time of his Examination purporting to be an Account between the aforenamed Nathaniel Barlow late Administrator of

of Dawsonne Drake deceased and the said Trevengadiah Braminy and says he believes from the Appearance of the Writing the whole in written by and in the hand Writing of the said Trevengadiah Braminy that he has looked also at the Endorsement thereon in the following Words "Copy of an Original Account of Money to Trevengadiah dated 5th September 1785 Pagodas 25,715 . 9 . of which a Bond granted for Pagodas 7500 dated 29th January 1784" and says he believes the whole of the said Endorsement is of the hand Writing of the said Trevengadiah Braminy To the Eleventh Interrogatory he says he has looked at the paper Writing now produced and Shewn to him at the time of his Examination Marked with the Letter **H** purporting to be a Bond a Writing Obligatory from the aforenamed Nathaniel Barlow Administrator to the Estate of the late Dawsonne Drake unto the aforenamed Trevengadiah Braminy given and granted under date the twenty ninth of January One thousand Seven hundred and Eighty four, Conditioned for the payment of the Sum of Seven thousand five hundred Pagodas and says that he has before seen the said Deed, that he doth not know, nor has he heard or been informed that any Consideration was paid or otherwise given for the said Bond or Obligation unto the said Nathaniel Barlow but says he believes from what he hath heard the said Nathaniel Barlow in his life time mention the said Bond was given by the said

Nathaniel

Nathaniel Barlow and Received by the said Trevengadiah in consequen
of the said Nathaniel Barlows having been on his departure from
India much importuned by the said Trevengadiah on Account of a
demand the said Trevengadiah alledged was due to him from the
Estate of the said Dawsonne Drake to whom the said Nathaniel
Barlow was Administrator To the Twelfth Interrogatory he says
that to the best of his knowledge and belief the Expressions in the
aforesaid paper Writing Marked **E**, whereto he has before been
interrogated as followeth "with Respect to the Bond given previous
to his departure from India there is no doubt but it was a prudent
Act on the part of Mr. Barlow" does refer to the said Bond or Exhibit
H whereto he has before been Interrogated To the Thirteenth
Interrogatory he says he hath again looked at the paper Writing
before Shewn to him at the time of his Examination Marked **D**
purporting to be an Account between the said Nathaniel Barlow
and the said Trevengadiah Braminy and says that he does not
Recollect at this distance of time whether the said paper Writing
was or was not produced before the said Arbitrators by the said
Trevengadiah Braminy or by any other person that he cannot
determine whether the Expression in the aforesaid paper Writing
or Exhibit Marked **E** as followeth "there Appears a paper before
us of Fourteen thousand Pagodas which the Bond of Seven thousand
and five hundred Pagodas before mentioned is inserted" was or was
not

not meant to refer to the said Account **D** or any other or what paper
or Account and further declares that he does not recollect but believes
the Item in the said Account of a Bond of One thousand and five
hundred Pagodas was the Bond for the like Sum referred to in the
said Opinion To the fourteenth Interrogatory he says he hath
looked at the paper Writing produced and Shewn to him at the
time of his Examination Marked **C** purporting to be an Account
Current of Debtor and Creditor under the head of Dawsonne Drake
deceased and says he believes the said Account Current was produced
before the said Arbitrators on the part of Trevengadiah Braminy
and says he believes the said Account Current is that discribed to
be in the hand Writing of the said Nathaniel Barlow, and as
such referred to in the said Account **D** whereto he has before been
interrogated To the fifteenth Interrogatory he says he has looked at the
paper Writing Marked **B**, before Shewn to him purporting to be
an Account Current between the said Dawsonne Drake and the
said Trevengadiah Braminy dated the thirty first August One
thousand Seven hundred and Eighty to the said Trevengadiah
Braminy by the said Dawsonne Drake was the Sum of Seven
hundred and Seventy two Pagodas and says that to the best of his
recollection and knowledge the said Account Current was not
produced during the said Arbitration or previous to the said
Award of the said Arbitrators by the said Nathaniel Barlow nor

by

by any other person or persons on his behalf but that he doth not know nor can he pretend to say why the said Account was not produced before the said Arbitrators To the Sixteenth Interrogatory he says he doth not know whether the said Arbitrators or either of them did or did not refer to Examine the Books of the said Dawsonne Drake touching the aforesaid matters of Account nor whether they did or did not compare the said Account C. with the Books of the said Dawsonne Drake To the Seventeenth Interrogatory he says he has looked at the paper Writing before Shewn to him Marked **F** purporting to be an Account Against the said Dawsonne Drake deceased in favor of the said Trevengadiah Braminy whereby the said Dawsonne Drake deceased is debited for the Sum of Seven hundred and Seventy two Pagodas as the balance due from him on the thirty first day of August One thousand Seven hundred and Eighty and also in the further Sum of One thousand and five hundred Pagodas for Cash lent him by the said Trevengadiah Braminy the fifth September One thousand Seven hundred and Eighty and with Interest calculated on these Sums up to the thirty first of May One thousand Seven hundred and Eighty One and says he does not believe the said Account was produced before the said Arbitrators previous to their giving the said Award by the said Nathaniel Barlow or by any other person or persons on his behalf but that he cannot say why or for what Cause it was not produced To the Eighteenth Interrogatory he

he says he has looked at the paper Writing now produced and Shewn to him at this the time of his Examination Marked **A** purporting to be Articles of Agreement between the said Trevengadiah Braminy and the said Dawsonne Drake in their lives time under the Several dates of the fifteenth of February One thousand Seven hundred and six and first August One thousand Seven hundred and Seventy Seven and Seventy Seven and says he does not recollect that the same was produced before the said Arbitrators previous to their giving their said Award by the said Nathaniel Barlow or by any other person—

And your Petitioner Sheweth unto this Honorable Court that your Petitioners said Intestates late Administrator did also Examine Witnesses on his part the first whereof Yatcharjooloo Naick deposes that he knows that some Accounts of the said Trevengadiah Braminy with the said Dawsonne Drake were Submitted to Arbitration and further says that about the year One thousand Seven hundred and Eighty five the said Accounts were submitted to Arbitrators and says that Mr. Porcher and Mr. Dent were the Arbitrators but that the deponent was not present during the Arbitration — that he was present when the said Josias Dupre Porcher one of the said Arbitrators informed the said Trevengadiah Braminy that in Consequence of the Award by them made, he the said Trevengadiah Braminy should deliver up to the said Nathaniel Barlow all papers relating to the matter in Arbitration between him the said Trevengadiah Braminy and the said

Nathaniel

Nathaniel Barlow and further says that the said Trevengadiah Braminy
A did Accordingly deliver the said papers to the said Nathaniel Barlow
through the means of him the Deponent and further says that the
said Trevengadiah Braminy mentioned upon the above occasion
that as the Award was given he thought it unnecessary to keep the
papers any longer in his posession and therefore directed the deponent
to carry and deliver the same to the said Nathaniel Barlow and
which delivery of the papers was subsequent to the award above
mentioned And your Petitioner Sheweth unto this Honble Court
that your Petitioners said Intestates late Administrator did also
file Additional Interrogatories and thereupon did Examine several
Witnesses To the Second Additional Interrogatory the said Cotton
Bower Bank Dent deposes that he has looked at the Exhibit &c
Marked with the Letter E. purporting to be a true Copy of a
paper Writing to the Original of Which he the Deponent and the
said Josias Dupre Porcher did set and subscribe their respective
Names and says that he cannot at such a distance of time &c
Recollect all the particular Circumstances attendant on the &c
business to which the same refers, he thinks it was given at the
time he and the said Josias Dupre Porcher delivered a certain &c
Award between the said Trevengadiah Braminy and the said
Nathaniel Barlow and further says he beleives the same does
contain the Opinion he Entertained of those Circumstances at the
time

time he Executed the said paper Writing, to the best of his Recollection
C the said paper Writing at the same time the said Award was given
into the hands of Messieurs Ellis and Baker and with a View to
prevent the business being carried into the Mayors Court To the
third Interrogatory William Balfour says he has received Letters
from the said Nathaniel Edward Kindersley that he has seen him
Write and is thereby Acquainted with his hand Writing, that he
has looked at the Exhibit E Shewn to him at the time of his
Examination and says the same is in the proper hand Writing
of the said Nathaniel Edward Kindersley and that the Signatures
affixed thereto is the Signature of the said Nathaniel Edward
Kindersley To the Second Interrogatory Neil Mc Kenzie deposes
that he saw the Bond in Exhibit A Signed Sealed and delivered
by the said Nathaniel Barlow that his Name Subscribed &c
thereto is of his own proper hand Writing and that he beleives
the Name of Cotton Bower Bank Dent the other Subscribing
Witness to the said paper is also of his the said Cotton Bower Bank
Dents own proper hand Writing To the fourth Interrogatory
the said Josias Dupre Porcher says he was chosen an Arbitrator
on the part of the said Nathaniel Barlow and the said Trevengadiah
Braminy in their lives time and that he was so chosen some
time in the year One thousand Seven hundred and Eighty
five, and says he did in Consequence Arbitrate the disputes
and

and differences then Subsisting between the parties that he has looked at the paper Writing Marked with the Letter **D** produced and Shewn to him at the time of his Examination and says he did Execute the same and that the same was Executed as an 〃 Award of the several matters in dispute, and at that time 〃 referred to his decision as one of the Arbitrators and that the Name thereto set and Subscribed is of his own proper hand Writing And the said Cotton Bower Bank Dent Examined to the same Interrogatory says he does not recollect whether he was chosen an Arbitrator on the part of Nathaniel Barlow and Tsevengadiah Braminy in their life time, nor does he recollect to have Arbitrated the disputes and differences then Subsisting between the parties he says he has looked at the paper Writing Marked with the Letter **D** and Shewn to him at the time of his Examination and says he did Execute the same and believes the same was so Executed for the purpose of preventing disputes and Suits at Law being carried into the Mayors Court to the prejudice of the Estate of the said Dawsonne Drake and further says that his Name C. B. Dent set and 〃 Subscribed thereto is of his own proper hand Writing To the fifth Interrogatory the said Josias Dupre Porcher says that he did know Nathaniel Barlow and that he considered him as he was generally Considered by the Circle of his Acquaintance as

as a Man of Weak intelects and further says that he was in Council at Vizagapatam and never heard of his probity or honor being 〃 impeached And the said Cotton Bower Bank Dent Examined to the same Interrogatory says he did know the said Nathaniel Barlow and that he was a Man of Weak intelects and by means of imbecility of mind incapable of transacting Business and further says that the said Nathaniel Barlow was in Council at Vizagapatam but he cannot say how he was Esteemed in Society as a Man of probity and honor To the Sixth Interrogatory Edward Clayton deposes that he has looked at the paper Writing produced and Shewn to him at the time of his Examination Marked with the Letter **E** and says the same was received by the said Tsevengadiah Braminy in his life time from the said Nathaniel Edward Kindersley To the Seventh Interrogatory Soobiah says he was present about three Months previous to the commencement of the present Suit when the Original Defendant and Cross Complainant and the said Tsevengadiah Braminy held some conversation Respecting the said Tsevengadiah Braminys Claim on the Estate of the said Dawsonne Drake and that the proposal made by the said Original Defendant and Cross Complainant was to the following purport, that the Original Defendant and Cross Complainant Recommended to the said Tsevengadiah Braminy to prosecute in the Mayors Court the Estate of the said Dawsonne Drake

Drake and to obtain a Decree of him the said Trevengadiah Braminy upon which condition the Original Defendand and Cross Complainant promised to discharge the Amount due to him from the Estate of the said Dawsonne Drake observing to him at the same time that if he was to procrastinate or Neglect to prosecute the said Suit it would give him the said Original Defendant and Cross Complainant much trouble in deviding the Effects Amongst the Creditors of the Deceased To the Ninth Interrogatory the said Edward Clayton deposes that he has looked at the paper Writing Marked **F** produced and Shewn to him at the time of his Examination and says the same is in his own proper hand Writing that the same was Written by the desire of the said Trevengadiah Braminy for the purpose of Asserting to Claims upon the Estate of the said Dawsonne Drake and that the same was sent by the said Trevengadiah Braminy to the Original Defendant and Cross Complainant And your Petitioner Sheweth that your Petitioners said Intestates late Administrator did Exhibit and file further Additional Interrogatories and thereto did Examine Vencata Kistniah who to the Second Interrogatory says that he was Employed by Trevengadiah Braminy in the management of the Beetle and Tobacco Farm and says that the Coule or grant of the said Farm stood in the Name of the said Dawsonne Drake and further says that the said Trevengadiah Braminy did agree to

to pay the yearly Rent of the said farm and that the Annual Amount thereof was forty thousand Pagodas that the said Dawsonne Drake did agree to protect him therein for the term of ten years and that the said Trevengadiah Braminy did in Consequence thereof Engage to pay him the said Dawsonne Drake a Valuable Consideration on Account thereof To the Third Interrogatory the said Vencata Kistniah says the said Dawsonne Drake did depart this life Seven years before the Expiration of the said Coule To the fourth Interrogatory the said Vencata Kistniah says that on the decease of the said Dawsonne Drake the said Nathaniel Barlow did arrive at Madras from the Northward to take charge of the affairs of the said Dawsonne Drake and further says that the said Nathaniel Barlow did at the Solicitation of Government agree to surrender up to Government the said Coule and did surrender the same Accordingly as the representative of the said Dawsonne Drake, that the said Beetle and Tobacco farm was in Consequence thereof granted to Nagapah Chitty and Vydenadah Moodliar and the deponent further says that the said New Renters did seize upon some Beetle and Tobacco the property of the said Trevengadiah Braminy to the Amount of About Twenty thousand Pagodas To the fifth Interrogatory the said Vencata Kistaniah says that the said Trevengadiah Braminy did one year afterwards procure

by

by his own means a further grant of the said Farm and that it was in Consequence of public Notice affixed by Government for renting the said Farm and further says that the said Trevengadiah Braming Engaged to rent the same for the period of five years four Months and twenty one days at the rate of Forty Nine thousand Pagodas for the first Sixteen Months and twenty one days fifty thousand Pagodas for the two following years and at the rate of Sixty thousand Pagodas per Annum for the two last years –

And your Petitioner Sheweth unto this Honble Court that after Issue had Joined and Rules had passed for the &c Examination of Witnesses and several Witnesses had been Examined Shreenevasiah Braminy the Administrator of your Petitioners said Intestate departed this life, that thereupon your Petitioner did obtain Letters of Administration of all and Singular the goods and Chattels rights and Credit of the said Trevengadiah Braminy deceased unadministered by the said Shreenevasiah Braminy And your Petitioner Sheweth that having so obtained Letters of Administration as aforesaid he did receive the proceedings in the Cause

And your Petitioner Sheweth unto this Honble Court that upon such proceedings had as aforesaid the Cause was set down for hearing and came on to be heard Accordingly on the Seventh day of July last past when the said Mayors Court was pleased to Order and Decree and did accordingly &c Order

Order and Decree, three of the Members of the said Mayors Court &c dissenting, as by an Extract of the Minutes of the said Mayors Court hereunto annexed reference being thereunto had may appear, that the Original Bill do stand dismissed with Costs and did further Order and Decree that your Petitioner do pay unto the Cross &c Complainant the full and Just Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash being the Amount of the Account Current annexed to the Cross Complainants Bill of Complaint together with all such &c Interest as was then due or as should thereafter become due &c thereon until full payment made deducting therefrom the Amount over charged on Account of the Agreement for the payment of the Sum of four thousand Pagodas Annually being for twenty one days after the death of the said Dawsonne Drake and that your Petitioner do pay unto the Cross Complainant the further Sum of Two thousand four hundred and fourteen Pagodas Seven fanams and One Cash Acknowledged to have been received by Virtue of an Assignment of three New Consolidated Bonds of his Highness the Nabob, and that he do also deliver up to the Cross Complainant the Original Bond of Nathaniel Barlow to the said Trevengadiah Braminy deceased under date the twenty first day of December One thousand Seven hundred and Eighty five for the Sum of Fourteen thousand Pagodas and

and that he do also deliver up the two Original Assignments from the said Nathaniel Barlow to the said Tiruingadiah Bramin and the Estate and Effects thereby Assigned being three New Consolidated Bonds of his Highness the Nabob of the Carnatic N. 228, 229, and 230 all bearing date the Twenty Sixth day of November One thousand Seven hundred and Twenty Seven and also all other part or parts of the Estate and Effects of the said Dawsonne Drake as might be in your Petitioners possession custody or power and that he do pay all Costs of the Suit as by the said Order and Decree of the said Mayors Court a Copy whereof is hereunto annexed for the inspection of this Honorable Court reference being thereunto had may more fully and at large Appear

By Which said Order and Decree of the said Mayors Court your Petitioner does Conceive himself much injured and Aggrieved and doth therefore Appeal therefrom to this Honorable Court for the following Amongst other Reasons –

First ..... Because the said Order and Decree of the said Mayors Court is Contrary to the Law in the first Instance and Contrary to Evidence in the Second Instance and further more that the said Order and Decree is contrary to the Course and practice of the said Mayors Court –

Secondly ... Because the Suit was brought for the Recovery of a Certain Sum of Money Awarded to your Petitioners Intestate upon the Submission

Submission of the parties to arbitration regularly Executed According to the due forms of Law in such Cases and therefore the Consideration for the said Mayors Court was whether an Award which had never been accepted to in the life time of the said Nathaniel Barlow one of the parties to the said Submission but on the Contrary performed and Kept so far as it lay in his power so to do, and Against which there was no plea or demurrer on the part of the Original Defendant and Cross Complainant ought not to have been held inviolable and whether the said Mayors Court could upon mere suggestions of the Original Defendant and Cross Complainant in the Vague and inconsistent Answer of the Original Defendant and Cross Complainant to the Bill of Complaint of your Petitioners said Intestate interfere with the Judgment of Arbitrators who were Judges of the parties own chusing And your Petitioner humbly Submits to this Honble Court that had the said Mayors Court weighed the merits of the Case it must have been governed by the said Award and have given a Decree thereon and not have Entered into an investigation of matters which had long since been finally adjudged and determined on because Arbitration are sanctioned by an Act of Parliament and therefore the Judgment of Arbitrators is as binding upon the parties Submitting to Arbitration as a Judgment or Decree of any of his Majestys Courts

Courts so that nothing can Effect an Award but what can also Effect a Judgment or Decree and as there is a time allowed for Excepting to Reviving or Appealing from the latter upon some Alledged Error or Supposed fraud so there is a limitted time for Excepting to the former and Courts of Justice are very careful how they interfere with, or open an Award lest by so doing they should destroy the wise intention of the Legislature in its Endeavours to promote them And it is laid down in the Books that Courts of Justice are now more liberal in the Construction of Awards than formerly and the nice distinctions to be met with in former proceedings are by no means to be admitted as precedents in Expounding Awards at this day and this the Courts do in the furtherance of Justice and for quietting controversies and further that an Award is a Judgment and can only be Expounded by itself Therefore in Order that an Award be good and Valid it is necessary — first that the parties to the Submission can legally Arbitrate Secondly that the Award be made According to the Submission that it be Certain, that it be Equal, of a thing lawful and possible and that the Award be final and nothing can touch such an Award unless it be proved that the Arbitrators were manifestly corrupt that they were in collusion with one of the parties and so abused the trust deligated to them or that they refused to hear one of the parties or to permit him to produce his Witnesses and these are the points that

that go to Vitiate and render an Award null and Void and they must be set forth by Exceptions if before a Suit, after a Suit by a plea of no Award Stating the Special Circumstances or a Bill may be brought to set aside the Award charging fraud collusion or such other facts as the case might warrant in the present instance there was nothing before the said Mayors Court either by Exception by Plea by Demurrer or by Bill to Shew that Nathaniel Barlow could not legally Arbitrate or that the said Award was irregular in its principles or that the Arbitrators had in any degree acted Contrary to the strictest Rules of integrity and Justice for although the Original Defendant and Cross Complainant did Exhibit and file his Cross Bill Against the said Sreenevasiah Brahmin the late Administrator of your Petitioners said Intestate yet he does not therein and thereby interfere with the said Award either by Charging collusion or otherwise but brought his said Cross Bill upon an Account Current thereunto annexed and his prayer is not that the said Award might be decreed to be Null and Void and the said Bond of the said Nathaniel Barlow should be cancelled and that the Securities by him the said Nathaniel Barlow Assigned to your Petitioners said Intestate for the due performance of the Condition of the said Bond should be delivered up to him the Original Defendant and Cross Complainant, but that the said Sreenevasiah Brahmin might be decreed to

pay

pay unto him the Original Defendant and Cross Complainant the Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash the balance of the said pretended Account Current so that the said Award standing in every Respect upon the Established Rules by Which Arbitrators are guided and directed without a single legal objection to the Conduct of the Arbitrators in the premises approved of and performed as far as possible by the said Nathaniel Barlow one of the parties who submitted to Arbitration and in whose place or stead the Original Defendant and Cross Complainant now stands, ought to have been held sacred and inviolable by the said Mayors Court which in Acting in Opposition thereto and setting the same aside as of no force or Validity and Ordering and decreeing as aforesaid has so Ordered and decreed Contrary to the Law and further this Petitioner says the said Order and Decree of the said Mayors Court was Contrary to Evidence –

Thirdly ..... Because the matters and things insinuated in the Answer of the Original Defendant and Cross Complainant and further insisted on in and by his Rejoinder are unsupported and in some particular and important instances contradicted and the grounds and principles set up by his defence and which the said Mayors Court had in Contemplation when Ordering and decreeing as aforesaid were contrary to Equity and to the Laws

Law and were Arbitrary and unjust The Answer of the Original Defendant and Cross Complainant Amongst other things urges that the said Dawsonne Drake in the year of Our Lord One thousand Seven hundred and Seventy Seven obtained a Cowle from the Governor and Council for ten years and that upon some Arrangement between him and Tiruvengadiah he Assigned it over to him and he Exhibits the Covenants Entered into in consequence between the parties under the Letter A. The first Article of Which is in the Words following that M.r Dawsonne Drake Agrees with Tiruvengadiah to get him Assistance from the Governor in Council in Every Article for ten years in Consideration of which there is also a Covenant on the part of Tiruvengadiah to pay to the said Dawsonne Drake Four Thousand Pagodas per Annum for so long as the Cowle &c. should continue in his hands – upon this last Article the Original Defendant and Cross Complainant Seems to insist that had the Cowle Remained in Tiruvengadiahs hands only Twelve Months it was Sufficient to give the said Dawsonne Drake a right to the four thousand Pagodas and that those Articles were binding upon the said Dawsonne Drake no longer than he should think proper to Continue them However the Preceding Article Effectually does away the Idea by Shewing the term Assigned and that term to be ten years so that in fact the

the Asignment must be considered and so must its Operation be as a lease of a Farm for a period of ten years in which the lessor and lessee mutually Covenant with each other, the one to protect and the other to pay the Annual Rent the Original Defendant and Cross Complainant further states "that previous to the departure of Nathaniel Barlow from Madras the Complainant held out threats and menaces through the means of his Attorney at Law respecting his determination to commence a prosecution Against the said Nathaniel Barlow unless his demands were Complied with" - In the Course of the Examination the Original Defendant and Cross Complainant has Exhibited Interrogatories to the Attorney at Law of Tawengadiah Afterwards the Attorney at Law of the Original Defendant and Cross Complainant and the person of course agreable to the Original Defendant and Cross Complainants own Shewing, who could have proved the fact if such threats and menaces ever had been held out by Tawengadiah Against the said Nathaniel Barlow, but &c although they have Examined him to a Variety of other points upon this particular point he has been totally silent and therefore it is fair to conclude that he was well aware no such threats &c and menaces ever were made use of The Answer further States that Original Defendant and Cross Complainant has heard and believes the matter in dispute were referred to Arbitration when the

the Bond on which the present Action is brought was Adjudged in favor of the Petitioners said Intestate a matter which he allows must have been at once conclusive Against the Estate but for certain Circumstances which he pretends to point out and to that End he Enters into the Opinion of the Arbitrators Marked **E** and states that although the said Nathaniel Barlow was in &c possession of the Agreement **A** and the Account **B** that it does not Appear they were produced before the said Arbitrators" - In the course of the Examination of Witnesses the Original Defendant and Cross Complainant has not been enabled to Establish the fact although he has Examined the Arbitrators and the then Attorney of your Petitioners said Intestate Afterwards the &c Attorney for himself who all declare that they do not know whether such papers were or were not produced" however it will Appear from Circumstances Amounting to a Demonstration that those papers were before the Arbitrators although from the length of time which has elapsed the fact might have escaped the Memory of the parties Examined for the Arbitrators in the Opinion given at the time they gave their Award mention the three years Dowcer to the said Dawsonne Drake and say that as the Farm was taken from your Petitioners said Intestate Swen years before the Expiration of his term had the said Dawsonne Drake been living he would have been bound in

in honor to have made your Petitioners said Intestate a Compensation
And your Petitioner Sheweth that the full Amount of the three years
Dooears is no wise mentioned but in the Exhibit **B**, and the term
of the Lease of the farm is setforth in the Exhibit **A** and no where
else" The Original Defendant and Cross Complainant then
States that in Order to impose upon the said Nathaniel Barlow
the more Effectually with Respect to the Exhibit C. your
Petitioners said Intestate procured a Kind of under written
Certificate from One Alavar Chitty Signifying that the Sums
of Seven thousand Seven hundred and Seventy two Pagodas had
been received by him" But your Petitioner most humbly
presumes that instead of operating as an Imposition upon the
said Nathaniel Barlow, it had the Contrary Effect putting
him upon his Guard and inducing him to Enter into an
investigation for by his own Certificate at the foot of the Certificate
Alluded to, he says he Examined the Books and found the same
to be true, and again your Petitioners said Intestate could not
have had any such intentions as alledged by the Original
Defendant and Cross Complainant because it fully Appears
both by the testimony of the said Josias Dupre Porcher and the
said Cotton Bower Bank Dent that the said Exhibit C. never
was produced to the Arbitrators for they say with Reason that
had it been produced they would have Examined it with the
Exhibit

Exhibit **B**, which your Petitioner has Just now Shewn was undoubt=
=edly before them "The Original Defendant and Cross Complai=
=nant then pretends that the said Nathaniel Barlow was
frightened into the measures of Arbitration, that a Number of
Accounts in Exhibit annexed to his the Original Defendant and
Cross Complainants Answer were never presented by Nathaniel
Barlow to the Arbitrators, that he was a Man of Weak
intelects and easily intimedated and not able to Cope with your
Petitioners said Intestate whom he abuses in the grafsist Language
of Scandal and says Nathaniel Barlow was frightened by Various
threats and menaces of your Petitioners said Intestate Respecting
his determination to commence a prosecution for the recovery of
the Amount due to him" Whereupon your Petitioner humbly
Submits to this Honorable Court that it is an Extraordinary Idea
to promulgate that a man should be frightened into measures
that are regarded as the most amicable and certainly furnish
the best and least Expensive means of settling matters in dispute
between party and party and further that the said Nathaniel
Barlow could not have been Apprehensive of a prosecution
considering the matter personally for as an Administrator he
could not be arrested even although he should have left the
Jurisdiction for the benefit of his health as is afserted, as the
Assets of the Estate remained as they always had remained in the
hands

hands of his Attorney, so that his fears must have been if he really
Entertained any from the threats of your Petitioners said Intestate
as the Original Defendant and Cross Complainant pretends that
the Estate of his Intestate and not himself would suffer much in
the Event of a Suit and therefore to serve the Interest of the Estate
he submitted to the now reprobated Arbitration, and if this position
is Just and nothing can, or has been proved to the Contrary and
the natural conclusion is that a man who felt so much for the
Interest and Advantage of the Estate would not have abandoned
that Interest and Advantage when the matter in dispute were
submitted to Arbitration it is also to be considered and which
Your Petitioner humbly Submits to this Honble Court that the
said Nathaniel Barlow had the Assistance of professional Men
which appears in Evidence on the part of the Original Defendant
and Cross Complainant and it is not to be presumed that these
Gentlemen also were Men of such Weak Intelects and so easily
intimidated as to prevent them from stating the case of their
Client fairly and properly to the Arbitrators for his benefit and
Advantage and Again it is unreasonable and unfair to suggest
that the Arbitrators could blindly have given an Award without
Weighing Considering and throughly Examining into the
premises disposing of a considerable property belonging to the
Estate without any investigation into the right of the Claimant,
or

or into the facts that could or might be brought forward had they
taken the least trouble to that end, on the part of the Opponent It
almost Amounts to an impossibility - and it is Evident from the
Opinion of the Arbitrators hereinbefore alluded to that Barlow
either Appeared in person before the Arbitrators to contend the
point brought forward by your Petitioners said Intestate or that
he furnished them with a state of his case for the Arbitrators in
their said Opinion say" with Respect to the Bond given previous
to his /the said Nathaniel Barlows/ departure from India
there is no doubt but it was a prudent act on the part of Mr. Barlow
as it prevented law process, nor do I think however he may
think Advantage may have been taken of his hasty departure
that he could with propriety have litigated it which Shews
plainly that the said Nathaniel Barlow opposed your Petitioners
said Intestate with sentiments of resentment but if the
Original Defendant and Cross Complainant had been desirous
of being informed fully on this head he would have Examined
Peter Walker who Appears in Evidence to have been the
Attorney at Law of the said Nathaniel Barlow who was on
the spot, and the not having done so, your Petitioner humbly
Submits Amounts to the conclusion that he the Original
Defendant and Cross Complainant knew an Examination
of the said Peter Walker would have defeated his purposes
and

and therefore declined it again he has Examined the Cash and Book Keper and other Clerks of the said Dawsonne Drake to a Variety of points but has not Examined them to the point whether the Books and Accounts of the said Dawsonne Drake or either of them were or were not produced before the Arbitrators And your Petitioner humbly Submits in Order to Shew the absurdity as well as the injustice of the insinuations of the Original Defendant and Cross Complainant, had the said Nathaniel Barlow intended a collusion with your Petitioners said Intestate, had he been intimidated or otherwise meant to promote his objects at the Expence of the Estate of the said Dawsonne Drake there was no Necessity of going into an Arbitration at all a Bill might have been brought for the Amount now sued for, or for a greater Amount, the said Nathaniel Barlow might have confessed a Judgment an Execution would have Issued and the premises given by the said Nathaniel Barlow as a collateral Security for the performance of the condition of his Bond would have been seized and sold in the satisfaction of a Debt therefore from Reason and the nature of the thing as well as from the fact arising out of the Submission to Arbitration and the Award given thereon the only mode which Actuated the said Nathaniel Barlow was that of doing his utmost to discharge his duty for the benefit of the said Estate of

of his Intestate as an Administrator and supposing the said Nathaniel Barlow had it in his power and yet neglected to bring forward all proofs necessary to be laid before the Arbitrators it is as Contrary to the Law as it is inconsistent with Reason and Justice that your Petitioners said Intestate should have suffered for such Neglect where two people submit to Arbitration supposing one of them for want of attention or by attempting to do too much leaves that undone which he ought to have brought forward and an Award is given Against him shall the Man in whose favor the Award is given when Endeavouring to obtain the benefit it has afforded him, be told that he had no right thereto because the opposite party had been Negligent—

In the Rejoinder the Original Defendant and Cross Complainant states that your Petitioners said Intestate could not lawfully claim under a Bond upon an unfair Consideration nor detain the Bond and the Assignments Whereupon your Petitioner Shews that the Bond arises out of the Award and granted for the Amount Awarded and as the Original Defendant and Cross Complainant has not Shewn that the Award was unfair nor impeached the conduct of the Arbitrators the Consideration for which the Bond was granted is therefore fair and Just and the Original Defendant and Cross Complainant has not Shewn that your Petitioner has

matters stated in his Answer relative to the Agreement in Exhibit A and says he has charged your Petitioners said Intestate up to the day of the Surrender of the Cowle for the four thousand Pagodas Annual Allowance which your Petitioner Shews was by the Original Defendant and Cross Complainants own Account nearly one month after the death of the said Dawsonne Drake and by which it is Apparent that the Idea Originally Entertained was that things were to remain after his death of the said Dawsonne Drake as to the Buttle and Tobacco farm as during his life time and therefore if his Representative Barlow Nathaniel Barlow surrendered up the Cowle before the Ten years had Expired it follows of course that your Petitioners said Intestate was Entitled to damages for the loss of the Farm and the great loss he suffered in consequence by the New Renter Amounting as the same Appears in proof by the Testimony of Vencata Kistniah to the Fourth Interrogatory to the Sum of Twenty thousand Pagodas the Arbitrators in their Opinion say that if as the farm was taken from your Petitioners said Intestate Seven years before the expiration of the term that had the said Dawsonne Drake been living he would have been bound in honor to have given your Petitioners said Intestate a compen=
=sation and it Appears by the Evidence of the said Vencata Kistniah to the fourth Interrogatory that the said Nathaniel Barlow

Barlow Arriving at Madras from the Northward to take charge of the Affairs of the said Dawsonne Drake did at the solicitation of Government Agree to Surrender up to Government the said Cowle and did surrender the same Accordingly as the Representative of the said Dawsonne Drake" The Original Defendant and Cross Complainant then says that the said Nathaniel Barlow by Collusion with your Petitioners said Intestate or being ignorant of his Right as Administrator or that your Petitioners said Intestate did take an unfair Advantage of the ignorance or Weakness of the said Nathaniel Barlow to induce him to Arbitrate any other Accounts framed after the said Dawsonne Drakes death – that an Award obtained by such consent or means cannot operate to defraud the Creditors and Legatees, nor that the Artful formality of Executing Arbitration Bonds and making that Submission a Rule of Court make that legal which was so illegal in its fundation "Whereupon your Petitioner humbly Sheweth that although the Original Defendant and Cross Complainant has frequently insinuated and urged a collusion between your Petitioners said Intestate and the said Nathaniel Barlow he has not established the fact by proof he has Endeavoured indeed to do so, by the most illeberal and ungenerous means – The thirteenth Interrogatory Exhibited on the part of the Original Defendant and Cross Complainant

to

to the Arbitrators is in the following artful Words "did you regard the said Arbitration between the said parties as a matter of convenience and Accomodation Previously Agreed to by them or as a matter that would be disputed and contested before the Arbitrators however the Answer given by the said Josias Dupre Porcher does not favour the purpose of the Original Defendant and Cross Complainant for he says he regarded the Arbitration as a matter of convenience and Accomodation to both parties but of course subject to such an Award as the Arbitrators might think proper to give and Charles Baker to the Seventh additional Interrogatory in nearly the same Words says he believes the Arbitration was intended as a matter of mutual Accomodation in the same manner as all other Arbitrations are Entered into from hence it does not appear that there was any collusion between the parties and it has already been Shewn that so far from a collusion that the said Nathaniel Barlow either personally or by a state of his Case combated the points Advanced by your Petitioners said Intestate with a degree of Resentment so as to draw forth the pointed comments of the Arbitrators in their Opinion before mentioned, and it is Evident that the said Nathaniel Barlow was not ignorant of his Rights as an Administrator he found the Accounts between his deceased Intestate and your Petitioners said Intestate were intricate and therefore

therefore in Order to arrange and settle them and in Order to save the Expense of a Law process he submitted to Arbitration in which he had the Assistance of professional Men and Arbitration is held in high Estimation by our first Lawyers and sanctioned by an Act of parliament, it is safe, it is the less Expensive mode of setling disputes and an Award is not to be impeached but for some corrupt inequitious or partial Act in the Arbitrators and therefore it is fair and Just to say that such the Assertions and insinuations of the Original Defendant and Cross Complainant as ill founded unsupported and highly Reprehensible the Original Defendant and Cross Complainant after a long preface says that the Submission was not to such matters as the said Nathaniel Barlow might legally consent to, as Administrator and the Award granted upon that submission cannot have a legal operation to bend the Estate of his said Intestate "as an Administrator he had a Right to Arbitrate and his Act by the Submission binds the Estate of his Intestate as the Attorney binds his Constituent and the Award granted in such submission will have a legal Operation Against the Assets in the Administrators hands but be that as it may such matters in Objection ought to have been brought forward either by Plea or demurrer or by the Cross Bill and not in a rejoinder which ought not to Enter into any new matter and is merely a part of the Defendant

Defence

Defence to the Complainants Bill of Complaint and can neither establish nor take any legal Exceptions to any part of the former pleadings the Original Defendant and Crofs Complainant then goes on insisting on a matter relative to the Agreement A which he says was difsolved by the Act of God and the Cowle was in the said Dawsonne Drake a mere personal duty and could not Extend further than his life Whereupon your Petitioner Shweth that the Original Defendant and Crofs Complainant thought proper to charge the Doucur until the Act of Man interfered, that is until the said Nathaniel Barlow as the Representative of the said Dawsonne Drake surrendered the said Cowle to Government your Petitioner has hereinbefore Shewn that the said Cowle was in the Nature of a lease for ten years and so the same is further Established by the testimony of the said Vencata Kistniah to the Second Interrogatory and of course not depending on the said Dawsonne Drakes life, and your Petitioners said Intestate might have held it for the said Term of ten years had not the said Nathaniel Barlow as the Representative of the said Dawsonne Drake surrendered it to Government and your Petitioner has Shewn the same thing in and by the Account Current annexed to the Original Defendants and Crofs Complainants Crofs Bill for he has continued the Doucur until that surrender took place — The Original Defendant

Defendant and Crofs Complainant then Reasons upon the matters stated in the Opinion of the Arbitrators given after their Award, but he draws no conclusion further than that the said Nathaniel Barlow was frightened into Arbitration to avoid a Suit at Law to whereupon your Petitioner says as he has hereinbefore Shewn that it was a very prudent fear the said Nathaniel Barlow was impressed with and it was to his Credit to save Expences to the Estate to submit the Arbitration — he then insists that the said Nathaniel Barlow was either in collusion with your Petitioners said Intestate or that your Petitioners said Intestate took a dishonest Advantage of him when he Acknowledged the Estate was greatly indebted to your Petitioners said Intestate and gave a Bond for the Sum of Seven thousand five hundred Pagodas by way of Securing the payment Whereupon Your Petitioner humbly insists as hereinbefore stated that the Original Defendant and Crofs Complainant has not proved any Collusion he has Examined indeed some Evidence who say they have had Accefs to the said Dawsonne Drakes Books and that no such Accounts Appear but they do not pretend to Shew any collusion or a tendency to collusion between the said Nathaniel Barlow and your Petitioners said Intestate and it Appears by the Opinion of the Arbitrators as hereinbefore Shewn by your Petitioner that so far from collusion the said

said Nathaniel Barlow opposed your Petitioners said Intestate Claims upon the identical Bond in question and further your Petitioner humbly Submits to this Honorable Court that by the Submission to Arbitration the Bond became as a piece of Waste paper for it was opened Entered into and its Origin and Validity investigated by the Arbitrators and if in their Judgment they had thought it unfairly or unjustly obtained they would upon the Apposition which was made to it by the said Nathaniel Barlow as Appears by their Opinion hereinbefore mentioned have set it aside, and in fact the Arbitrators do not seem to have been guided by it in giving their Award as they speack of it in their Opinion given with the Award as an additional Argument why the said Nathaniel Barlow ought to perform and keep the said Award with Which it thereby Appears he was not satisfied or such additional Argument would have been unnecessary The Original Defendant and Cross Complainant after Enumerating a Variety of pretended fraud and collusion says that the said Nathaniel Barlow was prevailed on and by some unfair means induced and instigated to confederate himself with your Petitioners said Intestate to refer certain demands in his Rejoinder mentioned to Arbitration and that the Arbitrators gave their Award and Opinion Whereupon your Petitioner says as he has hereinbefore Shewn that such Assertion is Vague and

and nugatory in as much as the same is unsupported by any Kind of proof and submitting differences to Arbitration has ever been held as the most fair and provided the Arbitrators are Men of integrity no improper Advantage can possibly be taken and such is the Object the Law has in contemplation when Judging upon the Exceptions taken to, or a plea offered Against or a Bill filed to set aside an Award the Arbitrators have every thing before them and if not by the Submission restricted to certain points have a right to call for such documents as they may think proper in the present instance the Submission to Arbitration is general and therefore the Arbitrators might have had the said Dawsonne Drakes Books or his Comicopolies and Clerks before them perhaps they had, for the Original Defendant and Cross Complainant has not interrogated the Cash and Book Keepers and other Writers of the said Dawsonne Drake to this point, nor have they interrogated the Arbitrators thereto, although he has Examined them to many others nor has he thought proper as your Petitioner has hereinbefore Shewn to Examine the said Peter Walker who as the Attorney at Law of the said Nathaniel Barlow must have had full Knowledge thereof The Original Defendant and Cross Complainant then says it does not Appear by the Opinion of the Arbitrators delivered in with their said Award and which

which was the ground thereof that any Accounts or documents were produced on the part of the Estate by the said Nathaniel Barlow but that the Award is Entirely grounded upon the Accounts produced by your Petitioners said Intestate which connivance and collusion of the parties is sufficient to Veliate the Award Whereupon your Petitioner Shews that the Opinion could not have been the ground of the Award in as much as it Appears to have been given after it and in consequence thereof and was the private sentiments of the Arbitrators which could not be setforth in their Award to Shew to the said Nathaniel Barlow the nuesity and Justice of complying therewith so as to promote the Interest and Advantage of the Estate of the said Dawsonne Drake and further your Petitioner says it does not Appear in proof that the said Nathaniel Barlow withheld any Accounts necessary for the information of the Arbitrators but it is Evident that he either attended in person or gave in a state of his Case Ajuting to the demands of your Petitioners said Intestate suggesting that he had been hardly dealt with by your Petitioners said Intestate and it also appears that the Arbitrators combated the Suggestion of the said Nathaniel Barlow for they say in their said Opinion nor do I think however he the said Nathaniel Barlow may think Advantage may have been taken of his hasty departure, that he could with propriety have litigated it And your Petitioner further humbly Submits to this Honble Court that the Suppression of Papers attaches properly to

to the Original Defendant and Cross Complainant for that having in Consequence of the terms of the Award become possessed of all Documents and papers in the possession of your Petitioners said Intestate previous to the Award and relative to the matters in dispute has selected such as would Answer the purposes of his defence to the Bill filed by your Petitioners said Intestate and kept back others that might have produced a contrary effect and this is partly Evident from the said opinion of the Arbitrators and from the Original Defendant and Cross Complainants own Shewing for in the said Opinion the Arbitrators say it Appears by an Account now produced by Trevingadiah that he debits Mr Barlow as Administrator in the Sum of 129215 Pagodas for the three years Douceurs for Mrs Drakes support, the Administrator own Bond for losses by the farm, for the Seizure of Tobacco by the New Renter and for Interest" and your Petitioner Shweth the three years Douceurs is no where setforth but in the Exhibit B. which the Original Defendant and Cross Complainant has Shewn to be in his possession the Administrators own Bond the Original Defendant and Cross Complainant has also Shewn to be in his possession as he has annexed a Copy thereof both to his Answer and to his Rejoinder and having such Documents in his possession forming a part of the Documents before the Arbitrators as mentioned in their Opinion it is prima facie Evidence that he possessed the whole thereof

thereof to wit the Account of One hundred and Twenty Nine
thousand two hundred and fifteen Pagodas the Account of the
losses by the farm, for the Seizure of Tobacco by the New Renter
and the Account for Interest and this is confirmed by the
testimony of Yatarazooloo who to the Second Interrogatory on
the part of your Petitioner says he was present when Mr. Porcher
one of the Arbitrators informed your Petitioners Intestate that in
consequence of the said Award he your Petitioners Intestate
Should deliver up to Mr. Barlow the papers relating to the matter
in Arbitration between them, that then your Petitioners said
Intestate in speaking of the matter to the deponent Observed that
as the Award was given it was useless to keep the papers any longer
in his posession and therefore directed him the Deponent to carry
and deliver them to the said Nathaniel Barlow which he the
deponent Accordingly did and which your Petitioner Sheweth was
in conformity to the terms of the said Award and therefore your
Petitioner humbly Submits to this Honorable Court he is
Justified in saying that the Original Defendant and Cross
Complainant has suppressed and kept back the said Account
of One hundred and Twenty Nine thousand two hundred and
fifteen Pagodas, the Account of losses by the farm for the Seizure
of Tobacco by the New Renter, and also the Account of Interest
The Original Defendant and Cross Complainant in his said

Rejoinder

Rejoinder further states that your Petitioners said Intestate was
Betle and Tobacco farmer at the time of Signing the Arbitration
Bond and that he had obtained a Cowle for the remaining
unexpired term of Seven years and that therefore the Arbitrators
were wrong in saying that your Petitioners said Intestate was
deprived of the farm Seven years before the Expiration of the
Cowle and that if the said Dawsonne Drake had been living
he would have been bound in honor to make your Petitioners
said Intestate a Compensation with respect to the demand for
Seizure of the Tobacco Whereupon your Petitioner humbly
Sheweth that the Original Defendant and Cross Complainant
attempts an insinuation contrary to his own Shewing and
to his own conviction it is true that your Petitioners said
Intestate did obtain a Cowle of the Betle and Tobacco farm
after it had been taken from him that is after it had been
Surrendered by the said Nathaniel Barlow as the Representative
of the said Dawsonne Drake but it was one year after such
surrender had taken place and after it had been that length
of time in the hands of another Renter who during his Renter=
=ship plundered your Petitioners said Intestate and as proved
in Evidence stated in the Opinion nor did your Petitioners said
Intestate obtain the said Cowle through the means of the said
Nathaniel Barlow but by the same means and in the same

manner

manner as any other person might have obtained it The farm was publickly Advertized and your Petitioners said Intestate was the highest bidder at the Advance of Many thousand Pagodas beyond the terms of the Original Cowle as Appears by the testimony of the said Venata Kistniah and therefore the Assertion of the Arbitrators was strictly true and their conclusions fair and Equitable and when the Arbitrators gave their Opinion that the said Dawsonne Drake had he been living would have been bound in honour to make your Petitioners said Intestate a Compensation it was under the consideration that the said Nathaniel Barlow the Representative of the said Dawsonne Drake had surrendred the Cowle and that had the said Dawsonne Drake in his life time done the same thing he would doubtless have been liable to an Action of damages and been obliged to make good the loss occasioned by his own wrong the Original Defendant and Cross Complainant lastly says that he has charged such collusion of parties and other frauds and incapacities as are sufficient in Law and Equity to set aside the said Award which your Petitioner says is Erroneous because no such charges Appear in the Original Defendant and Cross Complainant's Cross Bill which is merely general and brought for the pretended balance of an Account thereunto annexed he could not have Exhibited any charges in his

Original

Original Answer and Rejoinder for an Answer contains matters of defence set up against charges, and the Rejoinder is merely a continuation of that defence, and he could not have made his charges in his Cross Replication for a Replication arises out of the Defendants Answer and in opposition thereto supports the Matters setforth in the Bill of Complaint from which it cannot depart so that the charge of collusion is merely ideal but even if he had charged it, he has not proved it, and which Amounts to the same thing as if no such charge had been made—

And your Petitioner Sheweth unto this Honble Court that the Evidence produced on the part of the Original Defendant and Cross Complainant is in some parts so uncertain in others so negatory and in others so contradictory that it cannot be considered as supporting the defence of the Original Defendant and Cross Complainant even in those trivial points to which it goes Alavar Chitty to the fourth Interrogatory says the Exhibit B. Shewn to him at the time of his Examination contained an Account of all and singular the transactions of the said Dawsonne Drake with your Petitioners said Intestate from the period of commencement and conclusion of the said Account, Sedasheah to the tenth Interrogatory deposes that it appears by the Books of the said Dawsonne Drake that he had Money transactions with your Petitioners Intestate

further

further than what are Expressed in the Exhibit **B**, from the Thirty first day of August One thousand Seven hundred and Eighty till the day of his death To the fifth Interrogatory the said Sedashevah says he has seen the Journal Ledger and Cash Book of the said Dawsonne Drake and that they were kept by his direction by one Alavar Chitty although he immediately afterwards says he came to a knowledge of the said Books in consequence of being in the Service of Messieurs Wasey and Johnson Attornies of the said Nathaniel Barlow some time in the year of Our Lord One thousand Seven hundred and Eighty three which was some years after the said Dawsonne Drake died – the said Sadashevah says that several Items in the Account in Exhibit C. is not truly Extracted but he does not Shew in what manner it is incorrupt further than that there is not any Account in the Books of the said Dawsonne Drake and the said Trevengadiah Braminy commencing on the Eighth of May One thousand Seven hundred and Seventy Eight and ending on the fifth day of March One thousand Seven hundred and Eighty but that there is in the said Books an Account Entitled Trevengadiah commencing the Eighteenth day of July One thousand Seven hundred and Seventy Seven and Ending in the fifth September One thousand Seven hundred and Eighty which plainly Shews there are in the Books of the said

said Dawsonne Drake other Accounts than those brought forward by the Original Defendant and Cross Complainant and the said Alavar Chitty further says that the Reason why the debits are not included in the aforesaid Account C. is in Consequence of your Petitioners said Intestate threatening the said Nathaniel Barlow to sue him in the Mayors Court if he refused to sign the said Account now the said Alavar Chitty Shews that the Exhibit C was drawn a few days after the said Dawsonne Drake death and the said Sedashevah Shews that he derived a knowledge of the Books of the said Dawsonne Drake by being a Servant to Messieurs Wasey and Johnson some years after the death of the said Dawsonne Drake and of course some years before he the said Sedashevah could have known any thing of the matter to which he has deposed – Sedashevah also shews that the Books of the said Dawsonne Drake consisted of a Cash Book Journal and Ledger, and Tanapah Moodliar to the Eleventh Interrogatory says there were other Books to wit a day Book an Account Current and a Bill Book – Videnadah and Tanapen to the Eighteenth Interrogatory say they do not know nor have they heard that there were any other dealings between Trevengadiah Braminy and the said Dawsonne Drake otherwise than Expressed in the Account **B**, which Shews their ignorance for the account annexed to the Original Defendant

and

and Crofs Complainants Crofs Bill shews other dealings and transactions and so does Sadashwah Moodelly as above setforth – Groomoorty Bramany to the Nineteenth Interroga= tory swears to have seen the Copy of an Advertizement although he says he only heard of the Original and the said Videnadah Moodelly to the Twentieth Interrogatory says the Words "Trevingadiahs a/c is he beleives in the hand Writing of the said Trevingadiah Bramany and the said Groomoorty do Bramany and the said Tanapah Moodelly say they were do Written by James Johnson – And your Petitioner Shweth that the said Josias Dupre Porcher to the Various interrogatories Exhibited to him shews a total want of recollection of the matters and things referred to, and candidly and fairly Acknowledges in Answer to the last Interrogatory that it is impofsible for him at this distant period to recollect the particulars of the Circumstance to which he has been interrogated relative to the dispute in question and the said Charles Baker in and by his deposition Shews himself to be incapable of speaking as to Certainly except in one or two trivial instances and Except in the instance that the said Nathaniel Barlow had the Afsistance of a profsional Man for he speaks positively to that point and says he had the Afsistance of Peter Walker one of the Attornies of the Mayors Court and the said Cotton Bower Bank Dent in the course of his depositions

depositions displays a degree of Warmth against your Petitioners said Intestate and his Cause and Apparently in obeying the dictates of his fulings has hurried himself into Errors – The said Cotton Bower Bank Dent to the Twenty Ninth Interrogatory on the part of the Original Defendant and Crofs Complainant says he does not recollect whether he was chosen an Arbitrator with the said Josias Dupre Porcher, he thinks he was but does not recollect whether he made an Award or not and Examined on the part of your Petitioner he says he does not recollect he was an Arbitrator or that he made any Award To the twenty Ninth Interrogatory on the part of the Original Defendant and Crofs Complainant he says he beleives your Petitioners said Intestate was dispofsefsed of the farm in Consequence of a Complaint from Government, now it is Confefsed by the Original Defendant and Crofs do Complainant and it is also in proof that your Petitioners said Intestate was dispofsefsed of the said farm by the said Nathaniel Barlow who surrendered the same to Government To the do Thirtieth Interrogatory he says he does not recollect whether the said Nathaniel Barlow did or did not deliver in any Accounts Vouchers or Testimonies of any kind or nature in Opposition to the Accounts produced before him by Trevingadiah or whether the said Nathaniel Barlow did or did not deliver in a state of his Case for the Arbitrators information, or whether he did or

did

did not admit of the Accounts Vouchers and Testimonies produced by the said Trevengadiah Brahminy – It is not Extraordinary that a Man should not recollect the transactions that passed before him when he does not recollect whether he was an Arbitrator or not But if the said Cotton Bower Bank Dent had turned over his opinion given with the Award he would have been enabled to have corrected himself for the Opinion Shews the said Nathaniel Barlow actually did give in a state of his case and disputed the points brought forward by the said Trevengadiah Brahminy or that he did so in person for in the Opinion the said Cotton Bower Bank Dent says "with respect to the Bond given previous to the said Nathaniel Barlows departure from "India there is no doubt but it was a prudent Act on the part of "Mr. Barlow as it prevented Law procefs nor do I think "however he may think Advantage may have been taken of this "hasty departure that he could not with propriety have litigated "it" and this shews also that whatever might have been done by the said Nathaniel Barlow when he was ill and going to Europe for the benefit of his health on his return to India no Advantage whatever was taken for every thing was Open to Arbitration To the thirty Second Interrogatory the said Cotton Bower Bank Dent says he has looked at the Exhibit **D**, of which it is Expressed in the Opinion there appears a paper Writing before

before us of Fourteen thousand Pagodas in which the Bond of Seven thousand five hundred Pagodas before Expressed is inserted and says he does not recollect whether the same was or was not before the Arbitrators Which your Petitioner submits is very Extraordinary as his Opinion ought to have set him right for it is therein Expressed in the Most direct and positive terms that it was before the Arbitrators – To the thirty fourth Interrogatory he says he does not recollect Exhibit **B**, was before the Arbitrators but believes not Which Answer your Petitioner submits is still more Extraordinary than the preceding Answer for in one place he says he really does not know whether he was or was not an Arbitrator and then takes upon him to say that he believes a Certain paper of a few figures only was not before him When he was an Arbitrator However it Appears by his own Opinion given upon Mature deliberation and Consideration at the time of making the Award that it Actually was produced for he therein speaks of the three years Douceurs to the said Dawsonne Drake and says that as the farm was taken from Trevengadiah Seven years before the Expiration of his term that had the said Dawsonne Drake been living he would have been bound in honor to have made the said Trevengadiah a Compensation and your Petitioner Shews as hereinbefore Shewn that the Douceurs are no where mentioned but in the Exhibit **B**, and the term of the farm no where

where setforth but in the Articles of Agreiment A To the thirty fifth Interrogatory he says he believes the Exhibit F was not produced to him during the Arbitration, on the contrary it Cuties his Astonishment and that he was not informed by the said Nathaniel Barlow or by the said Trevingadiah, that the said Trevingadiah had Received a devidend on the Bond Whereupon your Petitioner Sheweth that the same Argument Submitted by your Petitioner to the disposition of the said Cotton Beaver Bank Dent to the thirty fourth Interrogatory Equally Applies to the presint deposition To the Thirty Sixth Interrogatory he says he does not recollect the Exhibit A was produced to the Arbitrators In his Opinion he clearly Shews as your Petitioner has hereinbefore Shewn that it absolutely was before the said Arbitrators — from all Which your Petitioner humbly trusts it will fully Appear to this Honorable Court that the said Decree of the said Mayors Court was Contrary to Evidence and to the practice of the said Mayors Court —

Fourthly ——— Because the said Mayors Court have Evidently taken the irregular prayer contained in the Rejoinder of the Original Defendant and Cross Complainant instead of the prayer setforth in his said Cross Bill of Complaint and has Decreed certain Securities and Monies to be delivered up and paid to the Cross Complainant Which are not prayed for in

and

and by his said Cross Bill And your Petitioner is advised and believes that it is the course of practice of the said Mayors Court and of His Majestys High Court of Chancery that Whenever a Security setforth and Exhibited on the part of the Complainant is required to be given up by a Defendant it must be done by Bill of Complaint charging the special Circumstances and praying According to the Circumstances of the Case, and of this the Original Defendant and Cross Complainant Seems to be aware of, for in and by his said Rejoinder he says "the Law hath provided and doth furnish him with a more direct means of repaving the Injury done to the Estate of the said Dawsonne Drake by an Action Against the Repliant as having in his possession and detaining and unlawfully converting to his own use the identical and marked property of the Estate discribed in the Assignment —

Lastly ——— That as the Matters in question have Many years ago been finally settled and determined by the Award of Arbitrators indifferently chosen by the said Nathaniel Barlow and your Petitioners said Intestate and that in Obedience to the said Award the said Nathaniel Barlow did Cuate to your Petitioners said Intestate the Bond upon which he your Petitioners said Intestate did in his life time Exhibit his Bill of Complaint in the said Mayors Court, and as

at

at the time of making the said Award the same Appeared so Just and Reasonable to the Arbitrators that independent of the said Award they gave a strong and pointed advice to the said Nathaniel Barlow as contained in the Exhibit E. to which your Petitioner begs leave to refer to perform and Keep the same as eligible Just and proper for the good of the Legaties in England, and furthermore as no Exceptions ever were taken against the said Award by the said Nathaniel Barlow in his life time and no plea or demurrer offered by the Original Defendant and Cross Complainant Against the said Award nor any Bill filed by him praying that the same may be set Aside, nor any of those Objections made upon which alone Awards are impeachable your Petitioner humbly Submits to this Honorable that the said Award ought to have been held by the said Mayors Court as sacred and inviolable and that the said Mayors Court ought to have Decreed in favour of your Petitioner as Administrator as Aforesaid –

For all Which Reasons

and such others as may be offered at the hearing your Petitioner Most humbly prays that the Decree of the said Mayors Court may be reversed, and that this Honourable Court may be pleased to grant unto your Petitioner such further and other Relief in the premises as to this Honble Court in its Justice and Wisdom may seem Meet –

[Signed] J. Stuart Hall for himself & John Hamilton } Solrs for Appellant

Extract from the Minutes of a Court Held at the Town Hall on Saturday the 7th day of July Anno Domini 1792

Present

Andrew Ross Esquire Mayor
William Webb Josias DuPre Porcher
John Mitford Henry Chichley Michell
Benjamin Roebuck James Daly William Abbott
and Alexander Cockburn.

Aldermen.

Mr Alderman Porcher being interested goes of the Bench

Streenevausiah Rungiah administrator of the Estate and Effects of Iruvingadiah Draminey deceased Unadministered by Streenevausiah deceased

vers

Nathaniel Edward Lindersley administrator of the Estate and Effects of Dawsonne Drake deceased unadministered by Nathaniel Barlow deceased Et C. Contra -

Messrs Aldermen Webb Roebuck and Abbott dissent to the Resolution of the Court -

A true Extract
(Signed) J. Taylor Regr

A true Copy

Mayors Court at Madraspatnam

Saturday the 7th day of July Anno Domini 1792

L. S.

Present

Andrew Ross Esquire Mayor

William Webb Josias Du Pre Porcher

John Mitford Hardy Thickley Mitchell

Benjamin Roebuck James Daly William Abbott

and Alexander Peckburn —

Aldermen

Mayors Court

Between Streenevausiah Rungiah administrator to the Estate and Effects of Irevengadiah Brauning late of Madras Inhabitant deceased unadministered by Streenevausiah Brauning deceased original Complainant and Cross Defendant and Nathaniel Edward Kindersley of Fort St. George Esqr administrator of Dawsonne Drake deceased to the Effects unadministered by Nathaniel Barlow also deceased Original Defendant and Cross Complainant &c. &c. &c.

These Causes Coming on to be Heard and debated this day in the presence of the attornies on both Sides on Reading the original Complainants Bill with Copies of an Account Current a Bond or obligation and two assignments annexed The Bill of Revivor of Streenevausiah Brauning deceased The original Defendants Amended Answer with five Exhibits Marked A B C D & E annexed The Cross Bill with Copy of an account Current annexed The Replication with Copies of three Exhibits annexed The Cross answer The amended Rejoinder with Copies of three Exhibits annexed The amended Cross Replication The Cross Rejoinder The Interrogatories and Depositions on the part of the original Complainant and Cross Defendant with Original Exhibits marked A B C D E & F annexed The Bill of Revivor of Streenevausiah Rungiah Brauning The Interrogatories and Depositions on the part of the Original Defendant and Cross Complainant with Exhibits marked A B C D E F and H annexed 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 original Bill do stand dismissed with Costs and it is further ordered and Decreed that the Cross Defendant do pay unto the Cross Complainant the full and Just Sum of one thousand and Eighty Eight Pagodas twenty three fanams and Twenty four Cash / Pagodas 1088. 23. 24 / being the amount of the account Current annexed to the Cross Complainants Bill of Complaint together with all such Interest as now is or shall hereafter become due thereon untill full payment is made deducting therefrom the amount overcharged on account of the agreement

for

for the payment of the Sum of Four thousand Pagodas " annually during the Twenty one days after the death of Dawsonne Drake deceased and that the Cross Defendant do pay unto the Cross Complainant the further sum of Two thousand four hundred and fourteen Pagodas Seven fanams and one cash /Pagodas 2414-7-1/ acknowledged to have been received by Virtue of an assignment of three New Consolidated Bonds of his Highness the Nabob and that he do also deliver up to the Cross Complainant the oreginal Bond of Nathaniel Barlow to Trevengadiah Braminy deceased under date the twenty first day of December one thousand seven hundred and Eighty five for the Sum of Fourteen Thousand Pagodas /Pagodas 14000 " " and that he do also deliver up the two original assignments from the said Nathaniel Barlow to the said Trevengadiah Braminy and the Estates and Effects thereby assigned being three New Consolidated Bonds of his Highness the Nabob of the Carnatica N228.229. and 230 all bearing date the twenty Sixth day of November one thousand seven hundred and seventy seven and also any other part or parts of the Estate and Effects of Dawsonne Drake deceased as may be in his possession Custody or power and that he do pay all Costs of this Suit

Pr Cur
/Signed/ P. Taylor Regr
A true Copy
/Signed/ J. S. Hall for himself & John Hamilton } Solrs for appt

1

To the Honourable Sir Charles Oakeley Bart.
President and Governor &c. in Council.
Fort Saint George.

In the Honble. Court of Appeal }

The Answer of Nathaniel Edward Kindersley Administrator of the Estate and Effects of Dawsonne Drake deceased un-administered by Nathaniel Barlow also deceased Original Defendant and Cross Complainant to the Petition and Appeal of Streenewassiah Pungayah Braminy Administrator of the Estate of Trevengadiah Braminy deceased unadministered by Streenewassiah Braminy also deceased Original Complainant and Cross Defendant.

Filed in my Office the 10th Decr 1792
Chas N White Regr

The abovenamed Respondent admits that the said Appellants said Intestate the abovenamed Trevengadiah Braminy deceased in his life time did To Wit some time on or about the Eighteenth day of March which was in the year of our Lord one Thousand seven hundred and Eighty Eight exhibit and file his Bill of Complaint in the Mayors Court at Madraspatnam against this Respondent for the recovery of the sum of Fifteen Thousand two hundred and Twenty five Pagodas thirty eight fanams and seventy three Cash Current

Current Money of Madras by him therein falsely pretended to be due and owing unto him and that the said Intestate did therein also pretend did morefully and at large appear by Copies of an account Current a Bond or obligation and two Assignments to his said Bill annexed &c and this Respondent admits that he did on or about the Twenty seventh Day of May in the said year of our Lord put in his Answer to the said Bill - and this Respondent doth admit of the Copy of the said Proceedings in the said Cause and Cross Cause and of the evidence made part of the said Petition and Appeal except that some parts of the said Evidence is misrecited which he thinks his duty hereafter to point out as the appellant hath undertaken in opposition to the order and rule of practice of this Honourable Court - to recite verbatim the whole of the proceedings and evidence which he ought in conformity thereto only to have briefly recited - By which litteral Copying of the whole of the said proceedings except in some Cases of Suppression and misrecital / this Respondent hath been put to charge and expence of upwards of forty two sheets of Demy Paper without any necessity or the same being of any service to the appellant towards the illucidation of the merits of his Case or in any degree tending to throw alight thereupon so as to enable this Honourable Court to form an ampler Judgement from the said Copy than they could from the Original Records of the Mayors Court from whose Decree thereupon the said appeal is founded and which Records do of course attend the said Appeal - This Respondent therefore prays that this Honourable Court previous to the giving of their Judgement upon the merits of the Cause and of the said Appeal will be pleased to take into consideration the vexatious conduct of the Appellant in putting this Respondent to such an unnessary and unreasonable charge and expense contrary to the Order and rule of practice of this Honourable Court and that the Appellant do pay and refund to him this Respondent the Fees for the Office Copy of the said Forty two sheets of Demy Paper he has paid to the Clerk of this Honourable Court -

And this Respondent further Answering saith that he admits that upon the said original proceedings recited as aforesaid by the Appellant the said Cause and Cross Cause were set down for hearing and did come on to be heard accordingly on the seventh day of July last past and that the said Mayors Court was thereupon then pleased to order and Decree and did accordingly order and Decree that the said Appellants Bill should be Dismissed with costs and did further order and Decree that the Appellant should pay unto this Respondent the full and Just sum of One thousand and eighty Pagodas Twenty three fanams and twenty four Cash being the

the amount of the account current annexed unto this Respondents Bill of Complaint together with such Interest as then was or should thereafter become due thereon until full payment be made deducting therefrom the Amount over charged on Account of the agreement for the payment of the Sum of Four thousand Pagodas annually being for Twenty one Days after the death of the said Dawsonne Drake deceased and that the said Appellant should pay unto this Respondent the further sum of Two thousand four hundred and fourteen Pagodas seven fanams and one cash acknowledged to have been received by Virtue of an Assignment of three New Consolidated Bonds of His Highness the Nabob and that he should also deliver up to this Respondent the original Bond of the said Nathaniel Barlow to the said Irevengadiah Brahmny deceased under date of the Twenty first day of December one Thousand Seven Hundred and Eighty five for the sum of Fourteen thousand Pagodas and that he should deliver up the two original assignments from the said Nathaniel Barlow to the said Irevengadiah Brahmny and the Estate and Effects thereby Assigned being three new Consolidated Bonds of His Highness the Nabob of the Carnatick N 228. 229. and 230. all bearing date the sixth day of November one Thousand seven Hundred and seventy seven and also any other part or parts of the Estate and Effects of Dawsonne Drake deceased

deceased as may be in his possession Custody a Power and the Appellant should pay all Costs of this suit as by the said Decree or by an exemplification thereof Accompanying the Records and proceedings of the said Cause and the Appeal therefrom may appear reference thereto being had Which said Decree this Respondent saith he is advised and doth maintain is in strict conformity with Law and Equity upon the base in question and this Respondent denieth that the appellant can be or is aggrieved thereby but is bound and ought in conscience / as he well knows / to comply with and fulfil the same in every matter and thing therein ordered and decreed to be done and performed and this Respondent saith that the reasons for appeal exhibited in the said Petition are frivolus evasive and litigeous —

And this Respondent saith that previous to entering upon his answer to the futile Reasons and arguments produced and laid down by the Appellant for Cause of objection to the said Decree of the said Mayors Court he conceives it may be requisite for him briefly to state the matters of Fact upon which the whole of the proceedings are or ought to have been founded in order that this Honourable Court may be enable therefrom at one View to form a Judgement of the real merits and demerits of the case of either party divested of the variety of intricate and foreign matter it has been involved

involved – In order whereto this Respondent saith –

That on or about the fifteenth day of February One Thousand Seven hundred and Seventy Seven Dawsonne Drake and Irevengadiah Braminy entered into certain covenants and agreements respecting the farms of the Beetle and Tobacco the obtaining of the Cowle or Grant whereof from the Governor and Cuncil at this presidency depending on the said Dawsonne Drake and was thereafter to be delivered up to Irevengadiah Braminy upon certain Conditions which were reduced into Writing and mutually executed by them under the aforesaid date wherein it is agreed

First ..... That Mr Dawsonne Drake agreed with Irevengadiah to gett him assistance from the Governor and Cuncil in every article agreeable to the proposals for ten years –

Second ..... That Irevengadiah agreed to pay to Mr Dawsonne Drake Four thousand Pagodas every year in quarterly payments so long as the Cowle for the Beetle and Tobacco &c. Farms shall continue in his hands –

Third That Irevengadiah agreed to pay Mr John Sykes Six hundred Pagodas every year in quarterly payments so long as he should continue to assist him in the business of the Beetle and Tobacco &c. Farms by going or Writing to the Governor and Council as occasion may require agreeable to the proposals –

Fourth ..... That Mr Dawsonne Drake agreed to have nothing

nothing to do with the profits and loss of the said Farms or with the Governors Dustures which Irevengadiah consented to give the Governor annually as is always customary upon every Farm –

Signed / Irevengadiah

Dawsonne Drake.

That Dawsonne Drake did in pursuance of these mutual Covenants obtain the Cowle or Grant of the Beetle and Tobacco Farm under the date of the first day of August one Thousand Seven hundred and Seventy seven on which day he delivered the same to the said Irevengadiah upon the Conditions before recited which they also on the same day confirmed by a Writing subjoined thereto in the following Words and figures –

We declare the above agreement stands good dated 1st August 1777

/ Signed / Irevengadiah

Dawsonne Drake

Which aforesaid paper Writing is the Exhibit A proved and produced at the hearing of this cause and Cross cause.

That Irevengadiah Braminy being thus in possession of the Beetle and Tobacco Farm he exercised all the rights and previledges annexed thereto and in pursuance of the said Covenant A held himself responsible to the said Dawsonne Drake for the annual Sum of Four thousand Pagodas in quarterly payments

and

and accordingly paid the said Dawsonne Drake on the Eighth of May one Thousand Seven Hundred and Seventy Eight the sum of Three Thousand Pagodas upon his receipt in full for nine Months from the aforesaid first day of August One Thousand Seven hundred and Seventy Seven to the Thirtieth of april one Thousand seven hundred and Seventy Eight and expressed to be agreeable to agreement made for the Beetle and Tobacco farm on the fifteenth day of august in the same year Irevengadiah Braminy made another payment to Dawsonne Drake of one thousan Pagodas upon his Receipt in full for three Months from the first of May to the thirty first of July also expressed to be according to Agreement On the Eleventh of May One Thousand Seven Hundred and seventy nine Irevenga - diah Braminy paid the said Dawsonne Drake a further Sum of Three thousand five hundred and sixty two Pag's upon his Receipts in part of his yearly allowance for that Year and on the Eleventh day of February one Thousand Seven hundred and Eighty The said Irevengadiah Braminy made a further payment to the said Dawsonne Drake of the Sum of One Thousand and five hundred Pagodas upon his Receipt in part of his yearly allowance —

On the thirty first of august One Thousand Seven Hundred and Eighty Irevengadiah Braminy and Dawsonne Drake came to a Settlement of Accounts in Writing whereby Irevengadiah Braminy debits them for the

the beforementioned four payments upon his Receipts on account of the said agreement A made for the Beetle and Tobacco farm - and debits him for a further sum under the date of the fifth day of March one Thousand Seven Hundred and Eighty by his Dawsonne Drakes Bond to Mooperal Cashavah and Interest thereon amounting to Three Thousand Seven Hundred and ten Pagodas the whole of the debits being Twelve Thousand Seven hundred and Seventy two Pagodas In this same Account Irevengadiah Braminy gives Credit to Dawsonne Drake for the sum of Four thousand Pagodas expressed to be for his yearly allowance agreeable to agreement made from the first of August one Thousand Seven Hundred and Seventy seven to the thirty first day of July one Thousand seven Hundred and seventy Eight and in a further sum of Four thousand Pagodas expressed to be on the same account from the first of August One Thousand seven Hundred and Seventy Eight to the thirty first of July one Thousand Seven Hundred and Seventy nine and also in the like Sum of Four thousand Pagodas for the same account - from the first of august one Thousand Seven Hundred and Seventy nine to the thirty first of July one thousand seven Hundred and Eighty making together the sum of Twelve thousand Pagodas The Balance of the said Account being struck did amount to the sum of

Seven

Seven hundred and Seventy two Pagodas due by the said Dawsonne Drake to the said Irevengadiah Braminy who subscribed his name to the said account under the date of the aforesaid day of august one Thousand Seven Hundred and Eighty – The original of the said account is the Exhibit **B** proved and produced at the hearing of this cause and Cross Cause —

That under the date of the fifth day of September in the same Year Dawsonne Drake executed to the said Irevengadiah Braminy a Bond or Obligation for the sum of one Thousand and five hundred Pagodas after which the said Dawsonne Drake died to Wit on or about the ninth day of February following without there being any further dealings or Accounts whatever between him and the said Irevengadiah Braminy except what were depending from the arrear of the four thousand Pagodas annual payment from the first day of august one Thousand Seven Hundred and Eighty to the day of his death —

That the said Dawsonne Drake having left a Will duly executed but not any of the Executors therein named being resident Letters of administration with the Will annexed were taken out by Nathaniel Barlow as Nephew and nearest of kin to the deceased in India – That the said Nathaniel Barlow previous to his having obtained Letters of administration to the Estate of the said Dawsonne Drake did by Letter addressed to the Governor and Council of Fort St. George as is suggested by the said Irevengadiah Braminy request that they would annul the said Cowle granted to the said Dawsonne Drake whereupon the said Irevengadiah Braminy further suggests the said Cowle was annulled on the first of March following and granted to other persons – That Nathaniel Barlow being stationed at a distance from the presidency appointed Messrs. James Johnson and William Wafsey to act for him in the Management of the said Dawsonne Drakes Estate and they accordingly some time in the Month of May One Thousand Seven Hundred and Eighty One circulated advertisements to the Creditors of the said Dawsonne Drake to send in their accounts of their respective Demands —

Inconsequence where of Irevengadiah Braminy sent in an account all written and signed in his own hand writing of his demands upon the said Dawsonne Drake at the time of his death made up with Interest to the thirty first day of May one Thousand seven Hundred and Eighty One wherein the said Irevengadiah Braminy debits the Estate of the said Dawsonne Drake To Balance due from him the first day of august one Thousand

Seven

Seven Hundred and Eighty as per his Account Current
To Wit account B being Seven hundred and seventy two
Pagodas and to Cash Lent him as per his Bond of the
fifth of September one Thousand Seven Hundred and
Eighty being one Thousand and five hundred Pagodas
which with Interest as aforesaid made his demand
on the said Estate amount to the sum of Two thousand
four hundred and eighty one Pagodas Twenty nine
fanams and thirty Cash - This Account was duly
received by Nathaniel Barlows attornies and an indorsement
made thereon accordingly of the same being Irevengadiahs
account Current - The original of this Account is the
Exhibit E proved and produced at the hearing -

On the Twenty seventh of February one Thousand
Seven Hundred and Eighty three Irevengadiah Brahmin
received a Devidend upon the deceaseds Bond for
one Thousand and five hundred Pagodas of Twenty five
per Cent Amounting to the Sum of Three hundred and
Twenty five Pagodas which without the arrear of the
annual payment of Four thousand Pagodas from the
first of August one Thousand Seven Hundred and Eighty
to the day of the death of the said Dawsonne Drake
being sett off by the said Nathaniel Barlow against the
Balance of the Account E

That Irevengadiah Brahmin was satisfied

with

with the admission of his account E and did not alledge
that these were any other accounts depending between him
and the said Dawsonne Drake at the time of his death
until on or about the beginning of the year One Thousand
Seven Hundred and Eighty four when the said Irevengadiah
Brahmin pretended that from sundry Accounts Statements
and Representations then was a considerable Balance due and
owing from the Estate of Dawsonne Drake to him for monies
advanced at sundry times by the said Irevengadiah Brahmin
to the said Dawsonne Drake in his life time and other
unliquidated Accounts - That Nathaniel Barlow being about
this time about to go to the Cape of Good hope by the advice of
his Physicians by reason of his being affected with a nervous
and hypochondriack disorder and being moreover a man
of very weak intellects and generally known so to be and
therefrom and other incapacities not fit to have Manage
= ment of so important a Concern as the Estate of the said
Dawsonne Drake and Irevengadiah Brahmin being on
the other hand a designing artfully man and of a litigeous
dispositions did under these Circumstances by importunities
and threats of Suits at Law for the said Nathaniel Barlow
having Surrendered up the Beetle and Tobacco Farm,
previous to his having obtained Letters of Administration
of the Estate of the said Dawsonne Drake and under other
pretences compell him the said Nathaniel Barlow to an

Acknowledgement

Seven Hundred and Eighty as per his Account Current
To Wit account B being Seven hundred and seventy two
Pagodas and to Cash lent him as per his Bond of the
fifth of September one Thousand Seven Hundred and
Eighty being one Thousand and five hundred Pagodas
which with Interest as aforesaid made his demand
on the said Estate amount to the sum of Two thousand
four hundred and eighty one Pagodas Twenty nine
fanams and thirty Cash - This Account was duly
received by Nathaniel Barlows attornies and an indorsement
made thereon accordingly of the same being Irevengadiahs
account Current - The original of this Account is the
Exhibit E proved and produced at the hearing -

On the Twenty seventh of February one Thousand
Seven Hundred and Eighty three Irevengadiah Braminy
received a Devidend upon the deceaseds Bond for
one Thousand and five hundred Pagodas of Twenty five
per Cent Amounting to the Sum of Three hundred and
Seventy five Pagodas which without the arrear of the
annual payment of Four thousand Pagodas from the
first of August one Thousand Seven Hundred and Eighty
to the day of the death of the said Dawsonne Drake
being sett off by the said Nathaniel Barlow against the
Balance of the Account E

That Irevengadiah Braminy was satisfied

with

with the admission of his Account E and did not alledge
that these were any other accounts depending between him
and the said Dawsonne Drake at the time of his death
until on or about the beginning of the year One Thousand
Seven Hundred and Eighty four when the said Irevengadiah
Braminy pretended that from sundry Accounts Statements
and Representations then was a considerable Balance due and
owing from the Estate of Dawsonne Drake to him for monies
advanced at sundry times by the said Irevengadiah Braminy
to the said Dawsonne Drake in his life time and other
unliquidated Accounts - That Nathaniel Barlow being about
this time about to go to the Cape of Good hope by the advice of
his Physicians by reason of his being affected with a nervous
and hypochondriack disorder and being moreover a man
of very weak intellects and generally known so to be and
therefrom and other incapacities not fit to have Manage
= ment of so important a Concern as the Estate of the said
Dawsonne Drake and Irevengadiah Braminy being on
the other hand a designing artfully man and of a litigeous
dispositions did under these Circumstances by importunities
and threats of Suits at Law for the said Nathaniel Barlow
having Surrendered up the Beetle and Tobacco Farm,
previous to his having obtained Letters of Administration
of the Estate of the said Dawsonne Drake and under other
pretences compell him the said Nathaniel Barlow to an

Acknowledgement

Acknowledgement of such Accounts existing against the said Dawsonne Drake and did under the date of the Twenty ninth day of January aforesaid enter into certain convenants in Writing for the making satisfaction for the same to the said Trevengadiah Braminy immediately or as soon as possible after his return to Forts George from the Cape of Good hope, Witnessed in the presence of Cotton Bower Bank Dent as acting Justice and by Edward Ellis the said Trevengadiah Braminys attorney at Law as is shewn by the Exhibit C— That the said Nathaniel Barlow did on the same day and under the date aforesaid execute and grant unto the said Trevengadiah Braminy a Bond or Obligation binding himself his Heirs Executors and administrators in the penal Sum of Fifteen Thousand Pagodas Conditioned for the payment of the sum of Seven thousand and five hundred Pagodas by him therein acknowledged to have been Borrowed and received and Interest thereon at the rate of Twelve per Cent per Annum unto the said Trevenga - diah Braminy his Heirs Executors Administrators or Assigns out of the first Monies or devident received or declared by the Nabob of the Carnatick - which said Bond or Obligation the said Nathaniel Barlow did subscribe as Administrator to the Estate of Dawsonne Drake Esquire and the same was Witnessed also by the said Cotton Bower Bank Dent and the said Edward Ellis —

About the same time or before Nathaniel Barlow also delivered to Trevengadiah Braminy an Account Current whereby Dawsonne Drake at the time of his death was brought indebted to Trevengadiah Braminy in a Balance of Fourteen Thousand five hundred and seventy two Pagodas on the fifth of March one Thousand Seven Hundred and Eighty in which account the said Dawsonne Drake was debited with the identical sums for which he was debited in Account B But not as having been paid upon his Dawsonne Drakes Receipts agreeable to Agreement A for the Beetle and Tobacco Farm as he was in Account B But simply to cash paid his Dubash Alwar Chetty and the said Dawsonne Drake is further debited in the said new Account To cash paid at sundry times to his attorney Mr John Sykes agreeable to his orders One Thousand and eight hundred Pagodas - This Sum was paid to Mr John Sykes upon his own Receipts to Trevengadiah Braminy in conformity to the third article of Agreement A for three years the last of which did not expire until the first of august one Thousand Seven Hundred and Eighty the account is closed on the fifth of March one Thousand Seven Hundred and Eighty —

The credit also given to Dawsonne Drake in the Account B of Twelve thousand Pagodas for three years allowance according to agreement is omitted in this new account drawn out after his death To which credit of Twelve Thousand Pagodas add the sum of one Thousand and eight hundred Pagodas paid to John Sykes and the Balance of

Account

B and the Balance of this new account is exactly made up o"
To Wit Fourteen Thousand five hundred and seventy two
Pagodas —

This Account was drawn out by order of Nathaniel Barlow and alwar Chetty Cash and Book Keeper of the said Dawsonne Drake in his life time subscribed to a Certificate subjoined to this account that he had received the sum of Twelve thousand Seven hundred and seventy two Pagodas from Irevengadiah Braming on the account of Mr Dawsonne Drake as might be seen by his Books — and the said Nathaniel Barlow did himself also subscribe to an attestation of the said o" Certificate being true — on an examination of the said Dawsonne Drakes Books — which was in fact true as far as the numerical identity of the Debit of the Sum of Twelve Thousand seven hundred and seventy two Pagodas but was false in this that the account on which the several sums composing the said debit was paid was omitted and further in this that there is a Suppression of the account on which these several sums so paid were received —

Nathaniel Barlow returned to Fort St George some time about august or September One Thousand Seven Hundred and Eighty five when the said Irevengadiah Brami = ny renewed his importunities and Demands upon the said Nathaniel Barlow as administrator of the said Dawsonne Drake and personally otherwise on the Ground

of the aforerecited Account which is the Account C produced at the hearing of this Cause and Cross Cause / and of the aforesaid Bond by the said Nathaniel Barlow for Seven thousand and five hundred Pagodas given on the Eve of his departure under the Circumstances before stated and of the said o" Dawsonne Drakes Bond to the said Irevengadiah Braming for one Thousand and five hundred Pagodas —

That the said Irevengadiah Braming Afterwards drew out an account in his own hand Writing upon these Grounds with a Calculation of Interest up to the fifth day of September One Thousand Seven Hundred and Eighty five whereby he Debits the said Nathaniel Barlow as Administrator of the said Dawsonne Drake in the Balance of the aforementioned Account C under the date of the fifth day of September One Thousand Seven Hundred and Eighty in the following Words — To the amount of the Account Current of his own hand Writing due Fourteen Thousand five hundred and seventy two Pagodas and further To the amount of Mr Dawsonne Drakes Bond One Thousand and five hundred Pagodas but without giving Credit for the Twenty five per Cent he had received thereupon which Sums with Interest as aforesaid made the said Nathaniel Barlow as administrator of the said Dawsonne Drake indebted unto the said Irevengadiah Braming in the sum of Twenty five thousand Seven hundred and fifteen Pagodas and nine fanams on the said fifth of September

One

One Thousand Seven Hundred and Eighty five – at the foot of the said Account is Subjoined certain Words declarative of the aforerecited Bond from the said Nathaniel Barlow to the said Irevengadiah Braminy given and granted for the Sum of Seven Thousand and five hundred Pagodas under the date of the Twenty Nineth day of January one Thousand Seven Hundred and Eighty four being included in the aforesaid Balance –

The said Irevengadiah Braminy by the aforegoing state of the Case appears from the death of the said Dawsonne Drake in February one Thousand Seven Hundred and Eighty one to September one Thousand Seven Hundred and Eighty five to have drawn out at three different times three different accounts To Wit First the account **E** made up to the thirty first of May one Thousand seven Hundred and Eighty one the Balance whereof was Two thousand four hundred and eighty one Pagodas Twenty nine fanams and Thirty Cash which it has been stated was not due to him – and that he received a Dividend on the Bond of one Thousand and five hundred Pagodas of Twenty five per Cent on the Twenty seventh of February one Thousand Seven Hundred and Eighty three ..... Second ... the Bond for seven thousand and five hundred Pagodas on the Twenty ninth January one Thousand Seven Hundred and Eighty four – Thirdly the account **D** whereby the Balance was encreased upon the Ground of the false account **C** to the sum of Twenty five Thousand seven hundred and fifteen Pagodas and nine fanams under the date of the fifth day of September one Thousand seven Hundred and Eighty five –

That the said Irevengadiah Braminy being in possession of the said account **C** and of the said Bond **H** did then proceed to induce the said Nathaniel Barlow to submit them to arbitration which the said Nathaniel Barlow being so much in the power of the said Irevengadiah Braminy could not reject and accordingly the said Nathaniel Barlow as administrator of the said Dawsonne Drake and the said Irevengadiah Braminy did give and grant each to the other arbitration Bond under the date of the Twenty first day of November one Thousand Seven Hundred and Eighty five binding themselves each to the other in the penal Sum of Thirty Thousand Pagodas to abide by the award &c. of Peter Mon Bower Banks Dent and Josias Dupre Porcher –

That the said Nathaniel Barlow did intirely allow of the said Irevengadiah Braminy to produce before the said arbitrators the said account **C** and the said Bond **H** and the account **D** and also a variety of other accounts in one whereof the said Irevengadiah Braminy did bring the Estate of the said Dawsonne Drake indebted in the Sum of one hundred twenty nine Thousand two hundred and fifteen Pagodas without any means being

taken

taken by the said Nathaniel Barlow to shew that the said accounts were false and that no consideration had been given for the said Bond – and without producing the original account B signed and delivered by the said Trevengadiah Braminy in the life time of the said Dawsonne Drake and without producing the original account E written and signed by the said Trevengadiah Braminy after his death as containing the whole of his demand upon the Estate of the said Dawsonne Drake up to the Thirty first of May one Thousand seven hundred and Eighty one and without shewing that the said account was nevertheless not Just and without shewing also that the said Trevengadiah Braminy had received a Devident of Twenty five per Cent upon the said Dawsonne Drakes Bond for one Thousand and five hundred Pagodas on the Twenty seventh of February one Thousand seven Hundred and Eighty Three included in the said account —

All which Circumstances contained in a period of upwards of three years from the death of the said Dawsonne Drake were intirely concealed and suppressed from the said arbitrators and in lieu thereof were allowed to be substituted the account C. enlarged by a false debit of one Thousand and eight hundred Pagodas and divested of a just credit that if given to it would have made the Balance to have amounted to only the sum of seven hundred and seventy

two

Two Pagodas instead of the Sum of Fourteen thousand five hundred and seventy two Pagodas —

That the said arbitrators being thus misinformed and totally ignorant of the real state of accounts between the said Trevengadiah Braminy and the said Dawsonne Drake in his life time and of the accounts that were made up there from after his death on the Twenty ninth of February one Thousand seven Hundred and eighty one and of every matter dependent thereupon and which had taken place and happened between that period until the Twenty seventh day of February one Thousand seven Hundred and Eighty three and having no other Accounts but the false accounts that had been drawn out after his death to Determine and found their award upon they the said arbitrators did award that the said Nathaniel Barlow should pay from the assetts belonging to the Estate of the said Dawsonne Drake to the said Trevengadiah Braminy the sum of Fourteen thousand Pagodas and a further sum of Five hundred for Costs and that he should secure the payment thereof and Interest thereon within Twelve Months from the date of the said award by the most effectual ways and means the Circumstances of the Estate of the said Dawsonne Drake deceased would allow and admit of by a signment of Bonds Mortgages or other mode secure and satisfactory to the said

Trevengadiah

Irevengadiah Braminy &c which said award was dated on the fifth day of December one Thousand seven Hundred and Eighty five —

That with the said award the said arbitrators gave a paper Writing as an opinion or Justification for having given the said award —

That in Consequence thereof the said Nathaniel Barlow did give unto the said Irevengadiah Braminy the Bond and assignments of the several Debts and Securities in the proceedings and in the Decree specified and decreed to be delivered up unto this Respondent upon the Ground of the said assignments being an unlawful alienation of the Debts and property of the Estate of the said Dawsonne Drake by his said administrator no Value or Just Consideration being given or paid for the Same nor any Just and lawful debt by the said Dawsonne Drake owing at the time of his death for the satisfaction whereof the said Debts and Securities were or could be given by the said Irevengadiah Braminy who was therefore as to the possession of such Estate of the said Dawsonne Drake to all intents and purposes of the Law an Executor of his own Wrong —

This Respondent having in the manner before set forth the real state of the Case will next proceed to answer the several Reasons given by the Appellant

Appellant in objection to the said Decree and in order whereto this Respondent saith —

To the First .... That the said order and Decree of the said Mayors Court is not contrary to the Law in any instance whatever but is conformable to the Law and consistent with the Evidence thereupon and is not therefore contrary to the course and practice of the said Mayors Court as the appellant hath erroneously asserted —

To the Second .... This Respondent saith that as tho the Appellants Suit was grounded on the said Bond and Assignments given in consequence of the said award upon the Submission of parties the said Mayors Court were not confined in their determination thereupon to consider whether the said award had or had not been excepted to in the life time of the said Nathaniel Barlow — because it is not the Submission but the matter in difference which is the ground of the award and if the matter in difference was pretended fabricated and without any consideration at all or without such as the Law regards as binding or real but on the Contrary upon a Consideration that both Law and Equity disallow as fraudulent and Corrupt and contrived merely to defraud persons not parties thereto not only a Court of Law but a Court of Equity will retrospect the matters in difference and first determine upon their existence or validity

validity before they proceed to determine upon the legality of an award which is disputed upon Grounds of the Submission thereto being in every respect deficient of those indispensible requisites without which it could not in Law or Equity acquire effectual force and virtue so as to render it binding upon this Respondent as Administrator of the said Dawsonne Drake and his Estate liable to an incumbrance laid upon it by aright claimed under by the Appellant and his Intestates upon the Ground of such award merely because he was in possession of a deed bearing indeed that legal discription but in every other respect defective of those qualifications which alone could make it so by legal operation - And this Respondent saith that he denies that the said Mayors Court did determine themselves in respect of the said award upon the mere suggestions of this Respondent as the Appellant very improsperly expresses himself and with equal impropriety doth the appellant term the said determination or Decree upon the said award an interference with the Judgements of Arbitrators who the Appellant saith were Judges of the parties own chusing and therefrom would infer as a point of Law that an award however Corrupt or however founded upon ignorance of the fact or of the Law by the arbitrators or notwithstanding that the same might have been procured by the

Collusive

Collusive Submission of parties themselves by a suppression or misrepresentation in the Facts submitted or by a Corrupt admission of matters as fact that were without truth or existence in order by such fraudulent means to impose upon their Judges the said arbitrators and thereby rendering their Judges the innocent instruments of defrauding persons whose claims and Interest were not before them and of whose rights they were totally ignorant under which unfavorable circumstances this Respondent insists that an award is not inviolable as the Appellant would wish to make the Law regard it to be but on the contrary the Law will regard a Deed so obtained as founded upon Original fraud and as the offspring of fraud neither Law on Equity will carry it into execution and this Respondent further insists that the said Mayors Court did weight the merits of the Case before them and that being governed thereby and the Evidence thereupon they could not give a Decree otherwise than against the said award - And this Respondent further more insists that the said Court could not have formed their said Decree without entering into an investigation of those matter which had been laid before the arbitrators and those also which ought to have been laid before them previous to their said award because by such Investegation they were enabled to discover the Corrupt manner in which the same was obtained

from

from the Arbitrators — and this Respondent saith that the appellant cannot avail himself in this instance of the Act of Parliament by which Arbitrations are sanctioned and altho the Appellant may upon a general view properly explain the intention of the Legislature in enacting the said Law that the Award of Arbitrators should be as binding upon the parties submitting to arbitration as a Judgement of any of his Majestys Courts of record This Respondent denies that this interpretation of the said act is admissible in the present Case which is that of an Administrator with the Will annexed entering into a Submission of matters as in difference to arbitration upon fraudulent and corrupt grounds to the wrong and injury of the Creditors and Legatees of the Testator .... an award given upon such ground merely is not one within the meaning of the act that nothing can affect it but what can also affect a Judgement or Decree Judgements may be set aside for Error in Law and also Decrees in Chancery upon the suggestion of their having been obtained by fraud and deceit and no particular time is limited for this act of Justice by a Court of Equity even in annulling their former acts upon discovery or shewing that they were not founded upon Law or the real state of the merits of the Case tried before them as to the time limitted by the aforesaid act for excepting to Awards — The present Case is not at all governed by it — because it is in its principle different from those arbitrations of differences and disputes between parties entering into mutual submissions which must be understood of parties personally interested themselves or authorized by others — The present Submission also was not made a rule of Court altho the arbitration Bond is declarative that it was and it not being so made may be fairly presumed to arise from a caution of keeping the transaction secret — moreover this Respondent saith that Exceptions of Corruption or misbehavior in the arbitrators are not made use of by this Respondent against the said award It is the Corruption and misbehavior of the parties themselves to mislead the arbitrators with a design to defraud the Creditors and Legatees of the Estate of Dawsonne Drake — This Respondent therefore saith that his Exceptions were not grounded upon alledged Error or supposed Fraud of which the Appellant saith the said Mayors Court should have been careful of interfering with lest by opening the said award they might destroy the wise intention of the Legislature in its endeavors to promote so salutary a Law because it appears by the proceedings and evidence that appellants Intestate and the said Nathaniel Barlow had themselves in the first instance destroyed the wise intention of the Legislature by entering into a fraudulent Submission for the purpose of perverting the intent purpose and effect of so salutary a Law

Law an abuse which the Legislature could not itself o-
sanction and legatize nor doth it seem that in the framing
of the act that so pernecious a deviation required to be
particularly guarded against by declaring that awards groun
-ded upon fraudulent Submissions should be void the act
only goes to protect the parties in Submission from the
Corruption or Misbehavior of the Arbitrators - The framers
of the act in all probability regarding it unnecessary to declare
upon so self evident a consequence in legal reasoning that
an award founded upon a Submission to do away the right
of persons not parties thereto should be intirely void and
of no effect — According to the maxim - That which was once
a fraud will be always so — The Appellant notwithstanding
saith that it is laid down in the Books that Court of Justices
are now more liberal in the Constructions of awards than
formerly and that the distinctions to be met with in former
proceedings are by no means to be admitted as precidents
in expounding awards at this day - But the Appellant
hath not pointed out these deviations in modern practice
nor upon what principles they were made nor doth he
in the least attempt to accommodate this Supposed o-
alteration to the state of his own case or to the refutation
of the legal merits upon which this Respondent hath
stated his - The said Appellant hath not therefore
from these premises enabled this Honourable Court to

Determine

Determine how far they can follow the practice of other
Courts in forming a liberal construction of awards and
especially of awards obtained under the unfavorable o-
circumstances of the present and tending to so bad and
perniceous consequences both in Effect and Example
The Appellant hath next undertaken to shew that in
order to make an award good or valid it is necessary First
that the Parties to the Submission can legally arbitrate
Second that the award be made according to the Submission
that it be certain - that it be equal of a thing lawful and
possible and that the award be final and that nothing can
touch such an award unless it be proved that arbitrators
were manifestly corrupt — In Answer whereto this
Respondent saith that instead of two there are five different
requisites which must concur to make an arbitrament
good The first Matter in Controversy which was in this
instance the Payment of a large part of the Estate of o-
Dawsonne Drake to Irevengadiah Braminy upon demands
that have been proved by this Respondent to have been
unjust and in part not to have ever had any foundation
whatever in the life time of the said Dawsonne Drake
Second a Submission of the matter in Controversy —
This Respondent is advised that as there was in this
instance not any matter in Controversy or not any upon
a legal ground of Controversy that the mere selling up

of

of a fictious ground of Controversy by the said Irevengadiah Braminy by the Suppression of the only real accounts between him and Dawsonne Drake in his life and the Substitution of others framed long after his death as in the instance of the Suppression of the account B and the Substitution of the account C cannot make that become essentially true that was before absolutely false for other it is one of the powers of Equity to enforce the executing of Agreements it is a maxim in equity and of Law also - That Wherever there is suppressio veri or suggestio falsi a Deed grounded upon such indirect principles shall be void and this Respondent is advised that altho this maxim may not apply to reserve any benefit to the collusive parties the same is fairly applica-: ble to the arbitrators who were deceived by such collusion and the benefit of the maxim by the same parity reserved to this Respondent administrator with the Will annexed in behalf of the Creditors and Legatees who have been injured by the parties thus feigning a matter of Controversy where not any existed Thirdly Parties in Submission - This Respondent is advised that they could not shape themselves into any legal right of being parties the one to deliver any part the Estate of the said Testator Dawsonne Drake deceased and the other to receive or possess any part of his Estate nor legally enter into any agreement so to do but upon an equal

Consideration

Consideration of the thing to be delivered being equal to the value of some Just Debt by the Testator in his Life to the said Irevengadiah Braminy owing - This Respondent hath asserted and hath proved that the said Dawsonne Drake was not indebted if in any but in avery inconsiderable Sum of Money unto the said Irevengadiah Braminy at the time of his death and the said Irevengadiah Braminy hath not proved that the said Dawsonne Drake was - indebted unto him at such time of his death which this Respondent is advised it was incumbent on him if he could to have done ..... and that upon stronger ground of Law or reason than any shewn by the appellant that it was the Duty of this Respondent to have pleaded or Demurred to the said Award - Because the Appellants action was not commenced upon the award but upon the Bond which was disputed upon the ground that the consideration thereof was this illegal award and this Respondent filed a Cross Bill upon the ground of this his answer - whereby the original Debt pretended to be due was put at Issue - and the Appellant or his Intestate become thereby indispensibly bound to prove his Debt But this he has evaded doing under pretence that the Debt was confirmed to him by an award - and upon that award solely he has rested the merits of his suit and his defence to this Respondents Bill - and only urges that this Respondent

ought

ought to have Demurred or plead to the said award and this Respondent not having done so according to the appellants reasoning upon the Consequences of the Law the award however illicitly and in directly obtained has become thereby equal to a Judgement or Decree in Equity or Law all which the Appellant hath asserted with a Confidence that has made him inattentive to this Consideration that if it was the duty of this Respondent to plead or demurr to the Appellants Bill That it was equally the duty of the appellant to have pleaded or demurrer to this Respondents Cross Bill and that by his not having done so even if the Cross Bill had contained any matter that was demurrable the benefit thereof could not enure to him at any subsequent stage of the Suit and Cross suit - The merits of which were - whether this Respondent as administrator of Dawsonne Drake deceased was or was not indebted unto the appel- lant as administrator of his severall Intestates proving of the execution of the award was superplusage as it was the instrument by which this Respondent Complained he was injured Consequently the only means whereby the cause of this Complaint could be removed from the breast of Justice was the proof of his demand being Justly due and owing at the time of the death of Daw- sonne Drake The evasion he has made use of that it was not in his power to prove it the Court will not allow

allow him to avail himself of because he was in full possession and knowledge of every means whereby this Respondent had pledged himself to perform the more difficult task of proving that Dawsonne Drake was not nor could not be indebted unto him at the time of his death - which means did in the greatest part exist of Original papers and Accounts under the hand Writing of the deceased Irevengadiah Braminy - and of one account executed by the said " Nathaniel Barlow after the death of the said Dawsonne Drake wherein there was a suppression of Twelve Thousand Pagodas allowed in the Account signed by Irevengadiah Braminy in the said Dawsonne Drakes life time - This Respondent therefore says that the collusion of the said Nathaniel Barlow with the said Irevengadiah Braminy in this and other instances detected is sufficient in the Law not to allow to either of them the Right of Being parties in submission to an Award that was meant by them not to effect either of their own properties or Estates but the property of the Creditors and Legatees Claiming under the Estate of Dawsonne Drake deceased - of which the said Nathaniel Barlow was Administrator " Fourthly Arbitrators which Cotton Bower Bank Dent and Josias Dupre Porcher could not properly be said to be because they were totally uninformed of the fiction of the Matter in Controversy of the submission and the

Corrupt

Corrupt agreement of the parties to the Submission - Fifthly the award - The superstructure laid upon these fraudulent and and deceitful foundations - all which fundamental requisites of honesty fairness and unconcealed discovery being wanting to Validate the said award the Mayors Court did in course order and Decree the said award should be null and void and the Securities thereby awarded or in consequence thereof given should be delivered up and this Respondent doth maintain that the said Decree was not only grounded upon all these corrupt facts fully stated in the proceedings but upon the ground of Evidence fully and unequivocally proving the same &c to be -

To the third - This Respondent doth maintain contrary to what the said appellant hath asserted that the matters and things asserted by him in his answer and Cross Bill and further insisted on in and by his Rejoinder are in every part not only supported but proved of course the appellant hath erroneously asserted that the same in some particular and important points are contradictory and this Respondent saith that it is improper that the Appellant should none say that the Grounds and principles of his said Defence or that the Decree of the said Mayors Court thereupon was in any instance contrary to Equity or the Law or that they were arbitrary and unjust and this Respondent saith that the arguements urged by the appellant at this time against the Grounds and Principles of this Respondents defence are very irregularly and unreasonably introduced because the same go upon Grounds that he had not made part of his original Bill and which were not made any part of the Appellants answer to this Respondents Cross Bill that if the said matters had been therein fairly and timely introduced this Respondents Rejoinder to the original Replication and his Replication to the Cross answer might have contained other matter of Fact and Law thereupon or have shewn to the Mayors Court the invalidity and error of what he has now irregularly made use of as part of his Appeal. This Respondent will therefore in a cursory manner only remark upon what the appellant hath now shewn against the several Exhibits produced and proved by this Respondent at the hearing but at the same time this Respondent prays to insists that the appellant by entering into arguments upon the said Exhibits now that he doth thereby admit the same to be true and Consequently the Evidence thereupon and therefore that the said Arguments can be introduced by the said Appellant with no other view than to confuse and render intricate the plain and unequivocal state of Facts used by this Respondent as a ground of his proceedings and to confound and perplex the uniform and connected evidence that has been produced

to

to support them. —

This Respondent saith that the Appellants observations on the articles of Agreement marked A are very inconsistent and such as this Respondent hath in no part of his proceedings insisted upon For this Respondent never did insist that the said articles were binding upon the said Dawsonne Drake no longer than he should think it proper to continue them but it is shewn therefrom that the said Irevengadiah Braminy was in possession of them at and after the death of the said Dawsonne Drake when in fact the said articles of agreement were dissolved by the act of God and the Cowle or Grant was resumed by Government who gave and dispensed it to another The Term of ten years was the term of the Grant from Government to the said Dawsonne Drake and there is no covenant against the death of Dawsonne Drake nor of deprivation from Government after his death except that both these events are provided for in the Second article whereby the said Irevengadiah Braminy agrees to pay the said Dawsonne Drake Four thousand Pagodas every year in quarterly payments so long as the Cowle for Beetle and Tobacco farm shall continue in his hands - and as the assistance that the said Dawsonne Drake was to give to the said Irevengadiah Braminy in the Third article was a personal duty it ended of Course with the life of the said

Dawsonne

Dawsonne Drake and the said Mayors Court regarded the sense of the said agreement to operate in that manner between the said parties by Decreeing that the said Dawsonne Drake should receive the proportion of the said annual Sum of Four Thousand Pagodas until the day of his death only it is absurd therefore to say that it could be regarded between the said contracting parties that the said Dawsonne Drake covenanted that He his heirs Executors and administrators should garrantee the said Irevengadiah Braminy in the possession of the said Beetle and Tobacco farm for ten years when no such covenant exists any more than that the said Irevengadiah Braminy his Heirs Executors and administrators should under any circumstances whether of death or other impediment arising from publick or private causes continue to pay to the said Dawsonne Drake his Heirs Executors or administrators the sum of Four Thousand Pagodas annually for Ten years altho the said Irevengadiah Braminy should not so long continue to have the said Beetle and Tobacco farm in his hands Evidence upon which matters could have been produced if this question had been in due time and form stated. —

This Respondent saith that the Circumstances of the said Nathaniel Barlow being prevailed upon by threats and menaces to execute the

Bond

Bond marked H for seven Thousand five hundred Pagodas on the Twenty ninth day of January One Thousand seven hundred and eighty four is as strongly proved by the Evidence of Charles Baker / contrary to what the Appellant hath said that there is no Evidence whatever thereupon / as a circumstance of that nature could be proved For this Witness to the Eleventh Interrogatory on the part of this Respondent deposes that he hath not heard or been informed that any consideration was given for the said Bond But that he believes From what he has heard the said Nathaniel Barlow in his life mention - That the said Bond was given by the said Nathaniel Barlow having been on his departure from India very much importuned by the said Frevengadiah Braming on account of a Demand the said Frevengadiah Braming alledged was due to him from Dawsonne Drake and Cottow Bower Banks Dent to the Twenty sixth Interrogatory on behalf of this Respondent deposes to the general bad State of health of the said Nathaniel Barlow altho' he doth not recollect that he was about to depart from Madras in January one Thousand seven Hundred and Eighty four notwithstanding the agreement &c being even date with the said Bond whereto he was a Witness as acting Justice and also a Witness to the said Bond particularly mentions that he was But the said Witness deposes further that the said Nathaniel Barlow was most probably in a bad state of health at that time and that his disorder was nervous and hypocaudriacal and to the last Interrogatory on behalf of this Respondent he deposes that Frevengadiah Braming was of a very designing troublesome and litigious disposition and universally known to be so - and that Nathaniel Barlow was a man of weak Intellect caused by repeated illness of libility of constitution and very unqualified on that account to have the management of so large a Concern as the Estate of Dawsonne Drake - The Appellant hath ventured to examine as to the capacity of the said Nathaniel Barlow the aforenamed Cottow Bower Banks Dent and Josias Dupre Porcher who both depose to the fifth Interrogatory to the purport of the afore in part recited Deposition of the said Cottow Bower Banks Dent and Sadasavah Moodelly to the nineth Interrogatory on behalf of this Respondent deposes that - The reason why the sums of Twelve thousand Pagodas credited in the account B are not credited in the account C is in Consequence of the said Frevengadiah Braming threatening Nathaniel Barlow to sue him in the Mayors Court if he refused to sign the account C This Respondent saith that it was not necessary that the said Charles Baker should be informed of the means used by the said Frevengadiah Braming to obtain the said Bond But

there

there is the strongest Evidence of undue means being practiced upon a Weak and timed person worn down by repeated indispositions to a debite and enervate state of Body and mind The Appellant hath misrepresented these Circumstances of Evidence to the Court doubtless with a view of obscuring in any degree the strong light they throw not only upon this part of the said appellants Intestates but upon the whole of the Transactions until his designs were effected by procuring the award in question upon demands and accounts framed after the death of the said Dawsonne Drake that he encreased from Seven thousand and five hundred Pagodas in January one Thousand Seven Hundred and Eighty four to upwards of one Lack and Twenty thousand Pagodas in September one Thousand Seven Hundred and Eighty five – But altho the appellant hath taken these unfair means to detract the Witnesses produced by this Respondent and to throw as much as in his power ablemish on their Evidence The Appellant hath not been able to produce a single Evidence in support of the various demands made and Bonds obtained by his Intestate from this weak administrator nor to trace up a single circumstance that can lead to a possibility much less a probability of the said Dawsonne Drake at the time of his death being indebted to his Intestate if in any but in a very small Sum of Money.

This Respondent further saith that he denies that he did allow of any Circumstances under which the said Bond on which the said Appellants action is founded would have been conclusive and this Respondent hath not simply pretended but hath actually pointed out not circumstances but facts against the legality of the said Bond Facts stated and proved and not controverted by any Evidence on behalf of the appellant – This Respondent admits that he hath not only made use of the said openion of the arbitrators marked E but of the Evidence of the said arbitrators to prove that altho the said Nathaniel Barlow was in possession of the agreement A and the account B that they were not produced before the arbitrators notwithstanding what the appellant hath so boldly asserted that the said arbitrators and the said attorney the said Charles Baker have deposed that they do not know whether such papers were or were not produced which is a gross misrepresentation of the Evidence For the said Josias Dupre Porcher deposes that he only doth not know whether the said account B was or was not produced before him during the arbitration and previous to the award – which makes the Conclusion rather preponderate in the negative scale that neither it nor the articles A were produced because a person cannot possibly recollect what was not

not but may certainly recollect that which was But this presump-
tion is rendered still clearer by the Evidence of Cotton Bower
Banks Dent who deposes to the same (the fourteenth) Inter-
rogatory on behalf of this Respondent That he doth not
recollect - but he believes the account B was not produced
before him during the said arbitration - and previous to the
said award The Evidence of the attorney Charles Baker is
more positive that it was not For he deposes that to the
best of his Recollection and Knowledge the account B was
not produced during the arbitration or previous to the award
by the said Nathaniel Barlow or by any other person or
persons on his behalf and that he doth not know nor can
he pretend to say why the said account was not produced before
the said arbitrators and this Respondent will shew here-
after by full Evidence that the said Account B was not
produced before the arbitrators but that the same was
supplied by the fictitious account C drawn out after the
said Dawsonne Drakes death - and this Respondent denies
that there are any Circumstances to be drawn from the
proceedings or Evidence that can shew in any degree that
the said papers the only originals existing at the time
of the death of the said Dawsonne Drake except a
a Bond for one Thousand and five hundred Pagodas
were not suppressed and that other fictitious papers

and

and accounts drawn out after the said Deceaseds death
were not supplied in their stead - and this Respondent
denies that the word douceur mentioned in the said Opinion
E was made use of in the account B and in the articles
A altho the Appellant hath laid such astress upon the
supposed uniformity of this word as a Circumstance that
led to a certainty of these last papers having been really
laid before the arbitrators - But the Contrary being the base
it may be fair to conclude that they were not and that the
word douceur which rather means abribe or hush money
was inserted in the said openion from a want of the
materials which these papers could have furnished
had they been produced and wherein they would have
found that Trevengadiah Braminy in the account B
Debits the said Dawsonne Drake with these payments
as being agreeable to agreement and on account of his
yearly allowance - and gives Dawsonne Drake credit
By your yearly allowance agreeable to agreement But
not having these papers before them and framing their
opinions upon matters of Fact they were uninformed
and upon the Law on those Facts of which they were also
mistaken in they made use also of a term or expression that
was neither proper or adopted to the nature of the agreement
or the account B the knowledge of which had been carefully

concealed

concealed from them and in lieu thereof the account C Substituted

And this Respondent will maintain that the account C was framed and acquiesced in for the illegal purposes by this Respondent through out the prouceedings charged notwithstanding what the appellant now urges by alledging that instead of operating as an imposition upon the said Nathaniel Barlow that it on the Contrary put him upon his guard and induced him as he now pretends to enter into an investagation Respecting which this Respondent will only observe that the appellant thereby acknowledges a Successful fraud had been first practiced upon the said Nathaniel Barlow to which the Intestate afterwards brought the said Nathaniel Barlow to coincide "by his own certificate of the same being true these being the Appellants own words and the real construction thereupon it is astonishing that he should immediately follow them by alledging that his Intestate could have no such intention and to support which he says that it fully appears both by the Testimoney of the said Josias Dupre Porcher and the said Cotton Bowers Bank Dent "that the Exhibit C never was produced "to the Arbitrators and that they say that had it been "produced that they would have examined it with the "Exhibit B" This Respondent hath shewn that this last assertion is intirely erroneous and he will now pray to shew to the Court that the account C was the account

that

that was really produced and the account B suppressed - The Appellant himself doth not admit that they were both produced - and hath left the task totally abondoned to this Respondent to prove from the Evidence that as they were not both produced that the account C was that account which was produced Cotton Bower Bank Dent upon both these accounts B and C being produced before him at the time of his examination deposes that he had Compared them together and that he did not remember ever to have seen the Books of the said Dawsonne Drake or to have heard of them and that he did not of course refer to them to see whether the account C was Just according as the same is certified by alvar Chetty and further so confirmed by the said Nathaniel Barlow and that had he had both the said accounts B and C before him previous to giving his award he most undoubtedly would have thought it necessary to examine which of them was Just -

Josias Dupre Porchers Evidence is nearly verbatim the same Charles Baker to the fourteenth Interrogatory deposes that he believes that the account C was produced and he deposes the contrary of the account B that it was not produced It appears from the aforegoing Evidence that the Books of the deceased Dawsonne Drake were not laid before the arbitrators doubtless because there was no Competition against the account Current C

which

which was certified by the deceased Dawsonne Drakes Book keeper by order of Nathaniel Barlow who certified it also to be true upon an examination of the Books of the deceased The arbitrators could not possibly dispute such unquestionable authority at that time and took for granted that Nathaniel Barlow would not injure himself or the Estate of the said Dawsonne Drake by producing before them false accounts certified to be true Their Evidence shews that had they seen the account **B** that they would have discovered which had been true from an examination into the Books of the deceased the difference between them is Thirteen thousand and Eight hundred Pagodas about the sum awarded – Had the account **B** been produced this Sum could not have been found due by the arbitrators because they would have found that by all that the deceased Estate was made Debtor in the account **C** he ought to have been an equal Creditor by the account **B** it is therefore out of the nature of things possible that the account **B** could have been produced and this award have been given There is not any reference to the account **B** in any of the subsequent accounts produced before the arbitrators but only to the account **C** as this Respondent will shew to this Honourable Court by an original account Current marked **D** and fully proved to be in the hand Writing of the said Trevengadiah Braminy and dated on the Fifth of September one Thousand seven

hundred

and eighty five previous to the arbitrament wherein the said Estate of Dawsonne Drake is not indebted in the sum of seven hundred and seventy two Pagodas the Balance of the account **B** but in the Balance of the account **C** being the sum of Fourteen thousand five hundred and Seventy two Pagodas – The Account Current **B** is proved to be in the hand Writing of Trevengadiah Braminy and to agree with his Books under the date of the Thirty first of august one Thousand Seven hundred and Eighty by the several Evidence of Charles Baker Alvar Chetty Vydenaudum Sanapah Goorroomoorty and Sadaseevah The manner of Mr Drake Keeping the Books and examining the same monthly and to put his signature as an approbation of the accounts therein is proved by alvar Chetty Vydenaudum and Sanapah That Mr Drake had no account with Trevengadiah Braminy after this account except by Bond for one Thousand and five hundred Pagodas is proved by Vydenaudum Sanapah and Goorroomorty Whereas the account **C** is disproved in every respect and particularly by being proved to have been Written after Mr Drakes death altho dated the fifth of September one Thousand Seven Hundred and Eighty alvar Chetty deposes he drew it by the direction of Mr Barlow did not know for what purposes deposes also to Mr Barlows Signature Sadaseevah deposes to no such account as **C** being in Mr Drakes Books whose

Evidence

Evidence is confirmed by Tanapah and Goorroomoorty it is proved likewise that it was Customary for the deceased Dawsonne Drake to give Bonds and notes for money borrowed Witness the Bond for one Thousand and five hundred Pagodas they day on which this Account C brings him indebted in Fourteen thousand five hundred and Seventy two Pagodas upon Items from the Eighth of May one Thousand Seven Hundred and seventy eight on Account of which no Bond or note is given nor so much as any Account debited on Account whereof it was paid - These uncertainties the Appellant hath not undertaken to explain nor to give any reason why there is no Account but Cash Credited for the Payments therein pretended to be made - But this Respon=dent saith that except the sum of One Thousand and Eight hundred Pagodas Charged as having been paid to Mr John Sykes which is not pretended to be in Mr Drakes Books all the others Sums are accounted for in account **B** to have been paid on account of the Yearly Allowance according to agreement which it was absolutely necessary towards their design to suppress Because they would have been under the same necessity to

to have given Credit for the like sums due to Mr Drake According to agreement which would except in the Items of One Thousand and Eight hundred Pagodas have made the Account C an exact Copy of the Account **B** which is a clear proof that the design of drawing out the account C was to suppress the Credit given in the Account **B** This Respondent therefore saith that it is not possible for the Account **B** to have been produced before the arbitrators because in that case no sum but the sum of Seven hundred and Seventy two Pagodas except the Bond of One Thousand and five hundred Pagodas would have been awarded as due to the said Srevengadi =ah Brameny and not even that Sum in full if the said Nathaniel Barlow had done his duty as Trustee for the Creditors and Legatees of the Estate of Dawsonne Drake It is evident therefore that as both Accounts were not produced that the account C was the only one that was produced before the arbitrators by the Effect it had upon their minds in giving their said Award - and this Respondent for further answer saith that the suppositions in favor of the said Nathaniel Barlows Acting different from the manner he is charged to have acted by this Respondent and the Arguments to shew that it would have been for his Interest and Credit to have acted in a Different

manner -

manner are wrongly founded in as much as they are grounded on facts that never did exist But this Respondent prays to observe that it is in this shape that the appellant hath entirely formed his Appeal misrepresentation and suppres- sion of Facts and arguments upon Facts that never existed The Appellant attempting to desive an advantage from the following circumstances stated with the fullest exaggeration is a particular instance of this manner the Appellant hath adopted in furthering is appeal before this Honourable Court The Appellant saith that the Deceased Nathaniel Barlow had the afsistance of professional men which he says appears by the Evidence on the part of the original Defendant and cross Complainant and he then presume that these Gentlemen were not men of weak Intellects and so easily intimidated as to prevent them from stating the case of their Client fairly and properly to the Arbitrators for his benefit and advantage – The only Evidence to warrant any Afsistance being had by Nathaniel Barlow in the matters in question is that of Mr Charles Baker on behalf of this Respondent – who deposes to the fourth Interrogatory "That he doth "not recollect that the said Nathaniel Barlow did "deliver in before the arbitrators any accounts Voucher or "Testimoney in apposition to the accounts Vouchers and

Testimonies

"Testimonies produced by Irevengadiah Braminy That "he doth not recollect that the said Nathaniel Barlow "did deliver in any state of the case of the matters in "difference – That he doth not believe that the said "Nathaniel Barlow did personally attend at the said "Arbitration That he doth not Know whether the said "Nathaniel Barlow did or did not directly or indirectly "by any means oppose any or put to proof any of the "matters and things alledged by the said Irevengadiah Braminy "before the said arbitrators That he is not able at this "distance of time to recollect particularly what accounts "Testimonies and Vouchers produced by the said Irevengadiah Braminy before the arbitrators were or were "not admitted by the said Nathaniel Barlow That "the said Nathaniel Barlow had the Afsistance of Mr "Peter Walker one of the attornies of the Mayors Court "in the Matters in question" This Respondent hath Exhibited the said deposition to shew that not any thing was done by the said Nathaniel Barlow or any one for him in opposition to the accounts Vouchers and Testimonies produced by Irevengadiah – That the said Nathaniel Barlow having an Attorney merely for shew without putting any confidence in him or asking his advice upon the real state of the case is rather a circumstance that makes against the

said

said Appellants Intestate the said Irevengadiah Braminy
The Appellant to have derived any advantage from the
Circumstance of Nathaniel Barlow having employed
an attorney to assist him in this business should have
shewn that Nathaniel Barlow stated his case to him
fairly that he shewed him the agreement A and the
Account B that he informed him of the Cause of
making out an account different from it by suppressing
the whole Credit side and reserving only the debit
side of the Account of the Estate of Dawsonne Drake
with the said Irevengadiah Braminy If the attorny
had been rightly instructed in these respects this
Respondent admits that his silence might not
proceed from weak intellects or timidity - But as
the framing of the Account C was not done by the
advice of an attorney it was not necessary to inform
him of the former Account - and if the Attorney had
drawn out any state of the case which it does not
Appear that he did or that there was any on his the
said Nathaniel Barlows behalf drawn out the same
could only be on the ground of informations furnished
him by the said Nathaniel Barlow and if he had
employed fifty Attornies upon the same Matter they
would not have been able to give otherwise than the
same Opinion because the matter they would have

had

had to go upon would have been the said Nathaniel
Barlows own act and Deed produced by his opponent
the said Irevengadiah Braminy To Wit the Account C
This Respondent therefore saith a professional man
not being bound otherwise than by his instructions he
is not responsible if his Client misleads him by o-
mistaking his case any more than arbitrators are
responsible for an award injurious to third persons
to which they had been led by misrepresentation and
concealment of the true state of the case by the collusion
of the parties in Submission upon which ground this
Respondent saith that he denies that it is either unrea-
sonable or unfair to suggest that the present arbitrators
have blindly / in respect of real information / given
an Award upon false premisses laid before them
for their examination and Consideration and for this
Respondent to insist that it was upon the investigation
of these illusory matterials only that the said Arbitra-
tors have disposed of a considerable property belonging
to the Creditors and Legatees of the Estate of Dawsonne
Drake deceased - and this Respondent for further
Answer saith that the opinion of the Arbitrators
drawn out by the said Cotton Bower Bank Dent shews
that the Bond of Seven thousand and five hundred
Pagodas was given previous to his departure from

Madras

Madras and that it was given to prevent Law proceſs
may serve as a support to what has been before setforth
by this Respondent that it was given under compulsion
and that an Advantage was taken of his hasty departure
and the weak state of Body and mind he was at that
time in — but this Respondent denies that the words
of the said Opinion recited by the Appellant do in
any degree shew that there was any Opposition made
by the said Nathaniel Barlow before the arbitrators
and the whole proceedings and Evidence absolutely
deny their being any — nor is it posible that there could
have been any opposition this Respondent prays to
observe without that the said Nathaniel Barlow had
receded from his Acquiescense in giving the said "
Irevengadiah Braminy the said Account C — and had
declared himself deceived and imposed upon when
he condescended to put his name to it that he did so
under unfair influence That he Claimed the impartial
Justice the arbitrators had warranted to him by "
Accepting his Submiſsion to it and had confidently
laid before them the Agreement A and the Account
B and had produced the Books of Dawsonne Drake
as Evidence of the imposition and deceit that had
been practiced upon him when he certified the account
C to be a true transcript from them — Had such been

the

the Conduct of the said Nathaniel Barlow — The
Appellant with propriety might have stated the question
That If this Respondent had been desirous of being
informed fully on this head / meaning the Opposition
before the Arbitrators / he this Respondent should have
examined the aforenamed Peter Walker — This Respondent
hath already observed on the Capacity this person stood
in towards the said Nathaniel Barlow — and perhaps
he might have been advised to examine him had he
known before publication that he could have been so
good as Evidence to shew that the said Nathaniel Barlow
did not in any manner oppose the Vouchers Testimonies
and accounts produced by the said Irevengadiah Bra-
=miny before the arbitrators — But this Respondent doth
by no means admit the Conculsion of the appellant
That an examination of the said Peter Walker would
have defeated his purposes and that this Respondent
therefore declined it but doth insist that if the said
Peter Walker had been informed of the true state of
Facts between the said Irevengadiah Braminy and
Nathaniel Barlow that he would have been an addi
=tional Evidence to the many this Respondent hath
ventured to examine in support of them — and that it
is not posible to believe that this Respondent would
not have examined him had he known as before stated

that

that he was so material an Evidence as this Respondent conceives he would have been for the Estate of his Testator Therefore this Respondent esteems himself Justified not only in refuting this false conclusion of the Appellant but by retorting the same upon himself which this " Respondent may very fairly do from the face of the other Evidence which is uniformly connected in supporting the whole of the facts stated by this Respondent in the course of the proceedings and that as the Appellant hath declined examining to the merits on his own part stated that he was well apprized that the Evidence of Peter Walker would be against them and this Respondent by way of further Answer saith that altho he did not examine the Cash Keeper and Books of the said Dawsonne Drake as to the production of the Books of Accounts of the said Dawsonne Drake he has examined the arbitrators and the said Charles Baker who uniformly declare that the Books were not produced before them and further this Respondent saith that there is neither absurdity nor injustice in the insinuation of this Respondent that there was a Collusion between the said Respondent and the said Irevengadiah Bramin and notwithstanding what the Appellant hath shewn of other ways by which the said Nathaniel Barlow might have injured the Estate of Dawsonne Drake

or

or by which he could have avoided the present means he has taken to effect that purpose by saying - "That had "he meant to promote his objects at the Expence of the Estate "of Dawsonne Drake that there was no necessity of going "to an Arbitration at all - a Bill might have been " "brought for the amount now said for or for a greater amount "That the said Nathaniel Barlow might have confessed "a Judgement an Execution would have issued and the " premisses given by the said Nathaniel Barlow as a "Collateral security would have been seized and sold "as the satisfaction of a Decree" But this Respondent denies that this is fair argument that because the said Nathaniel Barlow could have taken these fraudulent means more expeditious but therefrom perhaps more liable to detection than those he has fallen upon by a formal and Deliberate act of similar Justice and Impartiality towards the Estate of Dawsonne Drake that he therefore stands Justified by his Chusing the mode of arbitration to effect his purpose rather than any other or that "he Appears in any Degree therefrom "to have been doing his utmost to Discharge his duty "for the benefit of the Estate"..... The Appellant then changes his Ground and frames another Supposi- tions "that had the said Nathaniel Barlow had it "in his power and yet had neglected to bring forward

all

all proofs necessary to be laid before the Arbitrators that it is Contrary to Law that his Intestate should suffer for such neglect" This Respondent saith that the present Case is not in the least Applicable to the neglect of parties in Submission Bringing forward their proofs which the Law will not in some instances remedy because the neglect may arise from bad purposes but the present Case is the laying before the arbitrators such Documents or proofs of Accounts which were false and the suppres-sing of such as were true upon which this Respondent may Justly make use of the Appellants own words" "That by doing toomuch he hath left that undone "which he ought to have done" — and of this the Appel-lant must be further sensible In this also that these several matters were strongly Charged by this Respondent in the proceedings on his part upon the Ground of the several Exhibits annexed thereto of which this Respondent tendered the originals and by the appel-lants Intestate neglecting to pray oyer of them or of any of them which it was Certainly his business to have done previous to Issue Being Joined thereon if he had any objection to make to them or had any Witnesses to examine to disprove the same or the proceedings thereupon Charged and the Appellant and his Intestate having neglected so to do he Comes now

unreasonably

Unreasonably before this Court by his Attempts to invа-lidate them by way of Appeal in which no matter can be brought forward or insisted on but what was made part of the proceedings and Evidence upon which the Decree appealed from is founded —

This Respondent by way of further answer to the said Petition and Appeal saith that he insists and will maintain that this Respondent did Justly and truely alledge in his Rejoinder that the said Appellants Intestates could not lawfully Claim under a Bond upon an unfair Consideration nor detain the Bond and Assignment upon which the said Bill is founded — And this Respondent hath shewn throughout the proceedings that notwithstanding the said Bond is Charged to arise out of an Award, and granted for the amount Awarded, nevertheless the said Award cannot validate the Bond without being legal and valid itself and being invalid and illegal in as much as it was given upon a fraudulent Submission, every deed connected with or given in Consequence of the said Award is of Course absolutely void — And this Respondent for further Answer saith that the objections made by the Appellant to the sufficiency of the Cross Bill are now very improper because it appears from the proceedings that there is not any part of the

said

said Decree of the Mayors Court which had not a direction to the particular Relief thereby granted and to all other relief that the Court might moreover have Judged to grant thereupon for the purpose of doing effectual and substantial Justice - If the Appellants Intestate had been so advised he might have demurred to the Cross Bill as being insufficient or he might have excepted to any other part of the proceedings which he might otherwise have been advised had improperity supplied the defects of the said Cross Bill - But the whole merits and the Evidence thereupon being once before the Court they were in every sense Justified in decreeing thereupon to the full extent that the Law and Equity could reach in giveng that remedy which the Injury Complained of required by restoring to this Respondent that property of the Estate of Dawsonne Drake which had been unlawfully alienated from it - and this Respondent further answering saith that he hath Justly and fairly stated in the proceedings the Accounts existing Between the said Dawsonne Drake in his life time with the said Frevengadiah Braminy - and this Respondent denies that the said account Current annexed unto his Cross Bill doth shew any other than those he hath therein stated and this Respondent saith that if any such there were it was the Duty of the said

Frevengadiah

Frevengadiah Braminy and his Administrators to have brought them forward for if any such there had been they must have been in possession thereof or of some Vouchers to prove them or they must have existed in the Intestates Books of accounts as it cannot be believed but that the Intestate did Keep Books - a person who had such large and extentive dealings - and that he did is shewn by the different originals Accounts B. D. and E in his own hand Writing exhibited and proved at the hearing of this Cause in the Mayors Court If there were any other accounts and the appellant and his Intestates have not produced them it cannot be presumed that such accounts where in any degree in their favor and therefore that they have suppressed them and kept them back or Destroyed them - and this Respondent with respect to the Charge on the debit side of the Four thousand Pagodas annual payment until the day of the death of the said Dawsonne Drake saith that the same doth not let into any Idea that this Respondent had at any time that the Beetle and Tobacco farm were to remain after the said Dawsonne Drakes death in the same manner as during his life time - because the same would have been unjust and absurd - as this Respondent would had he entertained such an Idea have followed up the said charge until the

the day that he made out this Account which shews on the Contrary that this Respondents Idea was that the said Intestate was no longer answerable than during his holding the said farm - and this Respondent saith that the said Appellant ought not to attempt any advantage from the surrender of the Cowle by the said Nathaniel Barlow - because His having done so before he had obtained Letters of Administration cannot any way connect the said Act with the powers he afterwards obtained from them this Respondent doth not therefore think himself at liberty to enter into any supposition of the legal Consequences of the said surrender Being the act of the said Nathaniel Barlow after he was invested with the powers of an administrators except only by observing thereon that had the said Appellant or his Intestates entered into the said Question in the proceedings in as full a manner as he has upon the Ground of the Evidence of Vencatahist nah and had made the same an Issueable matter the same might have Appeared Quite different at the hearing than what it now does notwithstanding that it is in fact only serviciable to the Appellant in his object of Drawing off the attention of the Court from those matters that were only at Issue and to furnish him with an Addition to the extraneous and

inconsistent

inconsistent materials he has framed his Appeal upon without venturing in any degree to discuss upon those which compose the gist and real merits of the Suit or upon the Evidence that has been produced by this Respondent in support of it -

And this Respondent by way of further Answer saith that it is not possible that the said arbitrators at the time that they were Interrogated respecting the "intention of the parties in submitting their pretended differences to their arbitrament could depose otherwise thereto than they have "That they regarded it as a "matter of Convenience and Accommodation to both "parties" This Respondent hath not insisted that the said Arbitrators were in any other sentiments nor could he do so without involving them in the imputation of Collusion with the parties in Submission But this Respondent saith that upon a particular Attention being paid to the said Evidence it Amounts to no more than this that the arbitrators at the time they accepted that office believed that what the parties represented to them was true and that had they been informed of the real state of facts that they would not have become Arbitrators and that they were not informed of the real state of such facts is proved by their depositions upon the exhibition of the Accounts B and C "

wherein

wherein they say that had they seen them both previous to their giving their Award that they would certainly have Examined the said Dawsonne Drakes Books to see which was right - and Cotton Bower Bank Dent deposes to the Interrogatory immediately following upon the Exhibiting of the Account E whereby the said Estate is debited in the sum of seven hundred and seventy two Pagodas as the Balance of the account B and the sum of One Thousand and five hundred Pagodas the amount of the Bond from the said Dawsonne Drake to the said Irevengadiah Braminy of the fifth of September One Thousand Seven hundred and Eighty and Interest calculated thereon up to the Thirty first day of May One Thousand Seven hundred and Eighty one He the said Cotton Bower Bank Dent saith that he believes the said Account was not produced to him during the Arbitration and he gives a very satisfactory reason for such his belief to the Contrary That it excites his extreme astonishment and that he was not informed at that or any time previous to his giving the said Award "That the said Irevengadiah Braminy had "sent the same to the said Nathaniel Barlow in consequence "of an advertisement to the Creditors of the said Daw "= sonne Drake deceased to send into the said Nathaniel "Barlow the amount their several Demands upon the

Estate

"Estate of the said Dawsonne Drake and that he was "not informed by the said Irevengadiah Braminy or "by the said Nathaniel Barlow that the said "Irevengadiah Braminy had in Consequence - received "a Dividend upon the said Bond" Notwithstanding which want of information in the said Cotton Bower Bank Dent all the said matters that he was not so informed of are upon Evidence to have been and exerting - This Respondent therefore maintains that the said Opinion of the said arbitrators that the said award was a Convenience and accommo= dation to both parties "only shews that they were not put in possession of the real state of facts but that they were suppressed and Concealed from them for the illegal purposes and designs setforth charged and fully proved by this Respondent -

And this Respondent absolutely denies that the accounts between the said Dawsonne Drake in his life time with the said Irevengadiah Braminy were in any degree intricate because they Consisted only of the Balance of the account B and the Bond of one Thousand and five hundred Pagodas before mentioned and referred to in the said Charles Bakers Deposition except the Credit that ought to have been given to the said Dawsonne Drake for the yearly

payment

payment of Four Thousand Pagodas from the first of August to the day of his death — The Appellant hath therefore misrepresented the situation of Accounts between the said Dawsonne Drake in his life time and the said Trevengadiah Braminy by alledging "That in order to arrange and settle them and in "order to save the Expense of Law process it was "necessary to submit them to arbitration" because the said Trevengadiah Braminy had sent in an Account to Nathaniel Barlow of all demands he had on the Estate of Dawsonne Drake made up to the Thirtty first of May One Thousand Seven Hundred and Eighty One including all accounts that were existing between them at the time of Dawsonne Drakes death except the unsettled arrear on the Beattle farm account all the other accounts were made up after his death — That is to say The following To Wit. The Bond for seven Thousand and five hundred Pagodas The Account C for the Balance of Fourteen Thousand seven hundred and fifty two Pagodas under date of the Fifth September One Thousand Seven Hundred and Eighty The Account D for the Balance of Twenty five Thousand seven hundred and fifteen Pagodas and nine fanams under date of the fifth September One Thousand seven hundred

hundred and Eighty five composed of the Balance of account C and of the afore said Bond for one Thousand and five hundred Pagodas with Interest for five years in which Account the said Bond of Seven Thousand and five hundred Pagodas of the Twenty Nineth of January One Thousand Seven hundred and Eighty four is said to be included altho it is dated upwards of three years and a half after the date of the said Account — These are all the accounts that were produced before the Arbitrators and if any thing is intricate in them they were so made by the parties in Submission not producing the original account B closed in the life time of the said Dawsonne Drake which would have unravelled the Errors in the aforesaid accounts and detected the falsity of their additions and substractions and therefrom have satisfied the Arbitrators that the Account C ought to have had Credit for the Sum of Twelve thousand Pagodas and ought not to have been debited for one Thousand and Eight hundred Pagodas as paid to Mr John Sykes which two Sums make Thirteen thousand and eight hundred Pagodas and with the Balance of account B Seven hundred and seventy two Pagodas exactly detect the fraud in the Balance of account C Fourteen thousand seven hundred and fifty two Pagodas which

ought

ought only to have been Seven hundred and seventy two Pagodas and again this Respondent obsews that this last Sum with the addition of the Bond for one Thousand and five hundred Pagodas shews the real state Accounts as they existed at the time of the death of the said Dawsonne Drake and the exact Debits composing the account E sent in by Frevengadiah Braming on the Thirty first of May one Thousand Seven Hundred and Eighty one as Containing all the Demands he had them upon the Estate of Daw = sonne Drake – It is Evident therefrom that account C. must have been framed since the Thirty first of May One Thousand Seven hundred and Eighty one and in all probability about the time that the said Nathaniel Barlow was about to leave India on Account of his bad state of health which was in January One Thousand Seven Hundred and Eighty four in which Month he gave the Bond for Seven thousand and five hundred Pagodas —

This Respondent saith that he denies that he has selected such accounts only as would answer his purpose because all these Accounts both those which are true and those which are false have a Connection with each other and it is by one false Debit and one false Credit only that they are

different

different as has been shewn in the Debit of one Thousand and eight hundred Pagodas and in the Credit of Twelve Thousand Pagodas in account C rectify these false entries and the false Account stands adjus = ted to the true account which adjustment this Respon = dent prays to observe could not be effected if these accounts were dependent upon any other Accounts nor doth it Appear that there is in these Accounts any Item which discovers a clew that leads to any other accounts by which further transactions could be Discovered Had therebeen any other accounts existing between Dawsonne Drake in his life time and the said Frevengadiah Braming he or his administrators must have been in possession of them and it is fully as Credible that the Intestate and his adminis = trators should be totally ignorant of the Account B signed by himself in the life time of Dawsonne Drake and of the other Accounts in his own hand Writing drawn out after the death of the said Dawsonne Drake as that the Intestate or his administrators should be in any degree uninformed of any other accounts Between the said parties if any such ever had being or existence – This Respondent therefore saith that it is not possible but that if the Account said to be produced before the arbitrators whereby the

said

said Dawsonne Drake was made indebted in the sum of One Lack Twenty nine Thousand two hundred and fifteen Pagodas had been such an account as the Intestate or his administrators could venture to produce in support of their Claims on the Estate of Dawsonne Drake that they would not have hesitated to produce it it is not possible that such an Account could have only one article - It must have had many for if it had only been composed of one the importance of the same must have preserved some striking impression from the weight of the Credit or Value against which the said Dawsonne Drake was debitted for it and in the same degree according to the number of articles and if in ever so great a Number the leading branches from the Transactions they sprang must have reached thro all or a part of the Books of the said Irevengadiah Braminy who it will not be Credited did not keep any but the said Irevengadiah Braminy nor his administrators have not either of them given any satisfaction to the Court even from the falable record of memory respecting the rise progress and enormous encrease of this Debit either in respect of time place or Consideration - This Respondent prays to make one observation only respecting this pretended Account that the arbitrators themselves do not seem to have given it any Credit nor in any respect to have founded their award upon it - But solely upon the Ground of the account C -

This Respondent for further Answer saith that he denies that it doth appear by the Testimoney of Yattarazooloo that there were other Accounts than what have been produced by this Respondent - nor can the Evidence of the said person be Credited for he presumes to depose to the delivery of accounts after the said arbitration to the said Nathaniel Barlow and that he himself Delivered them altho it Appears by his depositions that he could not only neither read or write the English Language but that he could not read or write his own and Consequently could not know what he Delivered if he delivered any thing which matter this Respondent only observes upon to shew the means the Appellant hath taken not only to suppress the real state of facts between the said Dawsonne Drake in his life time and the said Irevengadiah Braminy but by Evidence also to misrepresent and pervert them upon Grounds that are not only improbable but impossible - This Respondent for further answer saith that he insists that the Evidence produced on behalf of this Respondent is uniform Combined and Correct in all its parts, and unites in an uncontroventable demonstration of the truth

of

truth of the several matters and things by him Charged alledged and setforth in the Course of the Proceedings which nor the said Evidence thereupon do not in any Degree stand impeached by any Evidence on the part of the Appellant which goes to foreign and futile matter neither Contained in nor Warranted by the pleadings by the Appellant made use in support of his illegal and in every respect ill grounded Demand — and this Respondent saith that the Evidence produced to shew that the account B was in the hand Writing of the Intestate Irevengadiah Braminy and by him delivered to the said Dawsonne Drake in his life time and that there were no other Accounts existing between them at the Time of the death of the said Dawsonne Drake is incontestable except the Bond for one Thousand and five hundred Pagodas and the Appellant hath not presumed to examine any Witnesses against the reality and validity of the said account or against the competency of the said Evidence nor hath the said Appellant ventured to substantiate and prove the account C which his Intestate in his life time substituted in its place and stead nor to prove that there were any other transactions and Dealings between the said Dawsonne Drake in his life time and the said Irevengadiah Braminy than what are Contained in the said Account B nor doth

doth the Appellant insist so much upon these being any other Transactions and dealings between them wherefrom the said Dawsonne Drakes Estate could be brought indebted to that of the said Irevengadiah Braminy provided he can carry his Point in substantiating the Account C which in fact is the only point upon which the Appellant and his Intestate have fixed their Claim since the detection of the suppression of the account B and the objections thereupon and by reason thereof made them that the Arbitrators had been misled by the exhibition of false Accounts before them in Consequence whereof they had been induced into a unwilful injury towards the Estate of the said Dawsonne Drake and of Course to the Creditors and Legatees thereof —

This Respondent saith that the Exhibit D which the Appellant insists to have been laid before the Arbitrators is Irevengadiah Braminys Account drawn from the Balance of the account C and the Bond for One Thousand and five hundred Pagodas is rightly insisted upon but the paper Writing which the Appellant mentions to be expressed in Cotton Boeve Bank Dents Opinion of Fourteen thousand Pagodas (in which the Bond of Seven Thousand and five hundred Pagodas is said to be included) is the Account C the

Balance

Balance whereof is Fourteen Thousand five hundred and Seventy two Pagodas which is only made part of the Account D in these Words "fifth September One Thousand Seven Hundred and Eighty to the amount of the account Current of his own hand Writing due amounting to the Sum of Fourteen Thousand five hundred and seventy two Pagodas" This Respondent hath never objected to this Account D having been before the Arbitrators but hath on his part insisted thereon and hath also proved the same so to have been. but this Respondent maintains that the account D could not have been produced without the account C to which it so particularly refers being also produced - This Respondent therefore saith that the want of recollection of the production of this account D before the arbitrators by the said Cotton Bower Bank Dent is not a matter material as it is admitted by the Appellant and proved by Evidence and the circumstance of account C being also produced before the said Arbitrators is in like manner proved in the manner before shewn and by their own Evidence that B nas not produced wherefrom this Respondent prays to remark that the Appellant himself hath by an admission of the production of the Account D been forced into an admission that account C was also produced a fact he hath in other parts of his

proceedings

proceedings denied and instead hath insisted that the account B was produced the impossibility of which is shewn by the account D not referring to account B but to account C and further also this Respondent prays to remark that as the account D was framed upon the falacy of the account C the account E under date of the Thirty first May One Thousand Seven Hundred and Eighty one both in the hand Writing of the said Irewengadiato Braminy was framed upon Justness of the account B

In Answer to the fourth reason for Appeal this Respondent saith that he will maintain in like manner as he hath shewn that the Mayors Court have not taken the prayer contained in the Rejoinder of the Respondent instead of the prayer setforth in his Cross Bill but the said Court did take into their Consideration the whole of the merits of the cause and cross cause as they Appeared before them and have Determined thereupon According to Equity and good Conscience - they dismissed the Appellants Bill with costs and upon the full merits before them did further order and decree upon the Securities unlawfully Detained by the Appellant under pretence of the Bond and the assignments upon which the Appellants Bill was founded and the said Court could not consistent with the nature of the

Case

Case and the General relief prayed for Decree otherwise than they have done by decreeing also that remedy to this Respondent which his Right shewn claimed and proved did Equitably and Reasonably dictate to them and the said Court were not bound by any Rule or practice of Law or Equity to leave this Respondent to a fresh Suit to recover the possession of the property of the Estate of Dawsonne Drake unlawfully detained in the Appellants hands But the Court did in making of their said Decree rather go upon this maxim that Equity will not direct a Suit where it can decree a Remedy —

And in answer to the last reason this Respondent saith that the Appellant cannot be allowed to avail himself of any advantage from the said award under pretence as he alledges "that the matters in question "have been for many years finally settled and Determined "by the award of Arbitrators indifferently chosen between "the parties" because the said pretended settlement or Conclusion of the said Matters in question was not upon a fair and bonafide Consideration which notwithstanding this Respondent hath made the want thereof a principal plea or part of his defence against the right claimed by the Appellant to with hold the said property of the Estate of the said Dawsonne Drake. The Appellant hath not in any Degree proved to have

existed

existed at the time of the death of the said Dawsonne Drake or at the time that the said Collusive Submission was made to the said award which award has been the whole and entire foundation of the said Appellants claim and is the only answer the Appellant hath furnished to the claims this Respondent hath made upon him for the property of the said Dawsonne Drake detained in his hands — without shewing any other right existing previous to the said award and without which this Respondent saith it is evident the award must be a nullity because it had no real Consideration to go upon and it could not in its own nature create one this Respondent also saith that the said award being thus unfairly procured by the parties in Submission from the said arbitrators upon false suggestions and suppressions of the real state of facts the performance of the said Award by the said Nathaniel Barlow could not make the same have effect but on the Contrary the Assignments of the said Dawsonne Drakes Estate to the said Irevengadiah Brawning by the said Nathaniel Barlow was a fraudulent Conveyance and as such is void and the said appellant is and his Intestates were in their lives time bound by Law to return the Estate of the said Dawsonne Drake which they have severally possessed and

Detained

Detained in Consequence of it —

And this Respondent further answering saith that he hath very fully proved the whole of the matters by him alledged against the said Conveyance altho it was more properly the duty of the Appellant to have proved the Original right whereby he held the said Nathaniel Barlow answerable for any debt or demand by him pretended to be due and owing by the said Dawsonne Drake after his death in order to Justify his Claim to the property of his Estate now in his possession and his not having done so he is to all intents and purposes of the Law answerable to this Respondent for the illegal detention thereof For this Respondent sheweth that as the Law favors Justice and truth but abhors falsehood — It has Determined that If a man makes a Deed of Gift of his Goods in his life time by Covin to defraud Creditors of their Debts yet after his death the vendee shall be charged with them as an Executor of his own Wrong 2d Bacon fo 605 — and it is enacted by the 43d of Elizabeth Chapter the 8th "That every person who shall obtain any "Goods or Debts of any person dying Intestate upon any "fraud or without such Consideration as shall amount "to the Value of the same Goods or Debts or near thereabouts "except it be in satisfaction of some Just and principal "debt of the Value of the same Goods or Debts to him owing

"owing by the Intestate at the time of his decease / shall "be Charged so far as those Goods and Debts will satisfy "as Executor of his own Wrong" By this act it is evedent that in order to Justify the original possession and the Subsequent detention of the assigned Securities or Debts by the said Irevengadiah Branning it was requisite that he should have given such consideration as did amount to the Value of the assigned Securities or Debts or that they had been given in satisfaction of some Just and principal Debt of the Value of the said Securities or Debts to him owing by Dawsonne Drake at the time of his death and it was the appellants duty at the hearing of the Cause and Crofs Cause to have shewn and proved such Consideration or such Debt owingly Dawsonne Drake at the time of his death in order to be Justified in the possession and detention of the said Assigned Securities and Debts and his not having done so makes him to all the intents and purposes of the aforesaid Act an Executor of his own Wrong and liable to an Action at the suit of this Respondent as administrator of his Estate for the recovery of the said Estate of the said Dawsonne Drake so unlawfully possessed and wrongfully converted to his own use — which right of Action however would be evidently without any remedy

if —

if the Appellant was not compellable to prove that he held the same upon good Consideration or without he should be obliged to prove the Justness of this Debt and that the said Debt was bonafide owing to him at the time of the death of the said Dawsonne Drake But in this last respect the Appellant hath not given the Court any manner of satisfaction further than by holding out to them a Deed purporting to be an Award — as the Ground of that right upon which he has built his Claim to detain this part of the Estate and absolutely refusing to be Determined by any other he has peremptoriely rejected to retrospect the Original Ground of Right as it was situated at the time of the death of the said Dawsonne Drake but hath entirely abondoned that task to this Respondent who makes no doubt but that he hath therein been fully successfully notwithstanding the Attempts that have been made by the submitting parties to alter and change the reality and form of the state of Accounts between the said Dawsonne Drake at the time of his death with the said Irevengadiah Braming by a variety of Covenous and fraudulent means and instruments which being now detected and the wrong purposes they have been Applied to discovered and laid open this

Respondent

Respondent most confidently submits to the Justice of this Honourable Court whether a Deed so perpetrated and effected can in Law Equity or Reason be thereafter allowed to exist merely under the right of an assumed Title or whether the real state of Accounts which were suppressed to make way for this usurpation shall not now be admitted to reassume under the sanction of a numerous Connected and uniform Evidence that Right and Claim which has been given and Confirmed to them already by one Court before whom the relative merits and demerits of this question have been fully Considered and determined - and by way of further Answer this Respondent saith that the said Mayors Court could not possibly hold the said award as sacred or inviolable because they were sensible and fully Convinced and satisfied that it was obtained by wicked and fraudulent means for the purpose of wronging parties not interested therein — Fraud, Covin and deceit, in whatever shape they appear are always deemed odious in the Eye of the Law — and in a legal sense is defined an act unwarranted by Law, prejudicial to third persons and altho a false or Collusive act shall conclude against the parties to the fraud nevertheless all the world besides may be permitted to Controvert it Lofts 427 — By which it appears

that

that the sence of the Law is that if this arbitrament had
been submitted to by the said Nathaniel Barlow of his
own Goods and Chattles the question would have been
widely different from this Submissions which incurred
only the alienation of the goods and Chattles of the
Estate of the said Dawsonne Drake to the wrong and
prejudice of third persons - To Wit Creditors and Legatees
which Conclusion this Respondent saith is fully Justi-
fied by the act of the 43 of Elizabeth Chapter the 8th by
this Respondent before referred to Further this Respondent
saith that as the appellant hath so strongly insisted
upon the inviolable nature of an award he will pray
to refer to Cases of awards being examined into by a Court
of Law and Equity and sett aside which as they are of
Submissions between party and party immediately &c
interested are much stronger than the present which
is made to bind the property of parties not mentioned
and who are only interested therein by being prejudiced
thereby - Comyns Vol. 2d fo 108. Chancery. The Court may
examine the reasons and grounds of the proceedings
of the arbitrators and what matters they Considered
Vernon Vol. 2d fol. 705 award sett aside arbitrators going
upon a plain mistake in Law or in matter of fact - Hott
fo. 80. Raymond Vol. the 2d fo 857- Chancery Cases fo 86
fo. 279- Lofts fo. 554. award to set it aside mistake

must

must Appear Gross and plain Therefore if the mistake
does appear Gross and plain may be set aside - Equity
Cases 2d Vol. fo. 80 - fo. 92 fo 93 Deeds or Wills and Decree
may be set aside if obtained by fraud or Circumsention as
Appears by the 2d. Vol. Peer Williams Reports fo. 73 2d Vol
Equity Cases 478. 479. 480. and in fo. 482. It is written
that Equity has so great an Abhorence of fraud that it
will set aside its own Decrees if founded thereupon -
It being one of the maxims of Equity - That it will
relieve against its own act according to Circumstances
Equity also will rectify mistakes and supply defects -
This Respondent therefore refers to the Justice of this
Honourable Court whether it is possible for the Award in
question under all the incapacities, frauds and mistakes
that it is grounded upon should or ought to meet with
any but the severest discountinance and Reprehension
in a Court whether of Law or Equity and whether it is not
one of the peculiarty branches of Equity, to interpose in a
case like this in which an Administrators has made
so wrong a use of his power whether Voluntarily by &c
assenting or being induced thereto by unfair means and
influence being practiced upon him - and whether the
said act before referred to is not equally comprehensive
to give a Court of Law or Equity a Jurisdiction to interfere
and restrain an act so prejudicial to third persons

Creditors

Creditors and Legatees who are injured thereby whether thro' the Weakness or wickedness of an Administrator who had fraudulently or ignorantly alienated the deceaseds Estate without Consideration or without a Just Debt being owing by the deceased Dawsonne Drake at the time of his death - and whether this Honourable Court will not regard it as having been the duty of the said Irevingadiah Braminy or his Administrators to have shewn that he and they had a right to detain the Securities and Debts conveyed to him by the said Nathaniel Barlow by proving that the said Dawsonne Drake at the time of his decease was indebted to him in some Just and principal debt of the Value of the said Securities and Debts to him so Conveyed - And whether as the said Appellant and his Intestates having failed therein and the impossibility thereof having been proved by this Respondent upon the strongest and most unequivocal Evidence and particularly by this Respondent bringing forward the only Accounts that did exist at the time of the death of the said Dawsonne Drake and which positively shew that he was not so indebted unto the said Irevingadiah Braminy and as the said Intestate had taken means to suppress the said Accounts and to obtain an Award upon other accounts not warranted by any that had existence in the life time of the said Dawsonnn Drake whether the

the Decree of the said Mayors Court is not founded upon the Law Equity and reason of the Case —

And therefore and for as much as the Appellant hath not shew any Just Cause founded on either of the above principles why the said Decree ought not to be affirmed This Respondent prays that the same may be affirmed accordingly and that the Appellants Petition and Appeal may be dismissed and that the Appellant may further be decreed to pay all Costs in this and in the Mayors Court —

(Signd) Henry DuPuy
Attorney Respondt

Court

Court of Appeals
at
Madraspatnam

Saturday the 5th day of April
Anno Domini 1794

Between Streenevasiah Rungiah Brominey of Madras Inhabitant Administrator to the Estate and Effects of Trevengadiah Brominey late of the same place Inhabitant Deceased unadministered by Streenevasiah Deceased Appellant and Nathaniel Edward Kindersley of Fort St George Esqr Administrator to the Estate and Effects of Dawsonne Drake Deceased unadministered by Nathaniel Barlow Deceased 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 Honourable the Mayors Court together with the Decree of the said Court given in this Cause on Saturday the 9th day of July Anno Domini 1792 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 said Decree of the Honourable the Mayors Court do stand Affirmed and that the Appellants Petition be hence Dismissed with Costs —

Per Cur
/Signed/ Chas N. White
Clk

To

1

To the Kings most Excellent Majesty
in Council

Between Sreenevas Rungaya Braminy administrator to the Estate and Effects of Trevengadiah Braminy deceased unadministered by Sreenevasa Braminy deceased Original Complainant and Cross Defendant & Nathaniel Edward Kindersley Administrator of the Estate and Effects of Dawsonne Drake deceased unadministered by Nathaniel Barlow also deceased Original Defendant and Cross Complainants

Most humbly Sheweth

That your Petitioners said Intestate the above named Trevengadiah Braminy deceased in his life time and some time on or about the second day of February and Year of Christ One thousand seven hundred and Eighty Eight did Exhibit and file his Bill of Complaint in the Mayors Court of Madraspatnam against the Defendant above named as the administrator of the Estate and Effects

Filed in my Office in the 18th August 1794
Chas N. White Clk

Effects of Dawsonne Drake deceased unadministered
by the above named Nathaniel Barlow also dues
for the Recovery of the Sum of Thirteen thousand
two hundred and twenty five pagodas thirty Eight
fanams and Seventy Nine Cash Current Money
of Madras and which your Petitioners said Intestate
did state would more fully and at large appear
by Copies of an Account Current and Bond or
Obligation and two Assignments he did by his
said Bill annex and which he did pray might
be admitted as part thereof would appear and
your Petitioner humbly sheweth to your Most Excellent
Majesty in Council that to the said Bill so
filed by your Petitioners said Intestate as aforesaid
the Defendant above named did some time on
or about the twenty seventh day of May and
Year of Christ One thousand seven hundred and
Eighty Eight Exhibit and file his Answer &
that soon afterwards your Petitioners said Intestate
having departed this life the said suit did cease
and abate until Veeravaseah Brameny your
Petitioners Intestate late administrator had prayed
for and obtained Letters of administration to all

8

and singular the Goods and Chattels Rights & Credits
of your Petitioners said Intestate and filed his
Bill of Revivor and Revived the same That
the said suit having accordingly stood Revived
the Defendant above named did some time
on or about the fifteenth day of December &
in the said Year of Christ One thousand seven
hundred and Eighty Eight Exhibit and file an
amended answer and did therein & thereby set forth
that it was but within a few Months he had
taken upon himself the task and Burthen
of an administrator by which he was Entitled
to act in and Concerning the affairs of the said
late Dawsonne Drake deceased that previous
to his having so done he was totally ignorant
of every transaction relative to their said Estate
but that he had since endeavoured to acquire
a Competent knowledge thereof in order that he
could be enabled to discharge his duty with
satisfaction to himself and Justice to all those
who had any demands upon him as administrator
and that as from the insight he had already
had into the affairs of the said Estate he had

reason

reason to believe there had been great Waste and abuse thereof owing in a great Measure as he pretended to the want of attention and proper Management during the late administration=ship the Defendant as well to prevent his being involved in any Censure which could thereafter be conveyed by those who Expected ultimately to be benefited by the said Estate as to avoid all Responsibility in case any Step be pursued by them in Consequence of the Measures adopted in several instances relating thereto were he to Comply with what thought it as he pretended incumbent upon him to withhold his aquiescence with respect to such demand as were in his opinion Exceptionable and that the Defendant Considering the demand made by Jour Petitioners Intestate was one which came under that description he pretended he could not Comply with the payment thereof and begged Leave to lay before the said Court his Reasons for declining the same and that he the Defendant having promised so much begged Leave to proceed in stating to

to the said Court the grounds upon which the demand by Jour Petitioners said Intestate on the Defendant as administrator as aforesaid was made and the mode by which the Sum said for by Jour Petitioners Intestate still appeared in his favor the Defendant thereupon stating that some time in or about the Year One thousand Seven hundred and seventy seven the said Dawsonne Drake having at that time obtained a Cowle or Lease from the said President and Council of Fort St. George of the Betle and Tobacco Farm for the term of ten Years an agreement was on or about the Month of August in the same year entered into between Jour Petitioners Intestate and the said Dawsonne Drake in his life time whereby it was amongst other things agreed and understood that Jour Pet.rs said Intestate should pay to the said Dawsonne Drake the Sum of four thousand Pagodas every Year in quarterly Payment so long as the said Cowle should Continue in the hands of him the said Dawsonne Drake and that he the said Dawsonne Drake in Consideration thereof was

was to have no further Concern in the Said
farm nor to be in any way either entitled
or Subject to any profit or loss which Should
arise or accrue therefrom but to afford Your
Petitioners Said Intestate all the necessary assistance
which he Your Petitioners Said Intestate could
from time to time stand in need of from the
Said President and Council Agreable to the
Terms or Proposals on which the Said Covle
or Lease had been as aforesaid granted by
them for the Space of ten Years — that in Pursuance
of the Said Agreement so made and entered into
between Your Petitioners Said Intestate and the
Said Dawsonne Drake as aforesaid Your Petitioners
Said Intestate did in and by an Account Current
dated the thirty first day of August One Thousand
Seven hundred and Eighty and Signed by Your
Petitioners Said Intestate which he furnished
the Said Dawsonne Drake did allow of and
give Credit to the Said Dawsonne Drake for
the aforesaid allowance of Four Thousand Pagodas
Per Annum for and during the term of three

Years

Years that was to Say from the first day of August
which was in the Year of our Lord One Thousand
Seven hundred and Seventy Seven to the thirty first
day of July which was in the Year of our Lord
One Thousand Seven hundred and Eighty as by
Copies thereof Marked **A** and **B** to his Said
answer annexed the Defendant did Say it would
appear and Your Petitioner humbly sheweth
the Said Defendant did further state that Not-
withstanding Your Petitioners Said Intestate
did in and by the Said Account Current So
acknowledge himself to stand indebted unto
the Said Dawsonne Drake in the aforesaid
three Several Sums of four thousand Pagodas
yet that after the death of the Said Dawsonne
Drake which took place on or about the
ninth day of February and in the Year of our
Lord one thousand Seven hundred and Eighty one
and after the Said Nathaniel Barlow the
late administrator to the Estate and Effects of
the Said Dawsonne Drake deceased had become
duly and fully empowered to act Your Petitioners
Said Intestate had brought forward another

account

Amounts Current Marked C between himself
and the said Dawsonne Drake drawn on the
debit side of which although he suffered the
dates and respective Amounts of the several
Items set forth to correspond exactly with the date
and respective Amounts of the Items on the
debit side of the Amount Current herein before
alluded to and Marked B your Petitioners Intestate
not only omitted to mention on what account
the said several and similar Sums had been
paid to the said Dawsonne Drake or to give
the said Dawsonne Drake credit for the
annual payment in pursuance of the before
mentioned agreement relative to the Bulle
and Tobacco Farm all which had been regularly
and properly done in the said Account Current
Marked B and delivered by your Petitioners Said
Intestate to the said Dawsonne Drake in
his life time but with the addition of another
charge of One thousand and Eight hundred
Pagodas which your Petitioners Intestate had
Paid out at several times to Mr. John Sykes
as attorney to the said Dawsonne Drake

by the desire of him the said Dawsonne Drake
but which if paid at all was done in
compliance with the said Agreement Marked
A and what the said Dawsonne Drake
had nothing to do with nor could he in any
degree be accountable for he had brought
in the said Dawsonne Drake his debtor for
fourteen thousand five hundred and seventy
two pagodas whereas by the balance of the
said former Account Marked B it was reduced
to seven hundred and seventy two pagodas and
that by way of giving the said Account Current
so latterly brought forward a greater appearance
of authenticity and that the said Nathaniel
Barlow might be the more easily prevailed
upon to admit and allow of the same as
the Defendant said he believed was the case
your Petitioners Intestate the said Trevengadiah
procured a Kind of underwritten Certificate from
one Aboo Chitty who called himself Cash &
Book Keeper to the said Dawsonne Drake
certifying that the Sum of Twelve thousand
seven hundred and seventy two pagodas as

part

part of the said Account Current had been received by him On Account of the said Dawsonne Drake but by the wording of which it rather appeared that the said Sum of twelve thousand seven hundred and twenty two Pagodas was so received on Account of the said Dawsonne Drake as being due to him then as Money lent and advanced by your Petitioners said Intestate Notwithstanding which the Defendant said as it appeared by the said Account Current the said Nathaniel Barlow who was a person of Weak Intellects and easily intimidated so as to do and agree to almost whatever was required of him especially if threatened with a prosecution at Law should he refuse and which the Defendant stated he believed might have been the case in that instance admitted at the foot of the said Account Current that the said Certificate appeared from the Books of the said Dawsonne Drake deceased to be true but even which the Defendant did state he did not conceive could have been at all binding on the said Nathaniel Barlow that having done so he could have been obliged to grant the Bond he afterwards had the weight of

of the aforesaid Sum of twelve thousand seven hundred and twenty two Pagodas being a matter there was no necessity to attempt a denial of but your Petitioners Intestate having found the Evil design of depriving the said Estate of so much property would suppose his Obtaining the Signature of the said Alavar Chitty would in a great Measure tend to ensure his success in as much as it would be sufficient to Convince the said Nathaniel Barlow who was a Weak easy indolent and inactive Man and by no Means fit to cope with one of your Petitioners Intestate subtle designing disposition of the Instrument of his demand and which appeared to have been the case for had the said Nathaniel Barlow turned to and Consulted the Books and Papers belonging to the Estate of the said Dawsonne Drake he would have seen by the very Account Current Marked **B** Signed by your Petitioners Intestate himself that although the said Sum of Twelve thousand seven hundred and twenty two Pagodas had been received by the said Dawsonne Drake it was so received

on

in pursuance of the Agreement Entered into between your Petitioners said Intestate and the said Dawsonne Drake relating to the said Ballle and Tobacco Farm and not as Money borrowed by the said Dawsonne Drake of your Petitioners said Intestate and that your Petitioners said Intestate could not have the smallest Ground or pretension for charging the same back to his own credit as in and by the Account Current whereof a Copy Marked C and to his said Answer annexed he had done and the Defendant did further state that he hoped by Exhibiting the said two Accounts Marked B & C he had furnished the said Court with what would afford their a sufficient insight into the conduct and manifest the Intentions of your Petitioners said Intestate and that standing in the Situation he did of one Entrusted by the said Court with the Management of the Estate and Effects of the said deceased bound to a faithful Administration of the same and to render a Just and true Account thereof and knowing that your Petitioners Intestate Demand originated in the way he had stated the Defendant was induced to believe that the said Court would deem

deem him warranted in the Exposition he had made of the same instead of Complying with the payment thereof especially when the Defendant was fully in his Conscience convinced that such demand was not Justly due and owing and the Defendant did further state that your Petitioners Intestate having so far succeeded in the Establishment of his Claim on the Estate of the said Dawsonne Drake as to have obtained the Signature before mentioned of the said Nathaniel Barlow appeared to have been for some time satisfied therewith and not to have taken any further steps with regard to the payment thereof until the beginning of the year One thousand seven hundred and Eighty four when the said Nathaniel Barlow being in a bad state of health and having formed an intention of proceeding to the Cape of Good Hope for the purpose of effecting the Reestablishment thereof your Petitioners said Intestate previous to the departure of the said Nathaniel Barlow after holding out Various threats & menaces as the Defendant had heard and believed & through the means of his Attorney at Law

respecting

respecting his determination to commence a
prosecution against the said Nathaniel Barlow
provided he did not comply with the payment
of his said demand at length prevailed upon
the said Nathaniel Barlow who had notwithstanding
being furnished by his own Agents with an
Account Current made out by them and bringing
in your Petitioners said Intestate a Debtor to
the said Estate to the Amount of Seven hundred
and twenty five Pagodas to execute a Bond
for the Sum of Seven thousand five hundred Star
Pagodas payable to your Petitioners said
Intestate out of the first Dividend which should
or might be declared or paid by His Highness
the Nabob Paulaw Jaw or his Successor to
his or their New Consoledated Creditors a Copy
of which said Bond marked **D** was thereto
annexed for the Inspection of the said Court
and the Defendant did state that your Petitioners
Intestate having obtained the said Bond from
the said Nathaniel Barlow and which appeared
to have been taken and accepted by him in
lieu of all demands whatsoever took no
further

further steps respecting the same until the
return of the said Nathaniel Barlow from the
Cape of Good Hope when knowing the person
with whom he had to deal delivered in a
subsequent Account Current to the said Nathaniel
Barlow against the Estate of the said Dawsonne
Drake deceased brought down to the fifth
day of September One thousand seven hundred
and Eighty five wherein besides the Balance
of the said Account Current marked C Amounting
to Fourteen thousand five hundred and seventy two
pagodas he introduced a Bond said to be granted
to him by the said Dawsonne Drake for the
principal Sum of One thousand five hundred
Pagodas and stated the before mentioned Bond
granted by the said Nathaniel Barlow for the
Sum of Seven thousand five hundred Pagodas as
if it had been so granted in part of the said
subsequent Account Current Copy whereof marked
E was thereunto annexed although the Charge
of the said Bond for One thousand five hundred
Pagodas did not appear to have been any where
until that time brought forward and the said

Nathaniel

Nathaniel Barlow however the Defendant did
plate it appeared rejected the last mentioned
new fangled Account Current of your Petitioners
said Intestate and also hesitated as to the payment
of the Bond before granted by him for the said
sum of Seven thousand five hundred Pagodas alledging
as the Defendant said he had heard that the
same was obtained from him during the hurry
and confusion of his departure for the Cape
of Good Hope as before said and at the time
that his situation from a bad state of Health
was rendered such as not to have allowed his
investigating the affairs of the Concerns of the
said Estate which when connected with your
Petitioners said Intestate in that full & ample
manner they required — And the Defendant did
further state that your Petitioners said Intestate
still persisting in his said demand the said
Nathaniel Barlow was as the Defendant said
he had heard that the same was prevailed
upon to submit the same to a reference but
that notwithstanding he had so consented thereto
and although he must have been in possession

of the aforesaid Agreement A and Account Current
signed by the said Trevenyadack Bramsey marked
B as the same were delivered over to the
Defendant by the Attorneys of the said Nathaniel
Barlow) the same essential as they were the
Defendant said he was informed were never
brought forward by the said Nathaniel Barlow
and which the Defendant pretended must
have been the case for it would have required
nothing more to have effectually frustrated
the Intention of your Petitioners said Intestate
and to have made it appear that the very
sums of which the Account Current marked C
was composed and to which your Petitioners said
Intestate had obtained the signature of the
said Nathaniel Barlow were the very identical sums paid to the said Dawsonne Drake
in his life time by your Petitioners said
Intestate pursuant to the Agreement before
mentioned to have been entered into between
your Petitioners said Intestate and the said
Dawsonne Drake relative to the said
Bubb and Tobacco Farm and particularly
set forth

set forth and Expressed so to be on the Account Current Marked **B** thereunto annexed and the Defendant did state that he therefore hoped and conceived that a decision made upon documents so fallacious misrepresented and opposite to the real state of Accounts as those produced by your Petitioners said Intestate would not be considered by the said Court in any degree or respect whatsoever as binding either on the Estate of the said Dawsonne Drake or the Defendant as the present Representative thereof and the Defendant said that so far from the said Estate being indebted to your Petitioners said Intestate he conceived that there was a balance due and owing from your Petitioners said Intestate to the said Estate and for which he was about to file a Cross Bill in the said Court and he prayed that his said Answer together with the Exhibit annexed thereto might be taken as part and parcel thereof and your Petitioner humbly sheweth to your most Excellent Majesty in Council that on or about the twenty fourth day of December and year of our Lord One thousand seven

seven hundred and Eighty the Defendant did Accordingly Exhibit and file his Cross Bill in the said Mayors Court against Irenewapiah Brahmin then and since late administrator of your Petitioners said Intestate for the sum of One thousand and Eighty Eight pagodas twenty three fanams and twenty four Cash Current Money of Madras and pretending that the same would more fully and at large appear by the Copy of an Account Current he had thereunto annexed and by him prayed to be taken as part thereof.

And your Petitioner humbly sheweth to your most Excellent Majesty in Council that to the Defendant said Original Account Irenewapiah Brahmin your Petitioners Intestate late Administrator died on or about the day of which was in the year of Christ One thousand seven hundred and Eighty nine Exhibit and file his Replication and therein and thereby did aver that he would in due time prove that the Defendant was justly and truly indebted unto him in the full

and Just Sum of fifteen thousand two hundred and twenty five pagodas thirty Eight Janams and Seventy Cash as was set forth in his said Bill of Complaint and in the Account Current thereunto Annexed Notwithstanding the Defendant had Endeavoured by improper Statements and false Reasonings to shew the contrary and by plausible pretexts and artful insinuations prejudice the Minds of the said Court against the propriety and Justice of your Petitioner Intestate demand and he did in and by his said Replication further state that the Defendants Answer Entered into a Variety of Arguments and attempted to prove many things that were in no wise pertinent to the fact connected with the Matter on which your Petitioners Intestates demand had been grounded but that whilst the Defendant was assidious in bringing forward Extraneous subjects Multiplying Words in discussing the same and drawing conclusions therefrom he studiously avoided the proper Answer to the charge in your Petitioners Intestates Bill of

Complaint

Complaint contained and therefore had not said positively whether he was or was not as Administrator aforesaid Justly and truly indebted unto your Petitioners said Intestate in the Sum of fifteen thousand two hundred and twenty five Pagodas thirty Eight Janams and Seventy two Cash and which your Petitioners Intestates late Administrator did state was out of the Defendants to have denied because said debt had arisen out of a Bond duly Executed According to the forms of Law he therefore evaded the question and aimed at Confusing a Clear Case fully persuaded no doubt that such was the only means from which he could hope any kind of Success and thoroughly Convinced that your Petitioners Intestates late Administrator however desirous he might be of entering into Circumstantial detail of Sum a full Replication to the several particulars Contained in the Defendants said answer yet he had not the power so to do because he had not the Materials necessary for that purpose for your Petitioners Intestates late Administrator did in and by his said Replication

that

state that some time in the year of Christ One
thousand seven hundred and Eighty five the Said
Nathaniel Barlow the then Administrator to the
Estate of the Said Dawsonne Drake but since
deceased being desirous of avoiding all proceedings
at Law Relative to your Petitioners said Intestates
Claim on the Estate of the Said Dawsonne Drake
and conceiving an amicable adjustment the
most Eligible mode to arrange and settle
the same did in consequence thereof propose
to your Petitioners said Intestate that such claim
should be submitted to arbitration that to which
proposal your Petitioners said Intestate Consented
Joseas Dupre Porcher and Colton Bower Bank
Dent Esquires were indifferently chosen by
the Said Parties as their arbitrators and that
thereupon the Said Nathaniel Barlow and
your Petitioners said Intestate did enter into
penalty Bonds to stand to abide by perform
fulfill and keep the award Order Arbitrament
final end and determination of them the Said
Colton Bower Bank Dent and Joseas Dupre
Porcher which said Bonds were made a

rule

rule of the said Mayors Court and all which
matters your Petitioners Intestates said Administrator
did in his said Replication state would better
appear by a Copy thereof thereto Annexed and
which he did pray to be taken as part of his
said Replication and your Petitioners Intestate
late administrator did in and by his said
Replication further set forth that the said
Arbitrators having on the twenty first day
of November and at Sundry other days subsequent
thereto Examined into and duly Considered the
Allegations and proofs urged by both parties
having at length after mature deleberation
had thereon come to a determination relative
thereto they the said Arbitrators did on the
fifth day of December in the said year of
Christ One thousand seven hundred and Eighty
five make and publish their award in Writing
and did thereby adjudge award and order that
all suits differences and dispute or controversies
which had moved arisen or depended between
the said parties should cease and be no
further prosecuted and they did also adjudge

and

and order that the said Nathaniel Barlow as
administrator of the said Dawsome Drake
should pay or cause to be paid out of the first
effects belonging to the said Estate unto your Petitioners
said Intestate his Heirs Executors and Administrators
the full and just sum of Fourteen thousand
Star Pagodas Current Money of Madras together
with Interest at twelve per Cent per Annum
from the day of the date of the said award
to the day of payment and they did further award
adjudge Order and direct that the said Nathaniel
Barlow as administrator aforesaid should secure
the certain payment of the said sum of
Fourteen thousand Star Pagodas and Interest
thereon to be paid within twelve Month
from the day of the date of the said award
to your Petitioners said Intestate his Heirs
Executors administrators or assigns in the
best Manner and by the most effectual
ways and means the circumstances of the
Estate of the said Dawsome Drake would
allow or admit of by Assignment of Bonds
Mortgages or other modes Secure & Satisfactory
to

to your Petitioners said Intestate his Heirs Executors
administrators or Assigns and that the said
Arbitrators did further and lastly award Order
and direct that on the Receipt of the said
sum of Fourteen thousand Pagodas and Interest
his Heirs Executors Administrators or assigns or
Security for the good certain and effectual
payment thereof that he your Petitioners said
Intestate should Cancel and give up all
Bonds Bills notes Accounts or other Securities
for Monies which he had in his possession
and in any wise relating to the matter in
dispute a Copy of which award your Petitioners
Intestates late Administrator did annex to
his said Replication and pray that the same
might be taken as part thereof and for
further Replication did state that some
short time afterwards to wit on the twenty
first day of December in the said year of
Christ One thousand seven hundred and Eighty
four the said Nathaniel Barlow did Execute
unto your Petitioners said Intestate a Bond
or obligation conditioned for the payment

of

of the said Sum of Fourteen thousand Pagodas and also an Agreyment for securing the same a Copy of which said Bond and assignment was annexed to your Petitioners Intestates Bill of Complaint whereby the said Nathaniel Barlow had fulfilled as far as in his power lay the said award of the said Arbitrators and your Respts said Intestate had thereupon and in conformity to the said Award of the said Arbitrators given up to the said Nathaniel Barlow all Bonds Bills Notes Accounts or other Securities for Monies which he had in his possession relative to the matter in Dispute and therefore it was impossible for your Petitioners Intestates said late Administrator to enter into an investigation of Accounts that were Existing previous to the said Arbitration becaus as he had therein before shewn every document and Voucher relative thereto were delivered up by your Petitioners said Intestate to the said Nathaniel Barlow and were then as your Petitioners Intestate said Administrator believed in the possession of the Defendant but had Actually and very unfairly brought forward such part thereof as he found Convenient to his purposes and annexed the same to and Exhibited them with his said Answer hoping by such partial and unfair shewing to impose upon the Judgement of the said Court and deprive the Administrator of your Petitioners Intestate of that which was justly due to him Contrary to that benevolent principle which pervaded the English laws that he who would have Equity should render Equity and in addition to the Conduct of the Defendant and the more effectually to illustrate the injustice and want of candor which very strongly marked it your Petitioners Intestate late Administrator did observe that the Defendant whilst he attempted by Various Means to do away the Validity of the Bond granted by the said Nathaniel Barlow to your Petitioners Intestate had withheld every information relative to the Arbitration & therein before mentioned and annexed and upon which

which Said Bond was Executed because he well
knew that had he produced the said Award
so granted thereon in favor of your Petitioners
said Intestate all his plausibilities would
have been ineffectual and the ingenerous blemishes
thrown on the Memory of a dead Man of no kind
of force whatever as it would have appeared that
the said Bond had not been granted as the Defendant
insinuated by the said Nathaniel Barlow either
under the impulse of force or Weakness of intellects
but that in fact he was under an absolute necessity
of giving the same in conformity to the Award
of Arbitrators selected by himself and your Petitioners
said Intestate as above set forth Men of Experience
ability and of honor and to the performance
of whose Arbitrament he had bound himself
in the penalty Bonds thereunto annexed and
therein above referred to and your Petitioners
Intestate said late Administrator did thereupon
state that the said arbitrators would not have
awarded any sum to your Petitioners said Intestate
had they not been perfectly satisfied from a
full investigation into the documents papers
and Accounts which were laid before them

that your Petitioners Intestate was justly
and truely entitled thereto and he thereon
insisted that the Defendant as administrator to
the Estate of the said Dawsonne Drake
unadministered by the said Nathaniel Barlow
was as much bound to abide by the said
award and the Bond and Sanctions granted
thereon as the said Nathaniel Barlow would
have been had he been living for it was the
true intent and meaning of the specific powers
under which he the Defendant acted that
he should stand to and be in the place or
stead of the said Nathaniel Barlow as administrator
to the Estate of the said Dawsonne Drake
unadministered to by the said Nathaniel Barlow
that the Award of the said Arbitrators was to
all intents and purposes a final decision &
that the question thereon involved was as fully
and effectually determined and the right thereof
as clearly and distinctly discussed and settled
as it could have been had the parties mutually
agreed thereto or after a length of litigerous proceedings
the said Court could have passed a Judgement
thereon

thereon because an award could not be set aside but under certain particular Circumstances such as Collusion of parties or other abuse of the authority delegated to the arbitrators and the trust and Confidence reposed in them and that then and in such case Exceptions or Oath ought to be made within a certain time after the making and publishing of such Award and in the present matter no Exception had ever been taken nor any Objection made to the said Award granted in favor of your Petitioners said Intestate on the contrary. Every part thereof was approved of and complied with by the said Nathaniel Barlow as far as it lay in his power so to have done nor had the Defendant himself made any Objection to the said Award but on the Contrary had tacitly confessed it and by such Means had approved of the Award though he attempted to raise Obstacles to destroy the Effect which was a Kind of inconsistency that the Law could not sanction and that Common Sense would condemn and he therefore hoped under the particular Circumstances

of the Case and the fairness and Equality of the demand made by your Petitioners Intestate late Administrator that the said Court would consider the Defendants Answer as litigious and Vexatious framed purposely to harrass and distress him and that the defence therein set up was with the Evident design of taking an Advantage of your Petitioners Intestates late administrators Ignorance of the several transactions and dealings that took place between the said Dalrymple Drake and your Petitioners said Intestate and the several Accounts and Vouchers belonging thereto or connected therewith because your Petitioners Intestate late Administrator was an Infant at the time when such transactions & dealings had taken place and because the said several Accounts and Vouchers belonging thereto or connected therewith were given up as therein before mentioned to the said Nathaniel Barlow by your Petitioners said Intestate wherein and in Conformity to the said Award the said Nathaniel Barlow had Acquitted in favor of

your

your Petitioners said Intestate the said Bond annexed to your Petitioners Intestate Original Bill of Complaint at which time and agreable to the Respective direction of the said Award your Petitioners said Intestate had granted unto the said Nathaniel Barlow a full & sufficient Release and discharge of and from all Claims and demands which he your said Intestate had against the said Estate of the said Dawsonne Drake previous to the Execution of the said Bond.—

And your Petitioners said Intestate Administrator did in and by his said Replication further shew that it was strikingly evident that the Account of the Defendant was calculated for the purpose of harrassing distressing your Petitioner said Intestate from the Methods taken to conceal the real Matters of fact and under the Cloak of plausibility and argument establish others of a very different complexion contrary to Equity and good Conscience and in opposition to truth and Candour for the Defendant had endeavoured to impress the said Court with an Idea that the said Nathaniel Barlow was taken by Surprise and during the hurry and Confusion of his departure for the Cape of Good Hope had been prevailed upon to submit the Claims of your Petitioners said Intestate to a reference that the said Nathaniel Barlow was a person of Weak intellects so as to have done and agreed to almost whatever had been required of him and again that the said Nathaniel Barlow was a weak indolent and inactive man and by no means fit to cope with one of your Petitioners said Intestates subtle designing disposition whereas your Petitioners late Administrator did charge and to be truth was that no such Measures as the Defendant suggested ever took place but that the said Nathaniel Barlow after mature deliberation and with the sentiments of an honest man desirous of acting for the benefit of the Estate by the best means in his power and fully persuaded that from the

natur

nature of the demand of your Petitioners Said Intestate an Action at Law would enjure the Said Estate submitted the Same to the Arbitration of two Men of established Reputation and who after a due investigation into the Merits thereof had granted the Said award in favor of your Petitioners Said Intestate & that in Consequence thereof and in obedience thereto that the Said Nathaniel Barlow had Executed the Said Bond for the Said Sum of Fourteen thousand Pagodas and not as the Defendant had unfairly insinuated upon a Simple Account Current for that although the Defendant Mentioned a reference he artfully and studiously avoided mentioning as before observed that an Award in Consequence of Such reference had been given in favor of your Petitioners Said Intestate and that notwithstanding the degrading and under the particular Circumstances of the case the very cruel Manner in which the Defendant Spoke of the Said Nathaniel Barlow deputed by holding him up as an indolent easy Man & Weak

weak intellects it would be very Obvious that the Said Nathaniel Barlow was not only a Man of Respectable Abilities but Worthy of a considerable trust when it was considered that he was a Senior Merchant in the Service of the Honble Company and of Council at Vizagapatam it was not very probable that Such a Man was unfit to cope with your Petitioners Said Intestate and it was absurd to imagine that Such a Man would have been intimidated as the Defendant Endeavoured to Shew by the threats and Menaces of a Native and be in a Manner forced to have done an Act which as the Defendant would infer he knew in his Conscience to be wrong - and your Petitioners humbly Sheweth to your Most Excellent Majesty in Council that your Petitioners Said Intestate administrator did in his Said Replication Shew that as an Administrator he the Said Nathaniel Barlow was accountable to the Creditors and to the Heirs of the Said Dawsonne Drake and if he committed a devastavit he would be liable to make good the Amount

thereof

thereof out of his own proper Goods and Chattels and therefore it was to be presumed that a Conviction of doing that which was perfectly right and legal accompanied the Act of his submitting the dispute between him and your Petitioners said Intestate to Arbitration and the subsequent Act of granting the said Bond for the said Sum of fourteen thousand Pagodas in conformity to the said award given in favor of your Petitioners said Intestate and that he your Petitioner said Intestates late administrator was informed and believed that had he your Petitioners said Intestate Commenced an Action against the said Estate of the said Dawsonne Drake instead of submitting his Claims to arbitration he would have Recovered a much greater Sum than that which had been awarded him and in which belief your Petitioners said Intestates late administrator did say he was strengthened by a reference to the said award and the Opinion of Cotton Bower Bank Dent one of the said Arbitrators which he did thereunto annex for it therein appeared that your Petitioners said Intestate demand

demand on the said Estate Amounted to the Sum of One hundred and twenty nine thousand Pagodas a great part of which would in all probability have been recovered the said Sum of Fourteen thousand Pagodas most undoubtedly would and it was equally certain that the Expences attending the Litigation would have amounted to many thousand and lastly your Petitioners said late Administrator did in and by his said Replication state that he had as aforesaid faithfully narrated as far as in his power lay the several Circumstances relative to or connected with his Claim as charged in your Intestates Bill of Complaint and that he had replied to the Answer of the Defendant as far as it was material or necessary for him to have done and thereto did say that the several Accounts and papers mentioned annexed and referred to in the Defendants said Answer of a Date antecedent to the said Arbitration and award had nothing to do with the matter in dispute but together with the assertions insinuations and suggestions of the Defendant in his said Answer contained

were

were irregular unjust and impertinent and introduced with the Evil design of enveloping the whole in intricacies and confusion deluding where it was impossible to convince & finally to attempt by Artifice and decyr to deprive your Petitioners said Intestates Late administrator of his right Contrary to Equity and Justice & being advised thereto Did state that the said award was the Source from whence his demand arose and beyond which the Defendant had no right nor could have for that all Accounts were disposed of by the said award that were of a prior date thereto and in Course centered in the said Bond for the said Sum of Fourteen thousand Star Pagodas for all which Reasons your Petitioners said Intestates late administrator hoped it would fully appear to the said Court and thereon humbly insisted that the Defendant was justly and truely indebted to him in the said Sum of Fifteen thousand two hundred and twenty five Pagodas thirty Eight fanams and Seventy Cash

And your Petitioners humbly Shewth unto

unto your most Excellent Majesty in Council that to the Defendants said Cross Bill herein before mentioned to be filed your Petitioners said Intestates late administrator did on or about the fifteenth day of September and in the year of Christ One thousand seven hundred and Eighty Nine Exhibit and file his Cross answer and did therein and thereby deny that as administrator aforesaid he stood indebted unto the Defendant as Administrator as aforesaid or under any other Title or Authority in the Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash as was falsly and unjustly charged in the Defendant Cross Bill of Complaint and in the Account Current thereunto annexed or in any other Sum or Sums of Money whatever but on the Contrary that the Cross Complainant stood Justly and truely indebted unto him your Petitioners said Intestates late Administrator as aforesaid in the full and Just Sum of fifteen thousand two hundred and twenty five Pagodas and thirty Eight fanams and Seventy

Nine

Nine Cash as was Charged and Set forth in
your Petitioners Said Intestates Original Bill
of Complaint And the Account Current Hereunto
Annexed and in and by your Petitioners Said
Intestates late administrators Replication to
the Defendants Original Answer and the
Several Exhibits to the Said Replication
annexed to which Said Original Bill and
Replication your Petitioners Said Intestate
late administrator begged leave to refer &
prayed the Same might be taken as part
of your Petitioners Said Intestates late administrators
Cross Answer —

And your Petitioner humbly
Sheweth unto your most Excellent Majesty
in Council that to your Petitioners Said
Intestates late administrator Original Replication
the Defendant did on the fifteenth day of
December and Year of Christ One Thousand
Seven hundred and Eighty Nine Exhibit &
file his Original Rejoinder and therein
and thereby deny that he was as administrator
as aforesaid or otherwise indebted unto your
Petitioners

Petitioners Said Intestate late administrator
in the Sum of fifteen thousand two hundred
and twenty five Pagodas thirty Eight Fanams
and Twenty Cash or in any other Sum of
Money whatever on the Contrary that your
Petitioners Said Intestates late Administrator
did justly and truly Stand indebted unto the
Defendant as Administrator as aforesaid in
the Sum of One thousand and Eighty Eight
Pagodas twenty three fanams and twenty four
Cash as was charged in his Cross Bill and
the Defendant did state that he had not
endeavoured by unproper Statements and
false Reasonings or otherwise to shew the
unjustice of your Petitioners Intestates Claim
or to prejudice the Minds of the Said Court
by the means alledged by your Petitioners Said
Intestates late administrator against his
demand which the Defendant denied to
be founded on propriety or Justice and the
Defendant did state that his answer did
not Simply Set forth Arguments but facts
which he would shew and prove to be

pertinent

pertinent to and connected with the matter
on which your Petitioners Intestates had grounds
his action whereto your Petitioners said
Intestate late administrator had not in
any degree replied and had by such silence
and Omission acknowledged that such pretended
facts were true in all and every part thereof
that the Defendant had not in any one instance
evaded or avoided properly Answering the
charge in your Petitioners Intestate Bill of
Complaint contained which the Defendant
did say was not only unjust but wrongly
founded because it appeared that the foundation
on which he had built his said Charge
was grounded on an award upon Accounts
pritended to have Existed between the said
Dawsonne Drake deceased and your Petitioners
said Intestate in their lives time and as
the Defendant did know that such Accounts
were fictitious and framed for the sole purpose
of Misleading the Arbitrators of the said
Award into an admission thereof the Defendant
stood Justified in shewing what Accounts
there

really were Existing between the said
persons in their lives time and thereby to prove
that there could not be any Accounts to
ground the said award and Consequently that
the Defendant could not in Justice allow
of payment to be made to your Petitioners
said Intestates late administrator out of
the Assets of the said deceased Dawsonne
Drake to discharge the said Bond given
upon an award so illegally obtained— and the
Defendant said that the said Bond could not
legalize the said award nor the said award
stamp Validity truth or Justness upon
Accounts that had not any of those requisites
to warrant them but on the contrary that
were Entirely deficient in and Void of all
of them that the said Charge of your Petitioners
said Intestate in his said Bill contained the
same being illegal and unwarrantable in
its foundation and no Act of Collusion
between your Petitioners said Intestate and
the said Nathaniel Barlow nor any advantage
that might have been taken of the said

Nathaniel

Nathaniel Barlow to have induced him to allow of Debts to be owing by the Said Dawsonne Drake to your Petitioners Said Intestate which were not owing could upon the principles of Law or Equity make the Estate of the Said Dawsonne Drake responsible for the payment of Such debts created in fraud Ignorance or Error but according to those principles that that which was once a fraud must always be so— And your Petitioners Said Intestate late administrator could not lawfully claim under a Bond upon So unjust a Consideration nor could he lawfully Keep or detain the Said Bond and the Assignments Copies whereof were annexed unto your Petitioners Said Intestates Bill nor that part of the assets of the Estate of the Said Dawsonne Drake he became possessed from the Said Nathaniel Barlow by means thereof and the Defendant for the reason upon the Said Pretended facts denied that your Petitioners Intestate debt arose of a Bond legally Executed or that he Defendant had evaded the question of the debt but on the

the contrary he had traced it up to its original illegal Source and he had So done not from the Hope of confusing as your Petitioners Said Intestates administrator stated but in that of Shewing by the best demonstrable and unequivocal light the inequity of the foundation of the Claims Set up against him as Administrators to the Estate of the Said Dawsonne Drake—

And the Defendant did in his Rejoinder pretend that the Reasons used by your Petitioners Said Intestates Administrator for not entering into a Circumstantial detail of and a full Replication to the Several particulars Contained in his Answer because he had not the Materials necessary for that purpose did Shew that your Petitioners Said Intestates administrator was convinced of the truth of Such particulars and which the Defendant insisted he ought to have Replied unto because he could as well recognize the reality thereof from the Accounts Composing Such particulars by the Exhibition thereof made by the Defendant as if they were actually in your Petitioners Said Intestates

administrator

Administrators own possession and the Defendant said that it was not possible that your Petitioners Intestates said Administrator could be ignorant of the Existence of the Articles of Agreement between the said Dawsonne Drake and your Petitioners said Intestate Copy whereof Marked **A** was annexed to his said Answer or labor under any difficulty to Reply to the real State of facts asserted and to the Arguments used by the Defendant therefrom to combat the demand set up by your Petitioners said Intestate in his said Bill nor could your Petitioners said Intestates administrator be less able to reply to the matters set forth by the Defendant upon the ground of the Account Current Marked **B** to shew that the said Dawsonne Drake was not indebted unto your Petitioners said Intestate on the twelfth day of August one thousand seven hundred and Eighty any more than the Sum of Seven hundred & Twenty two Pagodas and the Defendant said that your Petitioners said Intestates administrator ought to have made it a particular Object to Reply to that part of the Defendants Answer

and also to shew why the said Dawsonne Drake was not credited in the Account Current thereunto annexed Marked **C** for the Annual payment of four thousand Pagodas Amounting to twelve thousand Pagodas in pursuance of the Articles of Agreement before alluded to in like Manner as he had been credited for the same in the Account Current Marked **B** although it appeared that both Accounts were Respectfully the same on the debit side **A** the several Items of dates and Sums Except that a debit of One thousand and Eight hundred Pagodas was made in the said Account **C** after the said Dawsonne Drakes death which was not made in the Account **B** made and signed by your Petitioners said Intestate in the said Dawsonne Drakes life time as having been paid to Mr Johnstones which the Defendant had in his Answer said if paid at all was done in Compliance with the aforesaid Articles of agreement and with which the said Dawsonne Drake had not any thing to do and that by such unjustifiable Means the

Defendant

Defendant did pretend Your Petitioners said Intestates by the Account Marked C made the said Dawsons Drake after his death indebted to him in the sum of fourteen thousand five hundred and seventy two pagodas Whereas by the Account B he was only indebted in the sum of eleven hundred and Seventy two pagodas and the Defendant said that your Petitioners said Intestates Administrator could not be ignorant of the particulars of the Exhibit E because he had annexed a Copy thereof to his Replication and the Defendant did state that your Petitioners said Intestates Administrator ought also to have replied particularly to the Matters set forth respecting the Account brought against the said Estate of the said Dawsons Drake Marked D because the same appeared to be composed of the Balance of the said Account Current C being the Sum of fourteen thousand five hundred and seventy two pagodas and the sum of One thousand five hundred pagodas the Amount of the deceased Bonds to your Petitioners said Intestate dated the fifth day of September One thousand Seven hundred and Eighty and of Interest thereon making together the Sum of twenty five thousand Seven hundred and fifteen Pagodas and Nine fanams and further because the said Sum of fourteen thousand five hundred and seventy two pagodas was charged in the said Answer to have arisen upon the omission or suppression of the Credit of the Sum of twelve thousand Pagodas in the aforesaid Account Marked C for three years allowance according to the aforesaid Articles of Agreement and by the unfair addition of the Sum of One thousand Eight hundred Pagodas paid to Mr. John Sykes the first whereof was duly credited in the Account B and the latter was not at all - and the Defendant said that if your Petitioners said Intestates administrator had not been satisfied with the quality of the said Exhibits he ought to have prayed that the Originals might be produced but as he had not called for the Originals and as he had totally neglected to Reply to the matter alledged upon the grounds thereof the said Exhibits and the matter alledged thereupon were admitted

admitted by practice and the course of the Law to be true in every part and for the full purpose and effect that the same were set forth and made use of.—

And your Petitioner humbly Sheweth unto your most Excellent Majesty in Councel that the Defendant did in and by his said Rejoinder deny that there were any Accounts between the said Dawsonne Drake in his life time nor at the time of his death which happened on or about the Ninth day of February One thousand Seven hundred and Eighty One save and Except what was due unto him at that time on Account of the four thousand Pagodas per Annum by the aforesaid Articles of Agreement Covenanted to be paid quarterly to the said Dawsonne Drake by your Petitioners said Intestate so long as the Cowle for Betle and Tobacco Farms therein referred to should continue to rent from the thirty first day of August One thousand Seven hundred & Eighty until which day the aforesaid Payment was last made under the said Ninth day of February the day on which the said Dawsonne Drake died and from which aforesaid thirty first day of August One thousand Seven hundred and Eighty until the thirty first day of March One thousand seven hundred and Eighty One the day on which the said Cowle was discontinued by the President Governor and Council of Fort St George the Defendant had in his Account Current annexed into his Cross Bill debited your Petitioners said Intestates at the rate of four thousand Pagodas per Annum making the sum of two thousand three hundred and thirty three pagodas and fourteen fanams and save and Except the Sum of seven hundred and Seventy two Pagodas owing by the said Dawsonne Drake unto your Petitioners said Intestate for the Balance of the aforesaid Original Account Current dated the thirty first day of August aforesaid and the only further Sum of One thousand five hundred Pagodas for the said Dawsonne Drakes Bond of the fifth day of September One thousand seven hundred and Eighty for both which Sums the Defendant had

had given due Credit in the Said Account annexed to his said Cross Bill and the Defendant did in and by his said Rejoinder further state that in order to shew that the said Dawsonne Drake could not be indebted to your Petitioners Said Intestate in any Sum to warrant his demand upon the Estate did set forth that he your Petitioners said Intestate died some time in the Year of our Lord One thousand Seven hundred and Eighty One make up an Account as between him and the Estate of the said Dawsonne Drake in his own hand Writing wherein he debited the said Estate for the said Balance of the before said Account Current of the thirty first day of August One thousand Seven hundred and Eighty being the Sum of Seven hundred and Twenty Two Pagodas and also for the Sum of One thousand five hundred Pagodas the principal of the aforesaid Bond for the deceased to him and did calculate Interest thereon up to the thirty first day of May in the said Year of Christ One thousand Seven hundred and Eighty one whereby he

he did make himself a Creditor of the said Estate in the Sum of two thousand four hundred and Eighty one Pagodas twenty Nine Fanams and thirty Cash Copy of which Account the Defendant did annex to his said Rejoinder and pray the same might be taken as part thereof and the Defendant did further state that Your Petitioners said Intestate had actually received from the said Nathaniel Barlow as a Creditor of the said Estate of Dawsonne Drake the Sum of three hundred and Seventy five Pagodas for a Dividend of twenty five per Cent upon the said Bond on the twenty Seventh day of February One thousand Seven hundred and Eighty three as the Defendant said did appear by an Item thereof in the Account Current annexed unto the Defendants Cross Bill which clearly shewed that Your Petitioners said Intestate did not at that time Nor and the said Estate indebted to him in a greater Sum than two thousand four hundred and Eighty One Pagodas twenty Nine Fanams and thirty Cash and Nevertheless that not even that

even that Sum was due to him because he should have given the Estate Credit for a proportion of the four thousand Pagodas by him Your Petitioners said Intestate Yearly Covenanted to be paid by the before said Articles of Agreement from the thirty first day of August One thousand Seven hundred and Eighty one the day of the death of the said Dawsonne Drake and from that day until the first day of March following when the Coule for Batte and Tobacco was discontinued which would have Amounted according to the aforesaid Account Current Annexed unto the Defendant Cross Bill to the Sum of Two thousand three hundred and thirty three pagodas and fourteen fanams to be set off against the Sum of Seven hundred and Twenty two Pagodas and One thousand five hundred pagodas making together two thousand two hundred and Twenty two pagodas and the Interest thereon whereby the Defendant doth state it Evidently appeared that the said Dawsonne Drake could be indebted to Your Petitioners said Intestate at the time of his death in only a very inconsiderable Sum

Sum of Money which the Defendant said could not be an Object for Arbitration as the Amount on which the same Exists said was clear and simple and the Defendant said that if Your Petitioners said Intestate had made any other demand upon the said Nathaniel Barlow after the death of the said Dawsonne Drake than what could proceed from the said three Articles of Account one at the debit and two in the Credit of his Account the same was false fictitious & unwarrantable and such as the said Nathaniel Barlow ought to have Rejected and refused to allow and in any Manner to admit as the Subject of Dispute and Controversy before Arbitrators and the Defendant said that if the said Nathaniel Barlow by a collusion with Your Petitioners said Intestate or that he was ignorant of his right as administrator of the deceased Dawsonne Drake or that Your Petitioners said Intestate had taken any unfair advantage of the Ignorance or Weakness of the said Nathaniel Barlow to have induced him

him to arbitrate any other Accounts framed after the death of the said Dawsonne Drake than those before shewn the Defendant was humbly of Opinion and he was advised that he had Law and Equity on his favor than an award obtained by such Consent and means could not operate to defraud the Creditors and Legatees of the said Estate of them Joint Claims thereupon nor would the artful formality of Executing Arbitration Bonds and making a Submission to an award by those means intended to be procured a Rule of Court at all avail to make that Legal which had already been illegal in its foundation the Defendant therefore stated he was advised that the Point previously to be determined was not whether Arbitration Bonds were Executed in the formality shewn by your Petitioners Intestate said Administrator or that an award was given in Consequence thereof in the Manner by him shewn but whether there were any differences disputes and Controversies at the time Existing between

the said Nathaniel Barlow sole Administrator with the Will annexed of Dawsonne Drake deceased and your Petitioners said Intestates Bills and Tobacco Farmer or Renter under the Honble English East India Company whether the certain debts and demands relating thereto were legal or just or had Existence in the life time of the said Dawsonne Drake or whether the same had arisen from any act done by the said Nathaniel Barlow after his death connected with any duty or thing for the performance and Execution whereof the deceased had bound himself his Executors and Administrators the Reverse and contrary of which cases could not have given an Authority to the said Nathaniel Barlow to have bound the Estate or to have given away any part of it upon grounds that were not strictly legal and Consequently if the Submission had not been to such matter as the said Nathaniel Barlow could legally Consent as administrator that the Award given upon such Submission could not have a legal operation to have bound the Estate of the said Dawsonne Drake

Drake or to have sanctioned the Keeping
using and Conversion of any part of the assets
thereto belonging and the Defendant did pretend
that there were not any other Claims debts or
demands Existing in the life time of the said
Dawsonne Drake and your Petitioners said Intestator
which could warrant the submission & Consequent
award thereupon nor were there any Covenant
between the said parties whereby the said
Dawsonne Drake had left any duty or thing
to be performed by his administrator the only
Covenant that was between them was the
aforesaid Articles of Agreement which the
Defendant said were dissolved by the act of God
in the death of the said Dawsonne Drake
as the part by him to be informed was a pure
personal duty that could extend no further on
him than during his life and the Defendant
did further state that he denied that the said
Arbitrators were properly instructed and informed
by the said Nathaniel Barlow of the real
state of Accounts between the said Dawsonne
Drake in his life time and your Petitioners

said

said Intestate because if they had been so informed it would not have been possible that they could have awarded that the said Nathaniel Barlow as administrator of the said Dawsonne Drake should pay or cause to be paid unto your Petitioners said Intestate out of the first assets belonging to the Estate the Sum of fourteen thousand Pagodas because it was no where shewn that the said Estate was indebted unto your Petitioners said Intestate but by the Account Marked C before alluded to Certified by Alavar and Signed by the said Nathaniel Barlow debiting the deceased in the Sum of fourteen thousand five hundred and Seventy two Pagodas which was a fictitious Account framed after the death of the said Dawsonne Drake for the purpose of setting aside the Account Marked **B** whereby he was duly indebted in the Sum of Seven hundred & Seventy two Pagodas as settled between your Petitioners said Intestate and the deceased in his life time and by the Account Marked **D** which was grounded upon the fictitious balance and Account to the Amount of the deceaseds Bond for One

thousand

thousand five hundred pagodas and also by a most
Extravagant Account referred to in the Opinion of
the Arbitrators delivered with their award and which
the Defendant said appeared to have been the
ground upon which it was made Amounting to
the Sum of One Lack twenty thousand two hundred
and fifty Pagodas which Sum was reated to
be composed of the Twelve thousand Pagodas paid
by your Petitioners said Intestate to the said Dawsone
Drake for three Years payments at four thousand
Pagodas each in Conformity with the aforesaid
Articles of Agreement for losses by the Farm having
been taken away Seven Years before its Expiration
and for seizure of Tobacco by the New Renter
and for Interest on the Charges the Defendant
prayed to Observe that those Charges appeared
by the aforesaid Writing to be grounded upon
Supposed losses Occasioned by the Surrender of the
Cowle obtained by Mr Drake in his lifetime
by the said Nathaniel Barlow after his death
and before he had taken out Letters of adminis-
-tration to the Estate of the said Dawsone Drake
and that in consequence of such personal act

of

of the said Nathaniel Barlow your Petitioners
said Intestate in Collusion with the said Nathaniel
Barlow or taking an unfair advantage of his
great Weakness of understanding demanded from
the said Nathaniel Barlow as Administrator of
the said Dawsone Drake a Restitution of
the said Twelve thousand pagodas on Account
of the said Articles of Agreement and for the
payment of the said other Charges Amounting to
the Sum of One hundred and twenty Nine thousand
two hundred and fifteen pagodas in all for which
the Defendant said he had been informed and which
appeared to be the Sense of the Opinion of the
said Arbitrators that your Petitioners said Intestate
had threatened him the said Nathaniel Barlow
with a Prosecution at Law if he had not paid
him fourteen thousand pagodas from the Estate
of the said Dawsone Drake but the Defendant
said that previous to the Execution of the said
Arbitration Bonds opening the said fictitious
Account some time on or about the Month of
January One thousand seven hundred and Eighty
four the said Nathaniel Barlow either confederating
with your Petitioners said Intestate or by means

of

of the dishonest advantage taken by him your
Petitioners said Intestate of his the said Nathaniel
Barlows ignorance with a View to wrong &
defraud the Creditors and Legatees of the said
Dawsonne Drake he the said Nathaniel Barlow
had on or about the twenty Ninth day of the
said Month of January Executed unto your Petitioners
said Intestate a certain Deed or Instrument
falsly acknowledging that there was a considerable
Balance due and owing from the Estate of
the said Dawsonne Drake to your Petitioners
said Intestate which the said Nathaniel Barlow
had therein covenanted to pay and make satisfaction
or cause the same to be Accounted for a mode
satisfactory to your Petitioners said Intestate
after his the said Nathaniel Barlows return
from the Cape of Good Hope whereto the said
Nathaniel Barlow was then about going by
the advice of his Physicians for the recovery
of a very dangerous disorder that greatly affected
his Body and Mind and the Defendant said
that the said Nathaniel Barlow had on the
said twenty Ninth day of January Executed to

Your

your Petitioners said Intestate one certain Bond
or Obligation therein binding himself his Heirs
Executors and administrators in the penal Sum
of fifteen thousand Pagodas conditioned for the
payment of the Sum of Seven thousand five hundred
Pagodas by him the said Nathaniel Barlow
his Heirs Executors and Administrators out of
the first Monies or dividends proved or declared
by the Nabob of the Carnatic or his Successors
to his or their new Consolidated Creditors together
with Interest at the rate of twelve per Cent
p.ª Annum which said Bond or Obligation
also personally binding the said Nathaniel
Barlow his Heirs Executors and Administrators
was Executed and Signed by the said Nathaniel
Barlow as Administrator to the said Dawsonne
Drake deceased which said Bond was the same
referred to in the said Opinion of the said Arbitrators
and in the Account Current Marked **D** before
recited Copies of which Deed as also of the said
Bond or Obligation Marked **F** & **G** did annex
to his said Rejoinder and pray the same might
be taken as part thereof And the Defendant said

that

that it appeard by the said Deed and by the
said Nathaniel Barlows Bond of even date
therewith that your Petitioners said Intestate
had in the Month of January One thousand
Seven hundred and Eighty four thought he
had prevailed sufficently for in his Views
to injure the Estate of the said Dawsonne
Drake and that he was satisfied with the
said Nathaniel Barlows Bond for Seven thousand
five hundred Pagodas as the utmost Sum he
could have gone in conjunction with the said
Nathaniel Barlow towards depredating and defrauding
the said Estate but the Defendant said that after
the said Nathaniel Barlows Return from the
Cape of good Hope your Petitioners said Intestate
had made use of the said Deed of the twenty
ninth day of January One thousand Seven hundred
and Eighty four to threaten him the said
Nathaniel Barlow with a prosecution for
the aforesaid balance owing to him by the
said Dawsonne Drake which he had at
that time made to have amounted to the
Enormous Sum of One Lack twenty nine
thousand

twenty five pagodas to wit some time on
or about the Month of November One thousand
Seven hundred and Eighty five when the
Defendant stated that the said Nathaniel
Barlow had been prevailed upon and by some
unfair Means induced and investigated to
confederate himself with your Petitioners said
Intestate to expel the said demand on him as
Administrator of the said Estate of Dawsonne
Drake to Arbitration and that the said Arbi-
trators the said Colton Bower Burke Dent
and Jonas Dupre Porcher had on the fifth
day of December in the said Year of our Lord
One thousand Seven hundred and Eighty five
given their said Award and Opinion to the
purport and Effect in the Copies thereof to your
Petitioners said Intestates Administrators Replication
set forth which the Defendant pretended he
was advised could not be more binding on
the Estate of the said Dawsonne Drake than
the other proceeding Acts of the said Nathaniel
Barlow and your Petitioners said Intestate on
which the same was founded because the Defendant
stated

stated that there were not any Accounts between the said Dawsonne Drake in his life time & your Petitioners said Intestate than such as the Defendant had set forth and that the admission of the Accounts before the Arbitrators mentioned by them in their said Opinion was irregular and unfair and which could not have been so allowed of and admitted by the said Nathaniel Barlow with any other View or design than that of saving himself from that personal Responsibility he was threatened with by your Petitioners said Intestate in respect of his said illegal demand at the Expence of betraying the Interests of the Estate of the said Dawsonne Drake to the dishonest and fraudulent Views of your Petitioners said Intestate and because it did not appear by the said Opinion of the said Arbitrators delivered with their said Award and which was the Ground thereof that any Accounts or Documents were produced on the part of the Estate of the said Dawsonne Drake by the said Nathaniel Barlow but that the said Award was Entirely grounded upon Accounts produced by your Petitioners said Intestate which Connivance and Collusion of the said parties was as he was advised sufficient to Vitiate the said award even if the said Nathaniel Barlow could Legally have submitted Matters to Arbitration as Administrator to the said Estate which had not any connexion with it and further more because the said Accounts so unfairly Exhibited were not composed of any Article Except that of Twelve thousand Pagodas for three years payment of four thousand Pagodas each that had the most distant Connexion with any Act or Deed of the deceased Dawsonne Drake in his life time and it might have appeared by the said Account Current Marked **B** before referred to of the thirty first day of August One thousand Seven hundred and Eighty as it then did appear that article was therein fully allowed by mutual debit and Credit in case the same had been produced before the said Arbitrators but instead thereof there was every reason to conclude that the Account made up after the said Dawsonne Drake's death & signed by

clever

alavar and the Said Nathaniel Barlow wherein
the Said Credit to the Estate was suppressed was
substituted in the place of the Said Amount wherein
it was allowed by your Petitioners Said Intestate
And the Defendant Said that the deceased had not
done any Act in his life nor otherwise Authorize
any one after his death to have done any Act
which could have amounted to a breach of the
Articles of Agreement as Covenants entered into
between him and your Petitioners Said Intestates
on the fifteenth day of February One Thousand
Seven Hundred and Seventy Seven and afterwards
ratified and confirmed on the thirty first day
of August in the Same Year but that the Said
Covenants continued mutually binding and were
Reciprocally fulfilled by the parties thereto until
they were dissolved by the death of the Said
Dawsonne Drake and therefore that the Said
Sum of Twelve Thousand Pagodas paid by your
Petitioners Said Intestate was so paid for and
upon a good Legal and bona fide Consideration
Expressed and acknowledged therein and the
Defendant Said that if necessary he could prove
that

that your Petitioners Said Intestate was benefited
by the Means of the Said Dawsonne Drake in
procuring a Remission of four thousand and five
hundred Pagodas annually on the Sum agreed
by him to be paid to Government for the Said
Bulle and Tobacco farm and that it appeared
by the Copy of the arbitration Bond annexed
to your Petitioners Intestates Administrators Replication
that your Petitioners Said Intestate was at the
time of Signing thereof Bulle and Tobacco Farmer
and that he had obtained a Cowle or Grant of the
said farm for the Remaining unexpired term
of the Said Cowle Obtained by the Said Dawsonne
Drake from the first day of March One thousand
Seven hundred and Eighty two One year after
the discontinuance of the aforesaid Cowle by
Government the Said Arbitrators therefore had
made a wrong Conclusion upon the Case of
your Petitioners Said Intestate being deprived
of the Farm Seven Years before the Expiration
of the Cowle that if Mr. Drake had been
living he would have been bound in honor to
have given your Petitioners Said Intestate Compensation

with

with respect to the demand for the seizure of Tobacco because had the said Dawsonne Drake lived until the Expiration of the said Coole the same would have been continued in his Name and your Petitioners said Intestate would have continued to Enjoy the Profits and advantages of it in consideration of his paying four thousand Pagodas per Annum to the said Dawsonne Drake so long as it should remain in his hands — And the Defendant said that the said Dawsonne Drake had not been bound in honor or by Law to have made good any losses from any Event whatever the same might arise for as he was pretended from all profits arising from the Farm he had been in like manner guarranted against all Loses arising therefrom which the said Arbitrators might have Observed if the said Articles of Agreement had been laid before them which it was to be presumed they were not by giving an Opinion so Contrary to their very Spirit and Sence and the Defendant said that the whole of the Reasoning of the said Arbitrators in their said paper stated their Opinion delivered in with the said Award had clearly shewn a want of information and almost a Impossibility of determining as they had by their said Award which appeared to be as the fact was grounded on the Extravagant Exaggerations of one party assisted in his dishonest Views by a pretended Opponent and both conspiring in the perpetration of the Evil design of imposing on their Judges and by that means to have made their Award the support of unjust Claims on the deceased to the manifest wrong and injury of just and lawful Creditors —

And your Petitioner humbly Sheweth unto your Most Excellent Majesty in Council that the Defendant in and by his said Rejoinder did further state that it was mere Evasion in your Petitioners said Intestates Administrator to pretend that it was not possible for him to Enter into an investigation of Accounts previous to the said Arbitration without that he equivocated by Reasoning to himself a Meaning that no Accounts were previous thereto Existing whereupon the said Award could be legally grounded and the Defendant said

said that he was not in possession of any Document or Voucher whereon he Knew or did believe that an award could be legally founded nor had the Defendant brought forward only such as he found Convenient to his purposes nor had he Concealed any that he apprehended or believed would tend to throw any favorable light on the unjust and ill founded demand of your Petitioners said Intestates Administrator which he conceived to be impossible but that he the Defendant had candedly and fairly enlarged upon every document or Voucher he had in his possession relating to the business in question in order that the said Court might by a through investigation thereof determine according to right and Justice and that he had not suppressed any one Circumstances to his Knowledge that would tend to Cast a stronger light upon the truth of the whole case and of course he could have no hope from a partial and unfair shewing to impose upon the Judgement of the said Mayors Court but on the Contrary that such seemed to be the hope and design of your Petitioners said Intestates administrator who

under pretence of ignorance of the grounds on which the Award in question was given and that all that he Knew of the matter in dispute was confined to the period of the Execution of the said Nathaniel Barlows Bond and assignment Concealed from the said Mayors Court those real facts he in his Conscience ought to have been Convinced would if discovered have given such an unfavorable appearance to his pretended demand as would have Compelled him to relinquish it in despair of that success he had hitherto cloaked himself with and to do the Defendant on behalf of the Executors of the deceased Dawsonne Drake the Justice he had hitherto withheld from him And the Defendant said that it could not be credited by any person however unconformed of the nature of Accounts and important Money transactions that so large a Sum as one Lack twenty Nine Thousand two hundred and twenty five Pagodas could have had but the appearance of a day or during the short time the Amount of which that Sum was stated to have been the balance was before the said Arbitrators and then immediately after

after to have Vanished and that no base book or Memorandum of that Voluminous Sum should have remained in the possession or Memory of your Petitioners said Intestates Administrator Except that the said Account had been framed for no longer duration than till it had worked the bad purpose for which it had been created and the Defendant said he might with Justice apply to the Conduct of your Petitioners said Intestates Administrator in that Remarkable instance the Maxim in Equity he himself had quoted that he who would have Equity should do Equity - and the Defendant did deny that he had used any means to shew the invalidity of the Bonds and assignments in question than such as were strictly conformable to the known principles of Law and Equity & the Defendant said that he had not withheld any information respecting the Arbitration which had been requisite for him to have given thereof by producing all the Accounts that were Existing between the said Dawsonne Drake in his life time and your Petitioners said Intestate and that proof of Accounts of the Legality of the proceedings before the said Arbitrators did then rest with the Administrator of your Petitioners said Intestate and he could not be allowed to Exempt himself from the duty of giving so reasonable a satisfaction to the said Mayors Court upon a matter he was called upon so particularly to declare himself and his declining so to do was of itself sufficient to have Justified and Established (as the Defendant pretended) the truth of the matters he had charged or plead against the said Bond the said Award and the petitions upon which it had been grounded and that in addition to what the Defendant had before Observed respecting the Illegality of the said Nathaniel Barlow and your Petitioners said Intestates Collusion or of the unfair advantage that had been taken by your Petitioners said Intestate by threats and Menaces to prosecute him for enormous sums of Money unless he compleed & condescended with him to favor his unjust designs against the said Estate the Defendant said that it appeared that the demand made by your Petitioners said Intestate against the said Nathaniel Barlow before the said Arbitrators and for which he

be menaced and threatened a prosecution at Law was to the Sum of One Lack twenty Nine thousand two hundred and twenty five pagodas for that the penalty of the Obligation Bond by a fatal oversight in the said parties was only made to be thirty thousand Pagodas which the Defendant said was a full detection of the real sentiments of your Petitioners said Intestate upon his said demand that it was not just nor true nor warrantable upon any Principle of Law or Equity the Conclusion therefrom ought therefore to have been that it had been fictitious and false and a mere continuance of the parties to make the said demand of such an Enormous Sum in order better to give a colour to the means used by them to have induced the said Arbitrators to have Awarded the Sum of Fourteen thousand Pagodas as a Sum Your Petitioners said Intestate had been willing to agree in full discharge of his said Enormous Claim of One Lack twenty Nine thousand two hundred and twenty five Pagodas from whence the Defendant pretended it was fair to infer that the said Nathaniel Parlow had not said any thing or produced any proofs in opposition to the said Sum having been awarded upon the Grounds of your Petitioners said Intestates Accounts produced before the arbitrators Marked **D** grounded upon the said Account made up after the death of the said Dawsonne Drake signed by him Marked **C** wherein a Credit in favor of the said Dawsonne Drake of the Sum of Twelve thousand Pagodas was purposely omitted as it could not be believed that the said Nathaniel Parlow was ignorant that the Sum of Twelve thousand Pagodas had been admitted in the Account **B** upon a mutual Settlement of Accounts between the said Dawsonne Drake in his life and your Petitioners said Intestate and the Defendant said that there could have been no greater necessity for the said Nathaniel Parlow to have given the Bond in question than there was necessity for his conceiving at the means used by your Petitioners said Intestate to obtain it and the Defendant said that he denied that the said Arbitrators could have awarded any Sum to have been paid to your Petitioners said Intestate if they had been in possession of all the documents papers and Accounts

and the necessary information respecting the same
that were then before the said Mayors Court
nor could they legally have done so because the
Defendant denied that there were any documents
Papers and Accounts whereby they could legally
have awarded any Sum of Money to be paid
out of the Estate of the said deceased Dawsonne
Drake and the Defendant denied that he was
bound by the said Award and the Bonds and
Securities illegally granted thereon and the Defendant
denied that as administrator to the Estate of the
said Dawsonne Drake he was bound by any
Illegal Act done by the said Nathaniel Barlow
during the time that he was Administrator thereof
but the Defendant admitted that an Award could
not be set aside but under particular Circumstances
such as Collusion of parties a want of Authority
of delegate and other legal incapacities and abuse
of the Authority delegated to the Arbitrators and
that the Defendant had particularly charged
such Collusion of parties and other frauds and
incapacities as were sufficient in Law and Equity
to set aside the said award and also because the

said

said Arbitrators had not legal grounds whereon
to found their said Award the said Award having
been moreover Evidently Repugnant and Illegal
and given without a Knowledge of the premises
for by the said proceedings if not only appeared
that the said Nathaniel Barlow had abandoned
the Interests of the Estate of the said Dawsonne
Drake by not producing the only State of facts
by which the truth could be known to the
said Arbitrators but that he allowed of Accounts
and other Matters to be produced before them
which were not only without Connexion with
the demand in his life time or his Estate after
his death but which were false and framed
after his death by which Means the truth had
been concealed from and Misrepresented to the
said Arbitrators that the said Nathaniel
Barlow had not in those instances only allowed
of the Estate to be prejudiced but that he had
also concealed from the said Arbitrators that
there were Endorsements on Judgement and Bonds
to a very Considerable Amount which to that
day were not satisfied and discharged with no View

but

but to induce the Said Arbitrators to have given the Award they had upon the Said Jubilations Accounts and to make them Commit under those Concealments and misrepresentations the last act of injustice that could have been done to the Estate by awarding that the Estate should pay the Sum of Fourteen thousand Pagodas and more over that the Sum should be paid in the best Manner and by the most effectual ways and means the Circumstances of the Estate would admit and allow of by Assignment of Bonds Mortgages and other most Secure and Satisfactory to your Petitioners Said Intestate which the Defendant Said the Said Arbitrators could not have legally done if they had known and been informed of the real and true State of facts and the real Situation of the Estate the Defendant therefore Said that the Said Award was avoided by the Said Arbitrators having mistaken and by their having been purposely led to mistake the Facts as well as the Law upon the premises they were to decide and determine upon and the Defendant did pretend that the Said Court could not only Examine the Reasons and Grounds of the Proceedings of the Said Arbitrators but also into what matter they considered at the time of making their Said Award and the Defendant did therefore state that your Petitioner Said Intestate having commenced his Action upon a Bond given under the Said Award his Exceptions to the Same were amply and timely made in Such as he hoped and doubted not but the Said Mayors Court would deem Sufficient to adjudge that the Said Bond and the Assignments and Acts of the Estate thereby assigned were Illegally obtained and without Valid or good Consideration and that the Said Nathaniel Barlow could not legally Execute the Said Bond and by Consequence that your Petitioners Said Intestate could not Lawfully demand Sue for payment thereof but that he ought to deliver up the Said Bond Assignment and the Acts of the Estate thereby Assigned to the Defendant as part of the Estate of the Said Dawsonne Drake demand as well as the Several Sums by him Received thereon and unlawfully converted to his own use to the Amount of the Sum of two thousand four hundred and fifteen Pagodas

Poyodas Seven fifnams and one Cash as appeared by the Bill of Complaint of your Petitioners Said Intestate And the Defendant did say that he Said made most Substantial and Valid Objections to the Said Award by pointing out in his Answer and in his Said Rejoinder annexing Copies of the Said Award that there were not any Accounts to ground the same and that the pretence of Accounts having Existed between the Said Dawsonne Drake and your Petitioners Said Intestate was false and unjust and done with a View of Misleading the Arbitrators and defrauding the Estate of the Said Dawsonne Drake And the Defendant did deny that there were any particular Circumstances in your Petitioners Intestates Case or that there was any fairness or legality in his demand that could induce the Said Mayors Court to consider the Defendants Answer as litigious or Vexatious or that the same or that his Said Rejoinder were framed with any other design or hope than that by a fair and candid and legal defence to your Petitioners Intestates Bill the Said Mayors Court would be enabled to Decree According to Right and

Justice And the Defendant did further deny that the same were set up with any design of taking an Advantage of your Petitioners Said Intestates Administrators ignorance of the several transactions and dealings that had taken place between the Said Dawsonne Drake and your Petitioners Said Intestate or that he was ignorant thereof or of the several Accounts and Vouchers belonging thereto or connected therewith Notwithstanding your Petitioners Said Intestates administrator had placed himself within the incapacities of Minority at that time for the Defendant did state that there were no other Accounts or Vouchers of transactions and dealings relating to the matter in question or otherwise than what the Defendant stated that your Petitioners Said Intestates administrator was not such an Infant at the time of the Transactions in question taking place as to have been incapable of understanding and be informed of every thing relating to your Petitioners Said Intestates Concerns and affairs in his life time and his pretence of not being in possession of the Said Accounts was merely feigned for the

purposes

purpose of saving himself from being compelled to
Enter into an investigation of such Accounts if
any or to declare what was really the truth that
there were not any Accounts whatever between the
said Dawsonne Drake in his life time and
your Petitioners said Intestate than such as the
Defendant had set forth and shewn and to have
acknowledge that the Accounts shewn to the
Arbitrators alone were fictitious and framed after
the death of the said Dawsonne Drake for the
purpose before set forth And the Defendant said
that no act of the said Nathaniel Barlow nor any
that he could procure or cause to be done by
the means of another upon their legal grounds
before stated could make such act binding upon
the Defendant as Administrator of the Estate of
the said Dawsonne Drake and therefore that the
Release and discharge said to have been given by
your Petitioners said Intestate of and from all
Claims and demands which he your Petitioners
said Intestate had against the Estate of Dawsonne
Drake previous to the Execution of the said Bond
could not legalize or make good any proceedings
illegally

illegally had and done between the said Nathaniel
Barlow and your Petitioners said Intestate previous
thereto but as part of a superstructure raised
upon so illegal a foundation the said Release
ought to be condemned and sentenced with the
other proceedings whereto it was consequent as
Negatory and Void and ineffectual to any legal
purpose And the Defendant in and by his said
Rejoinder did further deny that the said Nathaniel
Barlow had acted in any part of the premises for
the benefit of the Estate or that he was persuaded
from the Nature of your Petitioners said Intestates
demand that an Action at Law could injure
the Estate because the Defendant said that the
said Nathaniel Barlow had known that the
Estate of the said Dawsonne Drake was not at
the time of his death indebted to your Petitioners
said Intestate if at all or but a very small
sum of Money and that at the time of the said
Arbitration that your Petitioners said Intestate
was indebted to the said Estate he ought therefore
to have known that no Action that could have
been commenced by your Petitioners said Intestate

could

could have prejudiced the said Estate and your Petitioner Sheweth the Defendant did in and by his said Rejoinder further state that the Agreement used by your Petitioners Intestates Administrator to Justify his demand to wit that the said Nathaniel Barlow was accountable to the Creditors and to the Heirs of the said Dawsonne Drake and if he committed a devastavit he would be liable to make good the Amount thereof out of his own proper Goods and Chattels shewed that your Petitioners said Intestates Administrator was regardless whether his demand was Just or unjust and that he supported the same under the Act of having led the said Nathaniel Barlow to attempt to do an Act to the prejudice and injury of the said Estate and by taking advantage of his own wrong seemed to conclude that he ought to have paid the Amount of his illegal demand Merely becaus your Petitioners said Intestate had Misled the Arbitrator to have given an award in his favor and becaus the said Nathaniel Barlow had confirmed that Act by having given a Bond for the Amount awarded without chusing to connder whether the Matters laid before the said Arbitrator were fraudulent or otherwise he insisted that he ought nevertheless to have been paid that the Bond had sanctioned all the unfavorable & illegal Proceedings upon which it had been Obtained and that neither Law nor Equity could have interposed ther Power and Coercion to investigate the grounds on which the said award had ben Obtained and the consequent Consideration of the said Bond or whether any had ever Existed in the life of the said Dawsonne Drake or whether any had been given or accrued to the Estate since his death and that State your Petitioners said Intestate Administrator under all those disqualification to create a just debt against the Estate insisted that the Defendant was bound as Administrator to have allowed him to pay himself the Amount demanded by him out of the assets he had under those Unwarrantable and Illegal Grounds possessed himself of and without considering that the Defendant would be guilty of the devastavit imputed to the said Nathaniel Barlow and that he the Defendant would in that case have ben

liable

liable to make good the Amount he should have paid or allowed to be paid to your Petitioners said Intestates Administrator from the Estate of the said Dawsonne Drake out of his own proper Goods but the Defendant said that for the avoidance of that personal penalty and to save himself the trouble of a questionable Action against the said Nathaniel Barlow Hen Executors or Administrators for a Devastavit committed by him after having paid a debt he had illegally created against the said Estate he the Defendant had objected to pay the said unjust debt and had claimed the Assets detained in your Petitioners Intestates Administrators possession in Order that the same might be delivered up to him and applied to the lawful purpose of paying the said Dawsonne Drakes Just debts - and the Defendant did in and by his said Rejoinder further deny that a conviction of doing what had been perfectly right and legal had accompanied the act of submitting the pretended dispute between the said Nathaniel Barlow and your Petitioners said Intestate to Arbitration and the Subsequent act of granting the

the said Bond as it was Evident that there were not any disputes between them that could have given him a Conviction of his doing thereby what had been right or legal but on the Contrary and the Defendant further denied that if your Petitioners said Intestate had Commenced an action against the said Dawsonne Drake instead of submitting his Claim to Arbitration that he would have had a much greater Sum than what had been awarded him or any Sum at all because your Petitioners said Intestate was at the time a debtor to the Estate and the Defendant said that the Opinion of the said Colln Bower Bank Dent one of the said Arbitrators did not add to the strength of the said assertion of your Petitioners said Intestates administrator as the said Opinion and the award thereupon given were evidently founded in Error and Contrary to every principle of Law or Equity - That your Petitioners said Intestates Administrator had not faithfully revealed as far as in his power the several Circumstances relative to and Connected with his unjust Claim

or

that he had replied to the Defendants Answer as far as it was material and necessary for him to have done — that the several Accounts and papers mentioned annexed and referred to in his answer had materially to do with the said Arbitration for the Reason your Petitioners said Intestate had Objected thereto namely because they were of a date antecedant thereto and your Petitioners said Intestates Administrator had not shewn any other grounds whereon the said award could have been legally given but had declined so doing and the Defendant did pretend that the several facts Assertions and Arguments alledged charged and made use of in his answer were true Just regular and pertinent and that they were introduced with no design but that of developing and bringing to light the intrigues frauds and intricacies wherein the artful System of your Petitioners said Intestates conduct in respect of the matter in question had laid Cloaked and concealed and the Defendant therefore said that your Petitioners said Intestate and not the Defendant had attempted to delude where it was not possible to Convince and by Artifice and design attempt to deprive the Estate of the said Dawsonne Drake of its lawful assets contrary to Right and Justice and the Defendant did deny that the said award was the source from whence the present question ought to have its rise because the said award had been Obtained from a source contaminated by fraud fiction and misrepresentation —

And the Defendant did deny that all Accounts between the said Dawsonne Drake and your Petitioners said Intestate had been disposed of by the said Award because they had not been produced but instead thereof false and fictitious Accounts had been admitted to be produced before the said Arbitrators which had not any connection with the Accounts between the said Dawsonne Drake in his life time or it would not have been possible therefrom to have legally made the Estate of the said Dawsonne Drake a debtor to your Petitioners said Intestate —

And the Defendant did further deny that any Accounts subsisting between the said

Dawsonne

Dawsonne Drake in his life time and your Petitioners said Intestate had or could center in the said Bond but that the same had been given without any Legal Consideration and the Defendant humbly Conceived that it could not appear by any reason shewn by your Petitioners said Intestates administrator that the Defendant was indebted to him in the Sum of fifteen thousand two hundred and twenty five Pagodas thirty Eight fanams and Seventy Cash or in any other Sum or Sums of Money but on the Contrary that your Petitioners said Intestate & Administrator was indebted unto the Defendant as Administrator of the Estate of the said Dawsonne Drake unadministered by the said Nathaniel Barlow in the Sum of One thousand and Eighty Eight pagodas twenty three fanams and twenty four Cash for the balance of the Amount Annexed to his Cross Bill and that your Petitioners said Intestates Administrator was moreover bound to pay the Defendant the Sum of Two thousand four hundred and fourteen Pagodas Seven fanams and one Cash by

by him Acknowledged in his Bill of Complaint to have been received from the Assets illegally Assigned to your Petitioners said Intestate and also to deliver up to be Cancelled the said Bond and two Assignments together with the said Assets thereby Assigned — And the Defendant said that your Petitioners said Intestate Administrator by being Decreed so to do would thereby only be compelled to do an Act of Justice to the Estate of the said Dawsonne Drake which was not added to or benefited in his life nor since his death by any Consideration paid or other Equivalent given by your Petitioners said Intestate in his life or by his Administrator since his death for the said Bond and that it was contrary to Law and every sound Reason to construe the Acts of the Administrator of his Estate either before or after he had been invested with that Authority as binding on his Estate because such Acts were not legal and conformable to his duty and office as administrator but contrary thereto and moreover because if an Administrator could lawfully alien or dispose of the

the Estate of a Deceased person upon illegal
Consideration or without any consideration at
all would incumber the Estate by Bonds or
other Deeds merely because he had the power of
possession given him by Law it would be in
the power of persons invested with that Authority
to pervert it from legal to an illegal purpose
and such an Allowance of the Law would
offer Encouragement to administrators to combine
and Confederate with other ill disposed persons
to admit of unjust debts set up on the one
side and acknowledged on the other with a
View of Converting the lawful Assets of the Estates
they so became Entrusted with by paying therefrom
or securing thereby the payment of such unjust
debts or if such a Connivance between the
Administrator and such pretended Creditor could
be sanctioned and put out of the power of Laws
or Equity to Enquire into by the Medium of
an Award procured to have been given by the
said parties upon false Accounts Exhibiting such
unjust debts which as the Defendant pretended
pointedly the case and that an Award thus

obtained

obtained was allowed to have been a legal Bar to
all retrospection to the Grounds upon which
such award could be given the Defendant said
that no person having a Claim upon the Estate
of a deceased person whether as Creditor or Representative would be secure of recovering from
the said Estate as the means of Evading their
Claims could be so easily effected by a pretence
of the administrator having already given other
supposed creditors Bonds and have made away
with the Assets of the Estate by Assignment as a
Security for the payment of such Bonds to such
false and suppositious Creditors but the Defendant
said that the Wisdom and purity of the Law favored
truth and Justice and abhored falsehood and that
it was the peculiar province of Equity to relieve
against fraud to rectify Mistakes and supply defects
that the Law presumed a trust should be executed
for the sole purpose for which it was given
and no person to whom a trust or authority was
delegated had the power of enlarging or withholding
the Execution of it Arbitrarily but was bound to
administer it faithfully for the sole purposes
for

for which it was dispensed that if he abused his trust by Illegally Converting the property a thing Committed to his Charge that not only he was answerable for such Waste but a person who under those incapacities is the trustee to dispose of what was only his own for a legal purpose should receive such property under an illegal Conveyance was also answerable in the Law for the possession thereof and therefore that the Defendant was not obliged as the only refuge whereto he could resort for Justice to prosecute the Heirs Executors or Administrators of the said Nathaniel Barlow or his Sureties for a Devestavit but the Law had provided and did furnish him with a more direct means of repairing the injury done to the Estate of the said Dawsonne Drake by an Action against Your Petitioners said Intestate administrator as having in his possession and detaining and unlawfully Converting to his own use the identical and marked property of the Estate described in the illegal Assignments thereof as would appear by Copies of the said Assignments annexed unto your Pet. said

said Intestate's Bill of Complaint and that therefore the Defendant in consideration of the premises humbly conceived that your Petitioner said Intestates Administrator was bound to pay to the Defendant as Administrator aforesaid not only the said Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash the Amount of the Account Current Annexed unto his Cross Bill but also to pay the Sum of two thousand four hundred and fourteen Pagodas Seven fanams and one Cash acknowledged to have been received on Account of the said Illegal Assignment from the Produce of the property of the Estate of the said deceased Dawsonne Drake illegally Assigned as aforesaid and also to deliver up unto the Defendant the Bond of the said Nathaniel Barlow to your Petitioners said Intestate under date the twenty first day of December One thousand Seven hundred and Eighty five for the Sum of Fourteen thousand Pagodas and also the said two Assignments of the Assets of the said Dawsonne Drake deceased to be cancelled

and

and also to deliver up to the Defendant the
said Assets and Effects thereby assigned being
three new Consolidated Bonds of His Highness
the Nabob of the Carnatic Nos. 228. 229 and 230 for
the principal Sum of Five thousand Pagodas each
all bearing date the twenty Sixth day of
November One thousand Seven hundred and Seventy
Seven and any other part or parts of the Estate &
Effects of the said Dawsonne Drake he might
have in his Custody Power or possession —

And your Petitioner humbly Sheweth
unto your most Excellent Majesty in Council
that the Defendant did also Exhibit and file
his Cross Replication to your Petitioners said
Intestates Cross Answer and did state that your
Petitioners said Intestates Administrator did
stand Justly and truely indebted unto him as
Administrator as aforesaid in the Sum of One
thousand and Eighty Eight pagodas twenty three
fanams and twenty four Cash being the Balance
of an Account Current annexed unto his said
Cross Bill and that the said Defendant could
not be nor was therefore indebted unto your
Petitioners

Petitioners said Intestates Administrator in the
Sum of Fifteen thousand two hundred and twenty
five pagodas Thirty Eight fanams and twenty
Nine Cash or in any other Sum or Sums of
Money whatever and the Defendant did pretend
that your Petitioners said Intestates Administrator
had not shewn the same in any manner requisite
and necessary in the Law or otherwise by his
Original Bill of Complaint and the Amount
Thereof thereunto Annexed that the Illegality
and unwarrantableness of which said Bill
of Complaint and the demand thereupon founded
were fully and at large set forth by the
Defendant in his Answer to the said Bill
of Complaint and to which Answer the
Defendant did state your Petitioners said Intestates
Administrator had put in an Evasive incompleat
and insufficient Replication without entering
upon or denying the Grounds of the Defendants
defence and Consequently that your Petitioners
said Intestates Administrator had acknowledged
Confessed and admitted the same to be true and
that he had confirmed and shewn the same to

be

be so by his Rejoinder to your Petitioners Intestates Original Replication and which Rejoinder the Defendant did pray might be made and admitted as part of his said Cross Replication and proceedings in the Cross Cause

And your Petitioners humbly shewith unto your most Excellent Majesty in Council that to the Defendants said Cross Replication your Petitioners said Intestates Administrator did Exhibit and file his Cross Rejoinder thereto and thereby denying as in and by his Cross Answer he had denied to stand indebted unto the Defendant as Administrator aforesaid or otherwise in the Sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash or in any other Sum or Sums of Money whatever and on the contrary charging that the Defendant as Administrator of the Estate and Effects of Dawsonne Drake deceased stood Justly and truely indebted unto your Petitioners said Intestates administrator in the full and Just Sum of Fifteen thousand two hundred and twenty five Pagodas thirty Eight

fanams

fanams and twenty four Cash as was charged and setforth in your Petitioners said Intestates Original Bill of Complaint and the Account Current thereunto annexed in and by your Petitioners said Intestates Administrators Original Replication to the Defendants Original Answer and the several Exhibits to the said Original Replication annexed to which Original Bill of Complaint and Replication your Petitioners said Intestates Administrator did beg leave to refer and pray the same might be taken as part of his said Cross Rejoinder and your Petitioners said Intestates Administrator did in and by his said Rejoinder further state that his Original Bill of Complaint stood upon the most legal and warrantable Grounds notwithstanding the assertion of the Defendant to the contrary nor that there was any thing setforth in the Defendants said Answer to the said Bill of Complaint which could in the least effect your Petitioners said Intestates administrators right of Action or the justness of his demand for

your

your Petitioners said Intestates Administrator did say that his said Action was brought upon a Bond the due Execution of which had never yet been impeached by the Defendant in his said Answer on the Contrary that the said Administrator did not to any positive facts but was full of doubt and ambiguity it shewed merely that the Defendant thought it incumbent upon him to withhold his acquiescence to such demand as were in his Opinion Exceptionable until he had an Opportunity of stating his Reasons it then went into a Variety of Statements altogether foreign and impertinent and concluded with observing that all such Statements carried in his the Defendants Opinion strong conviction of injustice and then without once denying the Equity of your Petitioners said Intestates Claim stated he had no other Way in the Litigation than that of acquitting himself in his own Opinion and your Petitioner humbly sheweth unto your most Excellent Majesty in Council your Petitioners said Intestates Administrator did in and by his said Rejoinder state that his Replication to the Original Answer of the Defendant was full compleat and sufficient much more than was absolutely necessary to establish his said Original Bill because as the said Bill was brought upon a Bond and as the due Execution of which Bond was not denied by the Defendant in his said Original Answer it of course ought to stand as fully admitted that it was not for him to follow the Defendant through the mass of abousive and Extraneous matter in his said Cross Replication set forth nor to Enter into a Computation of Accounts which were of a date previous to and done away by the said Bond Copy of which was annexed to your Petitioners said Intestates Original Bill of Complaint and that therefore your Petitioners said Intestates Administrator had neither Confessed nor admitted any Matter or thing in the Defendants said Answer Contained nor was the same in any wise Confirmed by the Defendants said Original Rejoinder Because the Rejoinder agrees out of and could not depart from the Answer and

that

that if the Answer was as the Defendants Said Original answer really had been incompetent & defective the Rejoinder could not cure the defect nor Supply the deficiency and your Petitioners Said Intestates administrator Said that the Original Answer of the Defendant was very incompliat and defective and that his Rejoinder was still more so Exclusive of the Extraneous and new matter it contained and which had no relation to or connection with his Said Replication but was wholly and entirely a departure therefrom that it was also replete with invection of the severest and most Malignant tendency and Did dwell on assertions and insinuations of the most Scandalous and defamatory nature Equally untrue as they were irregular and Such as your Petitioners Said Intestates Administrator humbly Conceived might deserve the severest reprehension of the Said Court which Extraneous and new matter and which severe and Malignant invective and Scandalous and defamatory assertion and insinuation your Petitioners Said Intestates Administrator humbly hoped might be

be Expunged from the Records of the Said Court

And your Petitioner humbly Sheweth unto your Most Excellent Majesty in Council that thereupon issue Did Join and Rules Did pass for the Examination of Witnesses and Witnesses were Examined Accordingly on the part of your Petitioners Said Intestates late Administrator and on the Defendant and your Petitioner humbly Sheweth unto your most Excellent Majesty in Council that the Witnesses produced on the part of the Defendant were first Alavar Chitty who to the third Interrogatory Did depose that he was Book Keeper and Accountant to the deceased Dawsonne Drake in his life time and that he the Said Dawsonne Drake departed this life Some time in the Year One thousand Seven hundred and Eighty one that he the Said Dawsonne Drake did during his life time and at the time of his decease by means of an European and two or three Native Writers Kept Books of Regular entry of debt and Credit of all Sums of Money by him paid and received on his own and on the Account of other persons to him indebted or to them

debted

debled that it was contrary for the deceased to
put his Signature in token of his approbation
of the Justness of the said Account and that
the said Signature was not affixed on every leaf
but at the end of the Account of every Month
and the same person to the fourth Interrogatory
says that he did know Irevengadeak Brameny
and that he died about three years before he the
Defendant gave his deposition that the said
Dawsonne Drake and Irevengadeak Brameny had
Considerable dealings and transactions together in
their life time that he the Deponent did enter
the Accounts of such dealings and Money transactions
in the Cash Book of the said Deceased Dawsonne
Drake in his life time that he had looked at
the Account Current shewn to him at the time
of his Examination Marked **B** says he had
Examined the same and declared that the same
contained an Account of all and singular the
dealings and Money transactions between the
said Dawsonne Drake and the said Irevengadeak
Brameny in their life time for and during the
Period of Commencement and Conclusion of the said

Accounts

Accounts that the said several Articles of Account
are all entered in the said Books of Account of
the said Dawsonne Drake Kept in his life time
that he did not know whether the whole of
the said Accounts Current was or was not in the
hand Writing of the said Irevengadeak but that
the Words or Signature Irevengadeak Brameny
thereunto Subscribed was of his own hand Writing
and Sedasheva Moodelly another Witness on the
part of the Defendant to the fifth Interrogatory
did depose that he had seen the Journals
Ledgers and Cash Book of the said Dawsonne
Drake and that by his direction they were Kept
by a person named Alavar Chitty that he came
to a Knowledge of the said Books in Consequence
of being in the Service of Messieurs Walker &
Johnson attornies of Nathaniel Barlow Administrator
of the Estate of the said Dawsonne Drake
into whose hands the said Books were Kept
by the said Nathaniel Barlow some time
in the year of our Lord One thousand Seven
hundred and Eighty three that there was in the
said Books of Account One Account with Irevengadeak

Brameny

Bramny that the Said Books were in the
possession of Porcher Readhead and Company
Attornies to the Original Defendant and Cross
Complainant that he had looked at the Account
Current C under the Head of Dawsonne Drake
Esquire demand and certified by Alavar Chitty
Cash Keeper and Book Keeper and Nathaniel
Barlow Administrator and said that there was
not to the best of his Knowledge any Account
Current in the Books of the Said Dawsonne
Drake under the Head of Dawsonne Drake
that he had taken attentively of the Several
Items contained in the debit Side of the Said
Account and that in the Cash Book Journal
and Ledger of Dawsonne Drake there appeared
under date the Eleventh day of February One
Thousand Seven hundred and Eighty the Sum of
One Thousand five hundred Pagodas to the
credit of Irvengadeah Bramny as having been
Received from him but that the other Items
in the Said Accounts did not appear in the
Said Books of the Said Dawsonne Drake under
the different dates Specified in the Said Account
that

that the Said Sum of One Thousand five hundred
Pagodas was Specified Simply as Received from
the Said Irvengadeah Bramny that the said
Items in the Said Account C were not truely
Extracted nor Copied from the Books of the Said
Dawsonne Drake as Certified by the Said Alavar
Chitty and Nathaniel Barlow that there was
not any Accounts of the Said Dawsonne Drake
between the Said Dawsonne Drake and the
Said Irvengadeah Bramny Commencing on
the Eight of May one Thousand Seven hundred
and Seventy Eight and Ending on the fifth
of March One Thousand Seven hundred and
Eighty but there was in the Said Books an
Account Entitled Irvengadeah Commencing the
Eighteenth day of July One Thousand Seven
hundred and Seventy Seven and ending on the
fifth day of September One Thousand Seven
hundred and Eighty wherein the Said Irvengadeah
Bramny stood indebted under date the fourth
day of May One Thousand Seven hundred and
Seventy Eight for three Thousand Pagodas Cash
Paid and under date the thirty first of August
One

One thousand Seven hundred and Eighty for the
Sum of twelve thousand Pagodas as his the
Said Dawsonne Drakes Yearly Allowance according
to Agreement made the first of August One
thousand Seven hundred and Seventy Seven and
ending on the fifth day of September One thousand
Seven hundred and Eighty wherein the Said Irevengadeah
Brauning stood indebted under date the fourth day
of May One thousand Seven hundred and Seventy
Eight for three thousand Pagodas Cash paid and
under date the thirty first of August One thousand
Seven hundred and Eighty for the Sum of twelve
thousand Pagodas as his the Said Dawsonne Drake
yearly Allowance according to agreement made
the first of August One thousand Seven hundred and
Seventy Seven to the first of August One thousand
Seven hundred and Eighty that the Said Sum of
twelve thousand Pagodas was carried to the
Credit of profit and loss in the Books of the
Said Dawsonne Drake that the Cause or Reason
why the debits are not included in the aforesaid
Account was in Consequence of the Said Irevengadeah
Brauings threatening the Said Nathaniel Barlow

6.

to sue him in the Said Mayors Court if he refused
to Sign the aforesaid Account that there was not
any entry in the Said Books of the Said Dawsonne
Drake whereby John Sykes late of Fort St George
Attorney at Law was debited and the Said Irevengadeah
was credited for the Sum of One thousand and
Eight hundred Pagodas as Specified in the
aforesaid Account and that he did not know
any thing relating to the Said Sum in the
Said Account Charged to have been paid by
the Said Irevengadeah Brauning to the Said John
Sykes and the Said Alavar Chitty to the Sixth
Interrogatory did Say he did not know nor had
he heard of any other Account between the Said
Dawsonne Drake deceased and the Said Irevengadeah
in their lives time and until the day of the
death of the Said Dawsonne Drake besides the
Account whereunto he had been before interrogated
and that he knew and believed in his conscience
that the Same was a true Account To the Seventh
Interrogatory he Said that he had looked at the
Account Current C and the Said Account he
believed was drawn out a few days after the death

7

of the Said Dawsonne Drake but could not say in whose hand Writing the Same was drawn nither did he Know by whose Order or direction it was drawn out that the Signature thereunto Subscribed C Alavar Chitty Cash and Book Keper was of his the Deponents hand Writing that he Subscribed his name thereto by the desire of the Said Nathaniel Barlow but he did not Know for what purpos and further Said that he believed the Certificate Commencing with the Words" I Nath" Barlow" and ending with the Words "is true" as also the Signature Nathaniel Barlow Administrator thereunto Set and Subscribed was of his the Said Nathaniel Barlow own hand Writing and that he did See him the Said Nathaniel Barlow Set and Subscribe his Name thereto to the Eight Interrogatory he Said he did not Know the Cause or Reason that the Several Articles of Account Marked **B** between the Said Dawsonne Drake and Tivengadiah Brauney Amounting together to the Sum of twelve thousand pagodas were not credited in the Account Current thereto

he the Deponent had been before Examined Marked **C** To the Ninth Interrogatory he Said that he did not Know nor had he been informed or what Account or Accounts the Said Sum or the debit Side of the Said Account **C** were Severally Paid by the Said Tivengadiah Brauney unto the Said Dawsonne Drake and further Said that it was usual for the Said Dawsonne Drake to give a Bond or Note for Such Sum of Money as he from time to time borrowed or Received from the Said Tivengadiah Brauney and that he did not Know the Cause or Reason of the Account or which the Said Sums were Paid and Received being omitted to be Specified in the Said Account **C** and the Said Sadasivah Mordelly to the tenth Interrogatory Said that he had looked at the Account Marked with the Letter **B** and that the Several Sums on the debit and Credit Side of the Said Account Current were brought to Account in the Books of the Said Dawsonne Drake but not according to the dates mentioned in the Said Account that it did appear by the Books of the Said

Dawsonne

Dawsonne Drake: that the balance of the Sum of Seven hundred and Seventy two Pagodas in favor of the said Treengadiah Brammy was Just that it appeared by the Books of the said Daw-
=sonne Drake that he had Money transactions with the said Treengadiah Brammy further than what was Expressed in the said Account Current B That the said Dawsonne Drake did on his Bond dated fifth September One thousand Seven hundred and Eighty borrow from the said Treengadiah Brammy the Sum of One thousand five hundred Pagodas - To the last Interrogatory he said that on the twenty Seventh day of February One thousand Seven hundred and Eighty the said Treengadiah Brammy did receive a dividend of twenty five per Cent on the aforesaid Bond for one thousand five hundred pagodas - from the said Nathaniel Barlow and Edeniadah Moodelly to the Eleventh Interrogatory said that he was a Writer to the said Dawsonne Drake in the Month of February in the Year of our Lord One thousand Seven hundred and Eighty One and that he had been in

in his Service about Eight Years prior to that period and believed the said Dawsonne Drake did depart this life in the Month of February One thousand Seven hundred and Eighty One that he did know Alawar Chitty of Madras Accountant and that he so knew him about Eighteen Years that the said Alawar Chitty was Cash Keeper and Book Keeper to the said Dawsonne Drake at the time of his decease and that he had acted in those Capacities the Deponent did believe about Ten Years prior to the death of the said Dawsonne Drake that the said Alawar Chitty was employed in the affairs of the said Estate of the said Dawsonne Drake by the said Nathaniel Barlow after the death of the said Dawsonne Drake but knew not how long that he the Deponent did receive three Pagodas per Month for the Space of Eighteen Month after the death of the said Dawsonne Drake from the said Nathaniel Barlow but that he never was Employed in any Business that he had some time access to the Books of Accounts of the said Dawsonne Drake in his life

time

time but never knew the contents thereof that the said Alavar Chitty kept the said Books of Accounts and that to the best of his recollection they consisted of a Journal Ledger Waste Book and Cash Book that it was customary for the said Dawsonne Drake to Examine the said Books monthly and that the said Dawsonne Drake did on such occasions of Examining the said Books put his initials to the Cash Book as a mark of his having done so and Emanpah Moodelly to the same Interrogatory said that he was a Writer to the said Dawsonne Drake in the Month of February One thousand seven hundred and Eighty one when the said Dawsonne Drake departed this life and that he had been in the Service of the deceased two years or thereabouts previous to the time of his death that he did know Alavar Chitty of Madras Accountant and that he had so known him about thirteen years that he was Cash Keeper and Book Keeper to the said Dawsonne Drake in his life time & during the time he was a Writer to the said Dawsonne Drake but did not know how long

previous

previous to that time that the said Alavar Chitty was Employed in the affairs of the Estate of the said Dawsonne Drake by the said Nathaniel Barlow after his the said Dawsonne Drakes death till the Month of December One thousand seven hundred and Eighty one but how long after he did not know that he the Deponent was Employed in the affairs of the said Dawsonne Drake after his decease in the capacity of a Writer that he had access to the Books of Account of the said Dawsonne Drake after his decease and that he did know the contents thereof but that he had not access to the said Books of Accounts when Kept by the said Alavar Chitty previous to the death of the said Dawsonne Drake & afterwards by the said Nathaniel Barlow Writer Venecatachellum and that they consisted of a Cash Book day Book Journal and Ledger Account Current and Bill Book that it was usual for the said Dawsonne Drake to Examine the said Books during his life time but not at any fixed period of time except the

the Cash Book which he Examined Monthly and that it was Customary for the said Dawsonne Drake on such Occasions of Examining the same to put his Signature to the Cash Book in token of his having done so and the said Tanapah Moodeliar to the twelfth Interrogatory said he did not Know but it appeared by the Books of Account of the said Dawsonne Drake that the said Dawsonne Drake had dealings and Money Transactions with the said Irvengadiah Braminy but the particulars he was unacquainted with did not know whether they had any Interest or concern together in the farming of Bulle did not Know nor had he heard or been informed whether any Articles of Agreement or any Deed or Deeds in Writing or otherwise were entered into by and between the said Dawsonne Drake and the said Irvengadiah Braminy deceased respecting the said Bulle and Tobacco farm nor whether the said Dawsonne Drake did or did not obtain a Cowle or grant of the said Bulle and Tobacco farm and the said Vdenadah Moodelly to the same Interrogatory said

did say that the said Dawsonne Drake had dealings and Money transactions with the said Irvengadiah Braminy but was not acquainted with the particulars — That he said Dawsonne Drake and the said Irvengadiah Braminy were concerned together in the farming of Bulle and Tobacco that he was told by Drake & Irvengadiah had agreed to give him four thousand Pagodas as annually for his Share of the said Concern did not recollect whether there was any Agreement Deed or Deeds in Writing or otherwise than the said four thousand Pagodas That the said Dawsonne Drake did obtain a Cowle of the said Bulle and Tobacco farm from the Governor and Council but that he did not recollect whether the said Dawsonne Drake did assign or otherwise make over and surrender the same to the said Irvengadiah and Domingos Johnson to the same Interrogatory said that the said Dawsonne Drake and Irvengadiah Braminy had considerable dealings and Money transactions and that they were concerned together in the Bulle and Tobacco Farm but that he was

unacquainted

unacquainted with the particulars of the said
Concern that he had heard there was an Agreement
in writing between the said Dawsonne Drake
and the said Irwengadiah but that he was
unacquainted with the date thereof that he
did Know that the said Dawsonne Drake did
sometime in the year of our Lord One thousand
Seven hundred and Seventy Seven obtain a Cowle
of the said Batle and Tobacco farm from the
Governor and Council but that he did not Know
whether the said Dawsonne Drake did or did
not make over and assign or otherwise
surrender the same to the said Irwengadiah
and the said Ninicapah Moodelly to the
same Interrogatory said that the said Dawsonne
Drake and the said Irwengadiah had certain
dealings and transactions together but that
he was unacquainted with the particulars
that he had heard they had an Interest and
Concern together in the farming of the Batle
and Tobacco but that he was unacquainted
with the particulars thereof that he had heard
there were Articles of Agreement or Deed entered
into between the said parties respecting their
Concern in the said farm but that he did not
Know either the date or particulars thereof that
he had heard the said Dawsonne Drake did
obtain a Cowle of the said Batle and Tobacco
farm from the Governor and Council but did
not recollect when and further said that he knew
not, nor had he heard whether the said Dawsonne
Drake did or did not make over and assign or
otherwise surrender the same to the said
Irwengadiah Braminy and the said Ninicapah
Moodelly to the thirteenth Interrogatory said
that he was acquainted with the manner of
the hand writing of the said Irwengadiah Braminy
and the said Dawsonne Drake that he had
looked at the paper Writing shewn to him
at the time of his Examination marked with
the Letter A purporting be an Agreement
under date the fifteenth day of February
One thousand seven hundred and Seventy Seven
between the said Dawsonne Drake and the
said Irwengadiah Braminy and said that the
names of the said Dawsonne Drake and the

said

said Trivengadiah Braminy were severally the hand Writing or Signatures of them the said Dawsonne Drake and Trivengadiah Braminy and further declared that the Words thereunto subjoined beginning with the Words We declare and Ending with the Words Stand Sood and dated the first of August 1777 were of the hand Writing of the said Dawsonne Drake and that the several Names or Signature of Trivengadiah Braminy and Dawsonne Drake thereto subscribed were severally the hand Writing or Signatures of them the said Trivengadiah Braminy and the said Dawsonne Drake and Domingo Johnson and Tanapah Moodeliar to the same Interrogatory supported the same fact To the fourteenth Interrogatory Vedenada Moodeliar said he did believe the said Dawsonne Drake had procured the said Trivengadiah Braminy considerable assistance from the Governor and Council of Fort St George respecting the said Bettle and Tobacco farm during his life time and during the time of his death but knew not the particulars thereof Tangapah Moodeliar to the same

same Interrogatory said he did not know nor had he heard whether the said Dawsonne Drake did or did not either by himself or by any other person or persons procure him the said Trivengadiah Braminy any Assistance from the Governor and Council of Fort St George respecting the said Bettle and Tobacco Farm and that he did not know nor had he heard that any disagreement existed in the life time of the said Dawsonne Drake between the said parties respecting the said Farm and the said Domingo Johnson to the same Interrogatory said that he knew that the said Dawsonne Drake did by himself or by employing the late Mr Sykes to whom the deponent was a Writer procure him the said Trivengadiah Braminy great and considerable advantages from the Governor and Council respecting the said Bettle and Tobacco Farm at frequent and different times and periods during his the said Dawsonne Drakes life time and said he had not heard of any disagreement between the parties To the fifteenth Interrogatory Vedenadah Moodeliar said that the said Trivengadiah Braminy

died

did pay to the said Dawsome Drake the sum of Four thousand pagodas in the said Agreement mentioned to be paid Annually or every Year during the life time of the said Dawsome Drake and the said Tarmapah Moodeliar the said Domingo Johnson and the said Nineapah Moodeliar Examined upon the same Interrogatory did depose that they Knew nothing of the particulars to which by the said fifteenth Interrogatory they were interrogated To the sixteenth Interrogatory the said Vedenadah Moodelly said he did not Know nor had he heard that there was any Agreement between the said Dawsome Drake and the said Irvengadiah Brammy Subsequent to that whereto he had before been interrogated whereby the said Dawsome Drake was made liable to any loss or Entitled to any Profit on the said Bulle and Tobacco farm further than was in the said Agreement Expressed and declared that he did not Know nor had heard that the said Dawsome Drake Kept any Books in his life time that had any relation to the profit or loss of the said farm or otherwise that the said Irvengadiah Brammy had possession of the said Bulle and Tobacco at the time of the death of the said Dawsome Drake but did not Know how long he remained in such possession after the death of the said Dawsome Drake other Witnesses to the same Interrogatory deposed merely to the same effect To the seventeenth Interrogatory Vedenadah Moodeliar said that he did not Know nor had he heard of any Settlement of Accounts that had taken place between the said Dawsome Drake in his life time & the said Irvengadiah Brammy that he had looked at the paper Writing produced to him at the time of his Examination marked with the Letter **B** purporting to be an Account Current between the said Dawsome Drake and the said Irvengadiah Brammy Commencing the Eight day of May One thousand seven hundred and Seventy Eight and Ending the thirty first day of August One thousand Seven hundred and Eighty he said he believed that the whole of the said Account Current was of the hand Writing of the said Irvengadiah Brammy that he did not Know whether the said

Said Dawsonne Drake Did or Did not Sign and delivered to the said Irevengadiah Brameny any similar or other Account believed that the aforesaid Account **B** was a Last Account of all and Several the dealings and transactions between the said parties to the thirty first of August One thousand Seven hundred and Eighty that he believed the said Dawsonne Drake was not indebted unto the said Irevengadiah Brameny in any larger Sum than the balance thereof declared to be due to him to wit Seven hundred and Twenty two pagodas that he Did not know of any Errors or Omissions in the said Account nor Did he know that the said Irevengadiah Brameny Died in his life time of the said Dawsonne Drake pretend that there were any Errors or Omissions in the said Account and Tanapah Moodelliar and Sooroomoorty Brameny to the Same Interrogatory deposed nearly to the same effect the latter knew nothing of the Balance due — To the Eighteenth Interrogatory the said Videnadah Moodelly and the said Tanapah Moodelly said that they Did not know nor had they heard that there were any

any further dealings or Money transactions further than were Expressed in the said Account marked **B** between the said Irevengadiah Brameny and the said Dawsonne Drake during the life time of the said Dawsonne Drake and until the day of his death and the said Sooroomoorty Brameny to the same Interrogatory said that he had heard that the said Irevengadiah Brameny Did during the life time of the said Dawsonne Drake and subsequent to the date of the said Account Current marked with the Letter **A** lend unto the said Dawsonne Drake the Sum of One thousand five hundred pagodas and took a Bond from him in the Name of the said Mooperaula Cashwa — To the Nineteenth Interrogatory the said Videnada Moodelly said he did not know nor had he heard whether the said Nathaniel Barlow as administrator of the said Dawsonne Drake or any other person on his Account did or did not publish any Advertisement to persons having any demands on the Estate of the said Dawsonne Drake to said Accounts thereof to the said Nathaniel Barlow or to any

other

ther person And the said Tanapah Moodelly Examined upon the same Interrogatory deposed in the affirmative as to his belief And the said Sooroomoorty Examined upon the same Interrogatory deposed in the affirmative as he had heard and said positively he had seen a Copy thereof in the Books of and belonging to the Estate of the said Dawsonne Drake To the twentieth Interrogatory the said Videnadah Moodelly said that he did not Know whether the aforenamed Irwengadiah Brahmin did or did not send unto the said Nathaniel Barlow as Administrator of the said Estate of the said Dawsonne Drake or unto any other person or persons in his behalf any Account or demand of Money due to him or pretended to be due and owing by the said Dawsonne Drake in his life time that he the Deponent had looked at the paper shewn to him at the time of his Examination marked with the Letter **F** purporting to be an Account against the said Dawsonne Drake in favor of Irwengadiah Brahmin and said he believed the whole of the said Account to be of the hand Writing of the said Irwengadiah Brahmin that the Words To Bs Account written on the left hand side of the said Account was of the hand Writing of the said Irwengadiah Brahmin deceased that he did not Know nor had he heard whether the said Account was or was not sent to the said Nathaniel Barlow as Administrator of the said Dawsonne Drake or to any person or persons on his Account or behalf by the said Irwengadiah Brahmin or by any person or persons on his behalf that he had looked at the Words Irwengadiah a/c and said that he believed that Irwengadiah wrote the said Words that he the deponent was acquainted with the said Irwengadiahs hand Writing by having seen him write and by seeing Letters from him to his the Deponents late Master and he further said that the sum of seven hundred and Seventy two pagodas debited as a balance due from the said Dawsonne Drake first August One thousand seven hundred and Eighty as per his Account Current he the Deponent believed the

balance

balance of the Account B whether he had before been interrogated that he did not Know whether the Same was or was not Entred in the Said Dawsonne Drakes Books in his life time Kept awording as the Same was Stated in the Said Account that he Did not Know whether the further Sum of One thousand five hundred pagodas for Cash Sent him the Said Dawsonne Drake as per his Bond on the fifth day of September One thousand Seven hundred and Eighty was or was not Entered in the Books of the Said Dawsonne Drake and he the deponent Said he did not Know nor had he heard whether the Said Dawsonne Drake Had or had not any other dealings or Money Transactions after closing the Said Dawsonne Drakes Account with the Said Tiruvengadiah Brameny on the thirty first day of August One Thousand Seven hundred and Eighty Save and Except as the Same appeared in the aforesaid Account whereto he had before been interrogated and the Said Tanapah Moodelly Examined upon the Same interrogatory deposed that he had no Knowledge of the matters in the Said Interrogatory

Contained

Contained and the Said Poorroomooty Braminy Examined upon the Same Interrogatory to the former part deposed as to what he had heard or what he believed and than further deposed that the Words Tiruvengadiah a/c Endorsed on the back of the Abovementioned Account he believed were written by Master James Johnson that he was acquainted with the hand Writing of the Said James Johnson who he believed wrote the Same by having Seen him write and by having received Letters from him that the Sum of Seven hundred and Seventy two pagodas debitted as a balance due from the Said Dawsonne Drake first of August One thousand Seven hundred and Eighty as per Account Current was the balance of the Account Current marked B and believed the Same was entered in the Books of the Said Dawsonne Drake in his life time Kept awording as the Same was Stated in the Said Account A and believed that the further Sum of One thousand five hundred pagodas for Cash Sent him the Said Dawsonne Drake as per his Bond on the fifth day of September One thousand

Seven

Seven hundred and Eighty was also Entered in the
Said Books of the Said Dawsome Drake in his
life time that he did not believe the Said Dawsome
Drake had not any other Account or dealings or
Money transactions after the closing of his the
Said Dawsome Drakes Account with the Said
Trevengadiah on the thirty first day of August
One thousand Seven hundred and Eighty Save and
Except as the Same Appeared by the aforesaid
Account whereto he had before been interrogated
And Tamaapah Examined to the Same Interrogatory
Shewed that he was ignorant of the Circumstances
to which he was in and by the Said twentieth
Interrogatory interrogated — to the twenty first
Interrogatory the Said Vedenadah Moodelly Shewed
he was unacquainted with the matters & things
therein and thereby interrogated unto Except with
regard to the Exhibit **D** purporting to be an
Account Current and Said he believed the whole
thereof to be in the hand Writing of the Said
Trevengadiah Brahmin — That the whole of the
Endorsement thereon in the Words Copy of an Original
Account of Money due to Trevengadiah Dated 5th Sept.
1785

1785 Pagodas 25,715. 9- of which a Bond granted
for Pagodas 7500 dated the 29th January 1784 was
in the hand Writing of the Said Trevengadiah and
Tamapah Examined upon the Same Interrogatory
Said he believed the Said Nathaniel Barlow as
Administrator of the Said Dawsome Drake did
make a dividend Amongst the Bond Creditors
of the Said Dawsome Drake about four Months
after the decease of the Said Dawsome Drake
but that he the Deponent was unacquainted
with the Amount of Such Dividend and did
not know whether the Said Trevengadiah Brahmin
did or did not receive any dividends upon the
aforesaid Bond of One thousand five hundred Pagodas
on or about the time that the Said other Bond
Creditors received their Dividends And as to that
part of the Said twenty first Interrogatory which
had reference to the Said Exhibit **D** he Shewed
he was ignorant thereof Except the Words Trevengadiah
a/c endorsed on the Said Account which he
positively declared were in the hand Writing
of Master James Johnson deceased and further
that the Sum of Seven hundred and Seventy two

Pagodas

pagodas debited as balance due from the Said Dawsonne Drake was the balance of the Account Marked **B** that the Same was Entered in the Said Dawsonne Drakes Books in his life time Kept according as the Same was related in the Said Account that the further Sum of One thousand five hundred pagodas for Cash lent him the Said Dawsonne Drake was also Entered in the Said Books of the Said Dawsonne Drake in his life time and that the Said Dawsonne Drake had not any other Accounts dealings or Money transactions after the closing of his the aforesaid Dawsonne Drakes Accounts with the Said Irvengadiah Brahmin and Pooroomooty Brahmin Examined upon the Same Interrogatory Said that the Said Nathaniel Barlow as Administrator of the Said Dawsonne Drake did make a dividend amongst the Bond Creditors of the Said Dawsonne Drake Some time in the Year One thousand seven hundred and Eighty One and believed it was about five or six Months after the death of the Said Dawsonne Drake that he the deponent had heard that the Said Irvengadiah Brahmin did receive a dividends but how much he did not know or the aforesaid Bond of One thousand five hundred pagodas on or about the time that the other Bond Creditors received their dividends but did not know the Exact time nor whether he gave a Receipt for the Same— That he had looked at the Account Current Marked **D** shewn to him at the time of his Examination and Said he believed the whole thereof to be written in the hand Writing of the Said Irvengadiah Brahmin and So was the Endorsement thereon in the following Words" Copy of an Original Account of Money due to Irvengadiah dated 5th Sept. 1785 Pagodas 25715 9 " of which a Bond granted for 7500 dated 29th January 1784- To the twenty Second Interrogatory the Said Videnadiah Moodelly Said that he did not know nor had he heard or been informed whether there was or was not any Account Current between the Said Dawsonne Drake in his life time and the Said Irvengadiah Brahmin under date the fifth day of September One thousand Seven hundred and

and Eighty the balance thereof was in favor
of the Said Irwengadiah Braming fourteen thousand
five hundred and Twenty two Pagodas as by the
Said Account was shewn that he did not Know
nor had he seen or heard of the Said Account
therein referred to And the Said Tanapah Moodelier
and the Said Poorroomorty Braming to the Same
Interrogatory deposed in nearly the Same Words
To the Twenty third Interrogatory the Said Vedenadah
Moodelier Said he did not Know of any Bond
from the Said Dawsonne Drake devised to
the Said Irwengadiah Braming given for the
Sum of One thousand five hundred pagodas beside
the Bond for the like Sum referred to in the
aforesaid Account Marked F whereto he was
before interrogated touching the receipt of a
certain Dewidend by the Said Irwengadiah
nor did he Know whether the Said Dividend
was or was not received before or after the
fifth day of September One thousand Seven
hundred and Eighty five the day up to which
Interest was calculated on the Said Bond
in the Said Account and Tannapah Moodelier

and the Said Poorroomorty to the Same Interrogatory
deposed in nearly the Same Words To the
twenty fourth Interrogatory the Said Vedenadah
Moodelier Said that he did not Know nor had
heard or been informed when or what time the
Said Irwengadiah Braming did make any
demand on the Said Nathaniel Barlow as
administrator as aforesaid differing from the
Account F the balance whereof up to the thirty
first day of May One thousand Seven hundred and
Eighty one was made up to be two thousand
four hundred and Eighty one pagodas twenty three
fanams and thirty Cash and the Said Tanapah
to the Same Interrogatory deposed to the Same
effect and to the Last Interrogatory Said that
Master Johnson and Master Wapy as attornies
to Master Barlow did some time in the Month
of August One thousand Seven hundred and Eighty
two write a Letter to Master Master Nathaniel
Barlow who was then at Vizagapatam acquainting
him that there appeared a balance of about
two thousand two hundred pagodas due to the
Said Irwengadiah Braming and the Said

Poorroomorty

Pooroomoorty Braminy to the Said twenty fourth
Interrogatory Said he believed there was not
any demand made by the Said Trivengadiah
Braminy on the Said Nathaniel Barlow as
Administrator as aforesaid differing from the
Amount **F** the balance whereof up to the
thirty first day of May One thousand Seven
hundred and Eighty One was then made up
to be two thousand four hundred and Eighty
One Pagodas twenty Nine fanams and thirty
Cash To the twenty fifth Interrogatory Cotton
Bower Bank Dent Said he did recollect
a Bond was given by Nathaniel Barlow to
Trivengadiah Braminy some time in the year
One thousand Seven hundred and Eighty four
or Eighty five did not recollect which and
was of Opinion that the Cause and Consideration
of the Said Bond was to adjust differences
arising between the Said Nathaniel Barlow
as administrator of Dawsonne Drake and the
Said Trivengadiah Braminy late Battle Farmer
to prevent a litigation at Law in the Mayors
Court of Madras prejudicial to the Estate of

Dawsonne

Dawsonne Drake but that he did not recollect
the Amount of the Said Bond and Josias Dupre
Forcher Examined to the Same Interrogatory Shewed
that he was totally ignorant of the matters
and things therein contained To the twenty
Sixth Interrogatory the Said Cotton Bower
Bank Dent Said he did not recollect
whether the Said Nathaniel Barlow was or
was not about to depart from Madras some
time in the Month of January One thousand
Seven hundred and Eighty four and that the Said
Nathaniel Barlow was generally whilst he Knew
him in a bad State of health and that he was
so probably at that time that the nature of his
Complaint was nervous and hypochander and
that to his certain Knowledge he went two or
three times to Europe by Medical advice on
account of Such his Complaints and a general
Relaxation of Constitution — To the twenty Seventh
Interrogatory the Said Cotton Bower Bank Dent
Said he had looked at the Deed or Agreement
marked with the Letter **A** Shewn to him at
the time of his Examination by the Said Nathaniel

Barlow

Barlow as Administrator of the Estate of the said Dawsonne Drake unto the said Trewengadiah Braminy given and Executed under date the twenty Ninth day of January One thousand Seven hundred and Eighty four that his the Deponents Name C. B Dent and also the words acting Justice were of his the Deponents own proper hand Writing and further said there was a great deal of Conversation between him and Trewengadiah Braminy and the said Nathaniel Barlow at the time the said Bond was signed but did not Recollect the Nature or particulars of such Conversation further than that he the Deponent used his Exertions to bring them to some Agreement and prevent their going to law in the Mayors Court that he supposed the said Account on which the said Balance was said to arise had a connexion with the Bettle and Tobacco farm by the said Dawsonne Drake in his life time rented and as the Deponent did not imagine that the said Dawsonne Drake had any other transaction with the said Trewengadiah Braminy further than the Concern in the said Bettle and Tobacco farm that he did not threaten and give out that he would prevent the said Nathaniel Barlows intended Departure from Madras if he did not comply with some Request or demand that the said Trewengadiah Braminy then had or pretended to have upon him the said Nathaniel Barlow as Administrator of

of Dawsonne Drake but said that the said Nathaniel Barlow appeared particular ancious to have the matter in dispute Compromised and brought to a Settlement— To the twenty Eighth Interrogatory the said Colton Bower Banks Dent said he had looked at the paper Writing shewn to him at the time of his Examination marked with the Letter I. I. purporting to be a bond or Writing Obligatory from the said Nathaniel Barlow Administrator of the Estate of the said Dawsonne Drake with the said Trewengadiah Braminy given and granted under date the twenty Ninth day of January One thousand Seven hundred and Eighty four for securing the payment of the Sum of Seven thousand five hundred pagodas and said that his the Deponents Name C. B. Dent Subscribed thereto was of his the Deponents own hand Writing He did not Recollect whether he was directly or indirectly informed by the said Nathaniel Barlow or the said Trewengadiah Braminy whether any and what Consideration was hard or given by the said Trewengadiah Braminy for the said Bond or Writing Obligatory unto the said Nathaniel Barlow but conceived that the Consideration and cause of it was to settle and Accomodate the differences subsisting between the said parties and further said that he did not Recollect whether the same was or was not executed at the

Same

same time and day that the Deed was Executed whereto he had before been Interrogated but that it appeared from date of the said Deed and the said Bond that they were Executed at the same time he did not recollect whether it was or was not pretended that any further or other debts were due and owing to the said Trivengadiah Braminy by the said Nathaniel Barlow as Administrator aforesaid save and Except the Consideration for which the said Bond or Writing Obligatory was given and Executed — To the twenty ninth Interrogatory the said Cotton — Bower Banks Dent said he thought he was chosen by and between the said Nathaniel Barlow as Administrator of the Estate of Dawsonne and the said Trivengadiah Braminy Jointly with the said Josias dupre Porcher to Arbitrator of and concerning certain differences Existing between them some time in or about the " twenty first day of November One thousand Seven hundred and Eighty five said he did not recollect whether he did or did not make an Award touching the same Jointly with the said Josias Dupre " Porcher some time on or about the fifth day of December one thousand Seven hundred and Eighty five but thought it probable there was an Award made that he had looked at the paper shewn to him at the time of his Examination marked with the Letter E purporting to be a Copy of the Opinion

Opinion of the Arbitrators delivered with this award on the fifth day of December One thousand Seven hundred and Eighty five and After having read over the same said he believed the same from the stile and Manner of it to be a true Copy of an Opinion delivered by him and the said other Arbitrators Josias Dupre Porcher whose name was thereunto subscribed said he did not Recollect but believed it very likely that they did severally subscribe to the same as in the said Copy was declared to be as their Opinion delivered in with this said award between the said " Nathaniel Barlow as Administrator aforesaid and the said Trivengadiah Braminy and said that he did not Recollect the Nature of the Account produced by the said Trivengadiah Braminy whereby he debetted the said Nathaniel Barlow as Administrator Aforesaid in the sum of One hundred and twenty Nine thousand two hundred and fifteen Pagodas but thought it was for Losses Sustained in the Battle and Tobacco farm and other matters said he did not know but thought it likely that the three Years daccars Mentioned in the said paper were for four thousand Pagodas per Annum paid by the said Trivengadiah Braminy to the said Dawsonne Drake in his life time during that term for his Assistance with the Government respecting the Battle and Tobacco farm and said that he did not

Recollect

Recollect the Amount of the Bond for the losses of Seizure of Tobacco by the New Renter and for Interest and said he believed the said Truengadiah Braminy was in possession of the Beetle and Tobacco farm After the death of the said Dawsonne Drake and that he was dispossessed of it some time in the Year One thousand Seven hundred and eighty or One thousand Seven hundred and Eighty one by the Honble Charles Smith Esquire president and Governor &c.a Council of Fort Saint George in Consequence of a Complaint from the Inhabitants and said that the Coule or Grant of the said Beetle and Tobacco Farm was to the best of his the Deponents Recollection in the Name of the said Dawsonne Drake that he had heard that the said Nathaniel Barlow did Surrender the same after the death of the said Dawsonne Drake but did not Recollect for what Cause or Reason the said Surrender was made or Whether he had or had not at that time Obtained Letter of Administration to the Estate of the said Dawsonne Drake — And the said Josias Dupre Porcher Examined to the same Interrogatory said he was chosen by and between the said Nathaniel Barlow as Administrator as Aforesaid and the said Truengadiah Braminy Jointly with the said Cotton Bower Banks Dent to Arbitrate of and Concerning certain differences Subsisting between them Sometime as the

Deponent

Deponent believed on or About the twenty first day of November One thousand Seven hundred and Eighty five and said that he did Jointly with the said Cotton Bower Banks Dent make and deliver an Award touching the same some time he believed on or about the fifth day of December One thousand Seven hundred and Eighty five but that he could not call to his Recollection at that distance of time the particulars of the said Award that he had looked at the paper Writing Marked with the Letter E shewn to him at the time of his Examination and had read over the same and declared he had not Sufficient Recollection of the Original at that time to say whether it was or was not a true Copy of the Original Opinion delivered in by him and the other Arbitrator whose Name was thereunto subscribed and to the Remainder of the said Interrogatory the said Josias Dupre Porcher shewed he was ignorant thereof Except as to the Coule or Grant of the Beetle and Tobacco farm which he said he believed was in the Name of the said Dawsonne Drake — to the thirtieth Interrogatory the said Cotton Bower Banks Dent said he did not Recollect whether he did or did not regard the said Arbitration between the said Parties as a matter of convenience and Accomodation previously agreed to by them or as a Matter that would be disputed and Contested before the Arbitrators — did not Recollect whether the said Nathaniel Barlow did or did not deliver into the

Arbitrators

Arbitrators any Accounts Vouchers or testimony of any kind or Nature in Opposition to the Accounts Vouchers or testimony produced by the said Trivengadiah Braminy or whether the said Nathaniel Barlow did or did not deliver into the Arbitrators any state of his Case as Administrator as Aforesaid for their information or whether he did or did not Admit of the accounts Vouchers and testimony produced by the said Trivengadiah Braminy and said that he did not Recollect but that he believed the said Nathaniel Barlow had the Assistance of either Messieurs Baker or Ellis to advice him in the matter in question and the said Josias Dupre Porcher Examined to the same Interrogatory said he did regard the said Arbitration as a Matter of Convenience and Accommodation to both parties but of course subject to such award as the Arbitrators might have thought proper to give from the Materials laid before them that he did not Recollect whether the said Nathaniel Barlow did or did not deliver in Any Accounts Vouchers or testimony of any kind or Nature in Opposition to the accounts Vouchers or Testimony produced by the said Trivengadiah Braminy Upon the said Arbitration or whether the said Nathaniel Barlow did or did not deliver into the said Arbitrators any state of his case as Administrator Aforesaid for their information or Whether he did or did not Admit of the Accounts Vouchers or Testimony produced by the said Trivengadiah Braminy and said he believed two lawyers Baker and Ellis were present at the time of the Arbitration

Arbitration but did not know for whom they respectively Appeared

To the thirty first Interrogatory the said Cotton Bonner Banks Dent said that the Bond Mentioned in the paper Writing or Copy of the Opinion to wit with Respect to the Bond given previous to his departure from India there was no dout but it was a prudent act on the part of Mr. Barlow was he believed the said Nathaniel Barlows Bond to the said Trivengadiah Braminy for the Sum of Seven thousand five hundred Pagodas under date the twenty Ninth day of January One thousand Seven hundred and Eighty four — and the said Josias dupre Porcher to the same Interrogatory shewed that he had no knowledge thereof

To the thirty second Interrogatory the said Cotton Bonner Banks Dent said he had looked at the Writing shewn to him at the time of his Examination Marked with the Letter D purporting to be an Account between the said Nathaniel Barlow and the said Trivengadiah Braminy respecting which it was Expressed in the aforesaid paper Writing or Copy of an Opinion as followed "there Appears a paper Writing before as of fourteen thousand Pagodas in which the Bond of Seven thousand five hundred Pagodas before Expressed was inserted and said he did not recollect whether the said paper Writing was or was not produced before him at the said Arbitration by the said Trivengadiah Braminy or any other person he did not know whether the first Item thereof under date the fifth of September One thousand Seven hundred and Eighty being to

to the Amount Account Current of his own hand Writing due to fourteen thousand five hundred and Seventy two O. Pagodas was or was not the same for which the Bond of Seven thousand five hundred Pagodas was meant as to be inserted and with Respect to the other Item he answered in like Manner and said he did not Recollect whether he was or was not informed by the said Nathaniel Barlow that any dividends had been paid thereon previous to the said award and the said Josias dupre Porcher Examined to the same Interrogatory deposed in nearly the same words as the said Cotton Bowes Bank Dent To the O. thirty third Interrogatory the said Cotton Bowes Bank Dent said he had looked at the paper Writing Marked C shewn to him at the time of his Examination purporting to be an Account Current of Debtor and Creditor under the head of Dawsonne Drake Esquire deceased and said he did not Recollect but thought the said Account was not produced at the time he had the matters in difference between the pa parties under Arbitration and said that the Balance appeared to be the same as the Amount of the first Item of the Account whereto he was before Examined — and the said Josias Dupre Porcher Examined to the same Interrogatory deposed in the same words as the said Cotton Bowes Bank Dent To the thirty fourth Interrogatory the said Cotton Bowes Bank Dent said he had looked at the paper Writing Marked with the Letter

Letter B shewn to him at the time of his Examination purporting to be an Account between the said Dawsonne Drake and the said Trevengadiah Braminy and dated the thirty first day of August one thousand Seven hundred and Eighty whereby the balance due on the first day of August one thousand Seven hundred and Eighty from the said Dawsonne Drake to the said Trevengadiah Braminy was the Sum of Seven hundred and Seventy two pagodas and said he did not Recollect but believed it was not produced before him during his said Arbitration and previous to his said Award by the said Nathaniel Barlow or by any other person on his behalf he said he had Compared the two Accounts B and C together and said he did not Remember Ever to have seen the Books of the said Dawsonne Drake or to have heard of them and that he did not of course refer to them to see whether the Account C was Just as the same was certified by Alavar Chitty to be and further so confirmed by the said Nathaniel Barlow and further said that if he had both the Accounts B and C before him previous to his giving his said Award he most Undoubtedly would have thought it Necessary to Examine which of them was Just and the said Josias Dupre porcher to the same Interrogatory deposed to the same effect with the said Cotton Bowes Bank Dent Except that he did not Recollect whether Exhibit B was or

was

was not produced before him during the said Arbitration
To the thirty fifth Interrogatory the said Cotton Bower Bank
Dent said he had looked at the paper Writing shewn to him
at the time of his Examination Marked with the letter
F purporting to be an Account before the decease of the said
Dawsonne Drake in favor of the said Trewengadiah Brami
-ny whereby the said Dawsonne Drake is debitted for the
Sum of Seven hundred and Seventy two pagodas as the
balance due from him on the first day of august one thousand
Seven hundred and Eighty and also in the further sum of
one thousand five hundred Pagodas for cash lent him by
the said Trewengadiah Braminy on the fifth day of Septem-
-ber one thousand Seven hundred and Eighty and with Interest
calculated on these sums up to the thirty first day of
May one thousand Seven hundred and eighty one and
said he believed the said Account was not produced to him
during the said Arbitration on the contrary it Excited his
astonishment and said he was not informed thereof at
that time or at any other time previous to his giving his said
award that the said Trewengadiah Braminy had sent
the same to the said Nathaniel Barlow in consequence
of an advertisement of the Creditors of the said Dawsonne
Drake to send into the said Nathaniel Barlow the
Amount of their several demands upon the Estate of the
said Dawsonne Drake and said that he was not infor-
med by the said Nathaniel Barlow or by the said
Trewengadiah

Trewengadiah Braminy that he had in Consequence
Received a Dewidend on the said Bond and the said Josias
Dupre Porcher Examined upon the same Interrogatory
shewed by his deposition thereto that he had no Manner
of Recollection of the matters and things in the said thirty
fifth Interrogatory Contained To the thirty Sixth
Interrogatory the said Cotton Bower Bank Dent said
that he had looked at the paper writing produced to him
at the time of his Examination Marked with the letter
A purporting to be articles of Agreement between the
said Dawsonne Drake and the said Trewengadiah
Braminy in their several life time under date the fifteenth
day of February one thousand Seven hundred and Seventy
Seven and the first of August One thousand seven hundred
and Seventy Seven and said he did not Recollect it was
produced by either party during the said Award and the
said Josias Dupre Porcher Examined to the same
Interrogatory shewed he had no Manner of Recollection
of the Matters in the said thirty Sixth Interrogatory
Contained and the said Cotton Bower Bank Dent to
the last Interrogatory said that the four thousand
Pagodas Agreed to be paid by the said Trewengadiah
Braminy to the said Dawsonne Drake was for the use
of his Name only he Mr. Drake being the Nominal
Buttle and Tobacco Farmer when the said Trewengadiah
Braminy was the real one and enjoyed all the Advan-
-tages

Advantages of the said farm that to his the deponents
Certain knowledge the said Dawsonne Drake took an
infinity of trouble to Compromise and Settle different
disputes and Complaints brought before Government
Against Trewngadiah and thought that the Estate of
Drake was indebted only a Mere trifle to Trewngadiah
and that the Exhibits which have been produced to him
the Deponent specifying the several Sums said to be
owing by the late Dawsonne Drake deceased by the said
Trewngadiah Braminy he conceived to be paid in part of
the Annual Allowance of four thousand Pagodas to the
said Dawsonne Drake for the use of his name and
Assistance with Government and he further said that
the said Trewngadiah Braminy was of a very designing
troublesome and litigious disposition and Universally
known to be so and with Respect to the said Nathaniel
Barlow he was a Man of weak Intellects caused by
Repeated illness of debility of Constitution and very &.
Unqualified on that Account to have the Management of
so large a concern as that of the Estate of the late Dawson
Drake and the said Josias Dupre Porcher to the same
Interrogatory said that it was impossible for him at that
distance of period to Recollect the particulars of the
Circumstances to which he had been interrogated relative
to the dispute in question as he was not any wise interested
therein further than at the time the Award aforesaid had
been

been given to the thirty Seventh Interrogatory Ninia pah
Moodiliar said he was Employed by John Sykes of
Fort St. George Attorney at law in the Capacity of head
Debash in the year One thousand Seven hundred and
Seventy Seven until the year one thousand Seven hundred
and Eighty two and that he was debash to the said John
Sykes at the time of the death of the said Dawsonne Drake
and further said that the said Trewngadiah Braminy
did pay unto the said John Sykes the sum of six hundr
-ed Pagodas Annually in quarterly payments during the
life time of the said John Sykes as in the said agreement
A expressed but he the deponent did not recollect whether
he paid any sum on that Account after the death of the
said John Sykes that he the Deponent did not recollect
particularly what Sum or Sums of Money he so paid
unto the said John Sykes on that Account and said that
the said John Sykes did give receipts to the said Trewnga
-diah Braminy for the same on his the said John Sykes
own Account and your Petitioner humbly sheweth unto
this Honble Court that the said Original Defendant and
Cross Complainant did Exhibit and file additional "
Interrogatories and did thereto Examine one Witness namely
Charles Baker who to the third Interrogatory deposed
that he knows there was an Arbitration of Accounts and
other matters Entered into between the above Named "
Nathaniel Barlow deceased and the Above Named "
Trewngadiah"

Trewengadiah Braminy deceasd in their livis time and said that he believd it was some time in the year of our Lord One thousand Seven hundred and Eighty five but did not Recollect the Exact period that the said Matters Submitted to Arbitration did relate to the said Dawsonne Drake deceased that Cotton Bonner Bank Dent and Josias dupre Porcher were the person chosen as Arbitrators of the said Matter that he believd the said Arbitration was intended as a Matter of mutual Accomodation in the same Manner is all other Arbitrations were intend into To the fourth Interrogatory he said he did not Recollect that the said Nathaniel Barlow did deliver in before the Arbitrators any Accounts Vouchers or Testimonies in Opposition to the Accounts Vouchers or Testimony produced by Trewengadiah Braminy that he did not Recollect the said Nathaniel Barlow did delivir in before the said Arbitrators any state of the Case of the Matters in difference that he did not belvie the said Nathaniel Barlow did personally attend at the said Arbitration that he did not know whether the said Nathaniel Barlow did or did not directly or indirectly by any Mean Oppose any or part to proof any of the matters and things alledged by the said Trewengadiah before the said Arbitrators that he was not able at this distance of time to Recollect particularly what Accounts Testimonies and Vouchers produced by the said Trewengadiah Braminy before the said Arbitrators were or were not admitted by the said Nathaniel Barlow that the said Nathaniel Barlow had the

the Assistance of Peter Walker one of the attornies of the said Mayors Court in the Matter in question To the fifth Interrogatory he said he had looked at the Paper Writing produced to him at the time of this Examination marked with the Letter **E** purporting to be the Copy of an opinion of the aforesaid Arbitrators delivered in with the Award on the fifth day of December One thousand Seven hundred and Eighty five and said that the said Arbitrators did deliver in an opinion in Writing with their said award that he did not recollect to whom the same was delivered but that he did on the original thereof that he had read over the above Exhibit and said that he believd the same to be a true Copy of an opinion delivered in by the said Arbitrators and to which original opinion they did Severally subscribe their Names To the Sixth Interrogatory he said that he did not at the time Recollect the Exact nature of the Account Mentioned in the said Exhibit **E** whereby the said Nathaniel Barlow as Administrator aforesaid was debited in the sum of One hundred and twenty Nine thousand and two hundred and fifteen Pagodas but that to the best of his belief it was for losses and other Charges incurred by Trewengadiah during the time he had held the Butte and Tobacco farm under the said Dawsonne Drake that the three Years Douceurs in the said Exhibit also mentioned were for four thousand Pagodas per Annum paid by the said Trewengadiah Braminy in his life time during that term respecting the Butte and Tobacco farm that he the Deponent could not

charge

change his Memory with the Amount of the Bond Mentione
in the said Exhibit for Seizure of Tobacco by the New Enter
believd the said Trwengadiah Braminy was in possession
of the Beetle and Tobacco farm at the time of the death of
the said Dawsonne Drake did not know how long the said
Trwengadiah Braminy was in possession of the Beetle
farm after the death of the said Dawsonne Drake but said
he was dispossessed by Government that the Conle or Grant of
the said Farm was in the Name of the said Dawsonne Drake
that he had heard and believed that the said Nathaniel Barlow
did Surrender the said Conle or Grant but he did not recollect
how long after the death of the said Dawsonne Drake that
he did not know the cause or reason that induced the said
Nathaniel Barlow to Surrender the said Caule or Grant and
said he believd the said Nathaniel Barlow had not at the
at the time the said Caule was Surrendered obtained letters
of Administration of the Estate of the said Dawsonne Drake
To the Eighth Interrogatory he said that he was Acquainted
with the Manner of the hand Writing of the above Named
Trwengadiah Braminy deceased and that he had seen him
write and received letters from him that he had looked at the
Exhibit Marked B produced to him at the time of his
Examination purporting to be an Account Current betwee
the aforenamed Dawsonne Drake and the said Trwengad
-diah Braminy Commencing the Eighth day of May
one thousand Seven hundred and Twenty Eight and Ending
the

the thirty first day of August one thousand Seven hundred
and Eighty and said that he was not certain whether the
whole or any part thereof was or was not of the hand Writing
of the said Trwengadiah Braminy but said that the signa
-ture thereto subscribed Trwengadiah Braminy was of the
hand Writing of the said Trwengadiah Braminy To the
Seventh Interrogatory that the said Matters in dispute
before the said Arbitrators had Relation to and Connection
with the aforesaid Beetle and Tobacco farm in the life
time of the said Dawsonne Drake deceased and after his
death — To the Ninth Interrogatory he said he had
looked at the paper Writing produced and shewn to him
At the time of his Examination Marked with the letter E
purporting to be an Account Current in favor of Trwenga
diah Braminy deceased the balance whereof Made up to the
thirty first day of may One thousand Seven hundred and
Eighty one to be two thousand four hundred and Eighty one
pagodas twenty Nine fanams and thirty Cash and said he
believd the whole of the said Account was of the hand
Writing of the said Trwengadiah Braminy and declared
further that the Words Trwengadiah Account written in the
left hand side of the said Account was of the hand Writing
of the said Trwengadiah Braminy — To the fourth Interro
-gatory he said he had looked at the paper writing marked D
shewn to him at the time of his Examination purporting to
be an Account between the aforenamed Nathaniel Barlow
late Administrator of the said Dawsonne Drake deceased
and the said Trwengadiah Braminy and said he believed
from the appearance of the Writing the whole was written by
and in the hand Writing of the said Trwengadiah Braminy
that he had looked Also at the Endorsement thereon in the
following

following words "Copy of an Original Account of Money to
Trewngadiah Dated 5th September 1785 Ps 25715.9.
of which a Bond granted for Ps 7500 Dated 29th January
1784 and said he belwied the whole of the said Endorsement
was of the hand Writing of the said Trewngadiah Braminy
to the Eleventh Interrogatory he said he had looked at the paper
Writing shewn to him at the time of his Examination marked
with the letter H purporting to be a Bond or Writing Obliga-
tory from the Aforenamed Nathaniel Barlow Administrator
to the Estate of the late Dawsonne Drake unto the Aforenamed
Trewngadiah Braminy given and granted under date the
twenty Ninth of January One thousand Seven hundred and Eighty
four Conditioned for the payment of the Sum of seven thousand five hundred
pagodas and said that he had before seen the said Deed that he did not know
Nor had heard or been informed that any Consideration was paid
or otherwise given for the said Bond or Obligation unto the said
Nathaniel but said he belwied from what he had heard
that the said Nathaniel Barlow in his life time
Mention the said Bond was given by the said "
Nathaniel Barlow and Received by the said Trewnga-
diah in Consequence of the said Nathaniel Barlows
having been on his departure from India much "
importuned by the said Trewngadiah on Account of a
demand the said Trewngadiah Alledged was due to him
from the Estate of the said Dawsonne Drake to whom the
said Nathaniel Barlow was Administrator To the twelfth
Interrogatory he said that to the best of his knowledge
and belief the Expressions in the Aforesaid paper writing
Marked E whereto he had before been interrogated as
followed with Respect to the Bond given previous to "
his departure from India there was no doubt but it

was

was a prudent act on the part of Mr. Barlow did refer
to the said Bond or Exhibit H which he had before
been interrogated — to the thirteenth Interrogatory he said
he had Again looked at the paper Writing before shewn
to him at the time of his Examination marked D purporting
to be an Account between the said Nathaniel Barlow
and the said Trewngadiah Braminy and said that he
did not recollect at this distance of time whether the said
Paper Writing was or was not produced before the said
Arbitrators by the said Trewngadiah Braminy or by any
other person that he could not determine whether the
Expression in the Aforesaid paper Writing or Exhibit
Marked E as followed there Appears a paper before
us of fourteen thousand pagodas which the Bond of
Seven thousand and five hundred Pagodas before "
Mentioned is inserted was or was not meant to refer
to the said Account D or any other or what paper
or Account and further declared that he did not "
recollect but believed the Item in the said Account
of a Bond of One thousand five hundred pagodas
was the Bond for the like Sum Referred to in the
said Opinion To the fourteenth Interrogatory he said
he had looked at the paper Writing produced and
shewn to him at the time of his Examination marked
C purporting to be an Account Current of debtor and

Creditor

Creditor under the Head of Dawsonne Drake deceased
and believed the said Account Current was produced
before the said Arbitrators on the part of Trewengadiah
Braming and said he believed the said Account Current
was that described to be in the hand Writing of the
said Nathanael Barlow and as such referred to in
the said Account D whereto he had before been
interrogated To the fifteenth Interrogatory he said he
had looked at the paper Writing marked B shewn
to him purporting to be an Account Current between
the said Dawsonne Drake and the said Trewengadiah
Braming ended the thirty first august one thousand seven hundred
and Eighty to the said Trewengadiah Braming by the
said Dawsonne Drake was the sum of Seven hundred and
twenty two Pagodas and said that to the best of his
rubbection and knowledge the said Account Current
was not produced during the said Arbitration or
previous to the said award of the said Arbitrators by
the said Nathaniel Barlow nor by any other person
or persons on his behalf but that he did know nor
could he pretend to say why the said Account was not
produced before the said Arbitrators To the sixteenth
Interrogatory he said he did not know whether the said
Arbitrators or either of them did or did not refer to or
Examine the Books of the said Dawsonne Drake
touching

touching the aforesaid Matters of Account nor whether
they did or did not compare the said Account C with
the Books of the said Dawsonne Drake To the
Seventeenth Interrogatory he said he had looked at the
paper Writing before shewn to him Marked E purporting
to be an Account against the said Dawsonne Drake
Deceased in favor of the said Trewengadiah Braming
whereby the said Dawsonne Drake deceased was debited
for the Sum of Seven hundred and Seventy two Pagodas
as the balance due from him on the thirty first day of
August One thousand Seven hundred and Eighty and
also in the further sum of One thousand and five
hundred Pagodas for Cash lent him by the said
Trewengadiah Braming the fifth september One
thousand Seven hundred and Eighty and with Interest
calculated on these Sums up to the thirty first of
May one thousand Seven hundred and Eighty one
and said he did not believe the said Account was produced
before the said Arbitrators previous to their giving the
said Award by the said Nathaniel Barlow or by any
other person or persons on his behalf but that he
could not say why or for what Cause it was not
produced to the Eighteenth Interrogatory he said he
had looked at the paper Writing now produced and
shewn to him at the time of his Examination marked

A

A purporting to be Articles of Agreement between the said Trewingadiah Braminy and the said Dawsonne Drake in their lives time under the several Dates of the &c. fifteenth of February One thousand Seven hundred and Seventy Seven and first of August one thousand Seven hundred and seventy seven and said he did not recollect that the same was produced before the said Arbitrators previous to their giving their said Award by the said Nathaniel Barlow or by any other person

And your Petitioner humbly sheweth unto your Most Excellent Majesty in Council that your Petitioners said Intestates late Administrator &c did also Examine Witnesses on his behalf the first Whereof Yetesajaloo Naick deposed that he knew that some Accounts of the said Trewingadiah Braminy with the said Dawsonne Drake were submitted to Arbitration and further said that About the year One thousand Seven hundred and Eighty five the said Accounts were submitted to Arbitrators and said that Mr Porches and Mr Dent were the Arbitrators but that he the deponent was not present during the Arbitration that he was present when the said Josias Dupre Porcher one of the said Arbitrators informed the said &c. Trewingadiah Braminy that in Consequence of the award by them made he the said Trewingadiah Braminy should deliver

Deliver up to the said Nathaniel Barlow all papers relating to the matter in Arbitration between him the said Trewingadiah Braminy and the said Nathaniel Barlow and further said that the said Trewingadiah Braminy did Accordingly deliver the said Papers to the said Nathaniel Barlow through the means of him the deponent and further said that the said &c. Trewingadiah Braminy Mentioned upon the Above Occasion that as the Award was given he thought it Unnecessary to keep the papers any longer in his possession and therefore directed the Deponent to &c. carry and Deliver the same to the said Nathaniel Barlow and which delivery of the papers was &c. Subsequent to the Award above Mentioned and your Petitioner humbly sheweth unto your Most Excellent Majesty in Council that your Petitioners said Intestates late Administrator did also file Additional Interrogatories and thereupon did Examine several Witnesses to the second Additional Interrogatory the said Cotton Bowes Bank Dent deposed that he had looked at the &c. Exhibit Marked with the letter E. purporting to be a true Copy of a paper Writing to the Original of which he the Deponent and the said Josias Dupre Porcher did set and subscribe their respective Names and said that he could not at such a Distance of time recollect all

the

the particular Circumstances attend on the Business to which the same referred he thought it was given at the time he and the said Josias dupre Porcher delivered a certain award between the said Trivengadiah Braminy and the said Nathaniel Barlow and further said he believed the same did contain the Opinion he Entertained of those Circumstances at the time he Executed the said paper Writing to the best of his recollection the said paper Writing was delivered at the same time the said Award was given in to the hands of Ellis and Baker and with a View to prevent the Business being carried into the Mayors Court to the Eighth Interrogatory William Balfour said he had received letters from the said Nathaniel Edward Kindersley that he had seen him write and was thereby acquainted with his hand Writing that he had looked at the Exhibit E shewn to him at the time of his Examination and said the same was in the proper hand writing of the said Nathaniel Edward Kindersley and that the Signatures assexid thereto was the Signature of the said Nathaniel Edward Kindersley To the second Interrogatory Neil Mc Kenzie deposed that he saw the Bond in Exhibit A signed Sealed and delivered by the said Nathaniel Barlow that his name subscribed thereto was of his own proper hand

hand Writing and that he believed the name of Cotton Bower Bank Dent the other subscribing Witness to the said Paper was also of his the said Cotton Bower Banks Dents own proper hand Writing To the fourth Interrogatory the said Josias dupre Porcher said he was chosen an Arbitrator on the part of the said Nathaniel Barlow and the said Trivengadiah Braminy in their lives time and that he was so chosen some time in the year One thousand Seven hundred and Eighty five and said he did in Consequence Arbitrate the disputes and differences then Subsisting between the parties that he had looked at the paper Writing Marked with the Letter D produced and shewn to him at the time of his Examination and said he did Execute the same and that the same was Executed as an Award of the several matters in dispute and at that time referred to his decision as one of the Arbitrators and that the Name thereto set and Subscribed was of his own proper hand Writing and the said Cotton Bower Bank Dent Examined to the same Interrogatory said he did not recollect whether he was chosen an Arbitrator on the part of Nathaniel Barlow and Trivengadiah Braminy in their life time nor did he recollect to have Arbitrated the disputes and differences then subsisting between

between the parties he said he had looked at the paper Writing Marked with the letter D and shewn to him at the time of his Examination and said he did Execute the same and believed the same was so Executed for the purpose of preventing disputes and Suits of law being carried into the Mayors Court to the prejudice of the Estate of the said Dawsonne Drake and further said that his Name C. B. Dent set and Subscribed thereto was of his own proper hand Writing — To the fifth Interrogatory the said Josias dupre Porches said that he did know Nathniel Barlow and that he considered him as he was generally considered by the circle of his Acquaintance as a Man of Weak intellects and further said that he was in Council at Vizagapatnam and never heard of his probity or honor being impeached and the said Cotton Bowes Bank Dent Examined to the same Interrogatory said he did know the said Nathaniel Barlow and that he was a Man of Weak intellects and by means of imbecility of mind incapable of transacting Business and further said that the said Nathaniel Barlow was in Council at Vizagapatnam but he could not say how he was Esteemed in society as a Man of probity and honor To the Sixth Interrogatory Edward Clayton deposed that he had looked at the paper Writing produced and shewn to him

him at the time of his Examination Marked with the Letter E and said the same was received by the said Trivengadiah Braminy in his life time from the said Nathaniel Edward Lindersley To the seventh Interrogatory saobiah said he was present About three Months or previous to the Commencement of the present Suit when the Original Defendant and Cross Complainant and the said Trivengadiah Braminy had some Conversations respecting the said Trivengadiah Braminys claim on the Estate of the said Dawsonne Drake and that the purposal made by the Original Defendant and Cross Complainant was to the following purport that the Original Defendant and Cross Complainant recommended to the said Trivengadiah Braminy to prosecute in the Mayors Court the Estate of the said Dawsonne Drake and to obtain a Decree of him the said Trivengadiah Braminy upon which and Condition the Original Defendant and Cross Complainant promised to discharge the Amount due to him from the Estate of the said Dawsonne Drake Observing to him at the same time that if he was to procrastinate or Neglect to prosecute the said Suit it would given him the said Original Defendant and Cross Complainant much trouble in dividing the Effects Amongst the Creditors of the deceased To the Ninth Interrogatory the said Edward Clayton Deposed

Deposed that he had looked at the paper writing
Marked E produced and shewn to him at the time
of his Examination and said the same was in his own
proper hand Writing that the same was written by
the desire of the said Trewengadiah Braminy for the
purpose of Asserting to Claim upon the Estate of the
said Dawsonne Drake and that the same was sent by
the said Trewengadiah Braminy to the Original Defendant
and Cross Complainant and your Petitioner humbly
sheweth unto your Most Excellent Majesty in Council
that your Petitioners said Intestates late Administrator
did Exhibit and file further additional Interrogatories
and thereto did Examine Vencata Chetniah who to the
second Interrogatory said that he was Employed by
Trewengadiah Braminy in the Management of the
Beetle and Tobacco farm and said that the Cowle or Grant
of the said Farm stood in the Name of the said
Dawsonne Drake and further said that the said
Trewengadaih Braminy did Agree to pay the Yearly
Rent of the said farm and that the Annual amount
thereof was forty thousand Pagodas that the said
Dawsonne Drake did Agree to protect him therein
for the term of ten years and that the said Trewengadiah
Braminy did in Consequence thereof Engage to pay
him the said Dawsonne Drake a Voluable consideration
on

on Account thereof to the third Interrogatory the said
Vencata Chetniah said the said Dawsonne Drake did
Depart this life seven Years before the Expiration
of the said Cowle to the Fourth Interrogatory the
said Vencata Chetniah said that on the decease of the
said Dawsonne Drake the said Nathaniel Barlow
did Arrive at Madras from the Northward to take
charge of the Affairs of the said Dawsonne Drake
(And further said that the said Nathaniel Barlow
did at the Solicitation of Government Agree to
Surrender up to Government the said Cowle and
did Surrender the same Accordingly as the Represen=
tative of the said Dawsonne Drake that the said
Beetle and Tobacco Farm was in Consequence thereof
granted to Nagapah Chitty and Vydenadah Maadeliar
and the deponent further said that the said New Renters
did seize upon some Beetle and Tobacco the property
of the said Trewengadiah Braminy to the Amount of
About twenty thousand Pagodas To the fifth Interrogatory
the said Vencata Chetniah said that the said Trewengadia=
=ah Braminy did one year afterwards procure by his
own Means a further grant of the said Farm and
that it was in Consequence of public Notice affixed by
Government for Renting the said farm and further said that
the said Trewengadiah Braminy Engaged to rent the
Same

same for the period of five years four Months and twenty one days at the rate of forty Nine thousand Pagodas for the first Sixteen Months and twenty one days fifty thousand Pagodas for the two following Years and at the Rate of Sixty thousand Pagodas per annum for the two last years

And Your Petitioner humbly sheweth unto your Most Excellent Majesty in Council that after Issue had Joined in this Cause and rules had passed for the Examination of Witnesses and several Witnesses had been Examined Strenewasiah Braminy Administrator of your Petitioners said Intestate departed this life that thereupon your Petitioner did Obtain Letter of Administration of all and Singular the Goods and Chattels Rights and Credits of the said Trivengadiah Braminy deceased Unadministered by the said Srenwasiah Braminy And your Petitioner humbly sheweth unto your most Excellent Majesty in Council that having Obtained Letters of Administration as aforesaid he did revive the proceedings in the Cause

And Your Petitioner humbly sheweth unto your most Excellent Majesty in Council that upon such proceedings had as aforesaid the Cause was set down for hearing and came on to be heard Accordingly on the Seventh day of July last past before the said Mayors Court when the said Mayors Court was pleased to Order and Decree and did Accordingly order and Decree three of the Members of the said Mayors Court dissenting therefrom as by Extract of the Minutes the said Mayors Court Annexed to your Petitioners Petition of Appeal Reference being thereunto had may Appear that the Original Bill should stand Dismissed With Costs and did further Order and Decree that your Petitioner should pay unto the Cross Complainant the full and Just sum of One thousand and Eighty Eight Pagodas twenty three fanams and twenty four Cash being the Amount of the Account Current annexed to the Cross Complainants Bill of Complaint together with all such Interest as then was due or should thereafter become due thereon until full payment made deducting therefrom the Amount over charged on Account of the Agreement for the payment of the sum of four thousand Pagodas Annually being for twenty one days after the death of the said Dawsonne Drake and that your Petitioner should pay unto the Cross Complainant the further sum of two thousand four hundred and fourteen pagodas Seven fanams and one cash Acknowledged to have been received by Virtue of an Assignment of three New Consolidated Bonds of His Highness the Nabob and that he should Also

Deliver

Deliver up to the Cross Complainant the Original Bond of Nathaniel Barlow to the said Trewngadiah Braminy deceased under date the twenty first day of December One thousand Seven hundred and Eighty five for the sum of fourteen thousand Pagodas and that he should also deliver up the two Original Assignments from the said Nathaniel Barlow to the said Trewngadiah Braminy and the Estate and Effects thereby Assigned being three New Consolidated Bond of his Highness the Nabab of the Carnatic N 228. 229 and 230 all bearing date the twenty Sixth day of November One thousand Seven Hundred and Seventy seven and Also all other part or parts of the Estate and Effects of the said Dawsonne Drake as might be in your Petitioners possession custody or power and that he should pay all Costs of suit as by the said Decree of the said Mayors Court annexed to your Petitioners Petition of Appeal will more fully and at large Appear And your Petitioner Most humbly sheweth unto your Most Excellent Majesty in Council that your Petitioner did on or About the twentieth day July in the year of Our Lord one thousand Seven hundred and Ninety two Appeal from the said Decree of the said Mayors Court to the Court of Appeals at Madraspatnam and for Cause of Appeal did First say that the said Order and Decree of the said Mayors Court

Court was Contrary to the law in the first instance and Contrary to Evidence in the second Instance and further more that the said Order and Decree was Contrary to the course and practice of the said Mayors Court Secondly Because the suit was brought for the recovery of a certain sum of Money Awarded to your Petitioners said Intestate upon the Submission of the parties to Arbitration regularly executed according to the due forms of law in such cases and therefore the consideration for the said Mayors Court was whether an Award which had Never been Excepted to in the life time of the said Nathaniel Barlow one of the parties to the said Submission but on the Contrary performed and kept so far as it laid in his power so to do and Against which there was no plea or Demurrer on the part of the O. Original Defendant and Cross Complainant ought not to have been held inviolable and Whether the said Mayors Court could upon mere Suggestions of the O. Original Defendant and Cross Complainant in the Vague and inconsistent Answer of the Original Defendant and Cross Complainant to the Bill of Complaint of your Petitioners said Intestate interfere with the O. Judgement of Arbitrators who were Judges of the parties own chusing and your Petitioner did submit to the said Court of Appeals that had the said Mayors Court &c.

Weighed.

weighed the merits of the Case it would have been governed by the said Award and had given a decree therein and not have Entered into an investigation of matters which had long since been fully and finally Adjusted and determined on because Arbitrations were sanctioned by an Act of Parliament and therefore the Judgment of Arbitrators was binding upon the parties submitting to Arbitration as a Judgement or decree of any of His Majestys Courts so that Nothing could effect on Award but what could also effect a Judgment or Decree and as there was a time Allowed for Excepting to reviving or Appealing from the latter upon some Alledged Error or supposed fraud so there was a limited time for excepting to the former and Courts of Justice were very careful how they interfered with or opened an Award lest by so doing they should destroy the wise intention of the legislature in its Endeavours to promote them and it was laid down in the Books that Courts of Justice were then more Liberal in the Construction of awards then formerly and the Nice distinctions to be met with in former proceedings were by no means to be Admitted as precedents in Expounding awards at that day and which the Courts did in the furtherance of Justice and for quelling controversies and further that an

Award

Award was a Judgment and could only be Expounded by itself therefore in order that an award be good and Valed it was Necessary first that the parties to the submission could legally arbitriate secondly that the Award be made According to the Submission that it be certain that it be equal of a thing lawful and possible and that the Award be final and nothing could touch such an Award unless it be proved that the Arbitrators were Manifestly corrupt that they were in collusion with one of the parties and so abused the trust delegated to them or that they refused to hear one of the parties or to permit him to produce his Witnesses and those were the points that went to Vitiate and render an annexed null and Void and they should be setforth by exceptions it before a Suit after a Suit by plea of no award stating the special Circumstances or a Bill might be brought to set aside the Award charging fraud collusion or such other facts or the case would Warrant in the present instance there was nothing before the said Mayors Court either by exception by plea by Demurrer or by Bill to have shewn that the said Nathaniel Baston could not legally arbitrate or that the said Award was irregular in its principles or that the Arbitrators had in any degree Acted Contrary to the strictest rules of Integrity and Justice for Although the Original Defendant and Cross Complainant

Complainant did Exhibit and file his Cross Bill against
your Petitioners said Intestates late Administrator yet he
did not therein and thereby interfere with the said Awards
either by charging collusion or otherwise but brought his
said Cross Bill upon an Account Current thereunto
Annexed and his prayer was not that the said Award
might be decreed to be Null and Void and the said
Bond of the said Nathaniel Barlow should be cancelled
and that the Securities by him the said Nathaniel
Barlow assigned to your Petitioners said Intestate
for the due performance of the condition of the said
Bond should be delivered up to him the Original
Defendant and Cross Complainant but that the said
Sreenevasiah Brahmin might be decreed to pay
unto him the Original Defendant and Cross Complainant
the sum of One thousand and Eighty Eight Pagodas
twenty three fanams and twenty four Cash the balance of
the said pretended Account Current so that the said award
standing in every respect upon the Established rules by which
Arbitrators were guarded and directed without a single
legal Objection to the Conduct of the Arbitrators in the
premises Approved of and performed as far as possible
by the said Nathaniel Barlow one of the parties who
submitted to Arbitration and in whose place or stead
the Original Defendant and Cross Complainant then

Stood

stood Ought to have been held sacred and inviolable
by the said Mayors Court which in acting in Opposition
thereto and setting the same aside as of no force or
Validity and ordering and decreeing as aforesaid had
so ordered and decreed contrary to the Law and further
that the said Order and Decree of the said Mayors
Court was contrary to Evidence — Thirdly Because
the matters and things insinuated in the Answer of the
Original Defendant and Cross Complainant and
further insisted on in and by his Rejoinder were
unsupported and in some particular and important
instances contradicted and the grounds and principles
set up by his defence and which the said Mayors Court
had in Contemplation when Ordering and decreeing
as Aforesaid were contrary to Equity and to the law
and were Arbitrary and unjust The Answer of the
Original Defendant and Cross Complainant amongst
other things urged that the said Dawsonne Drake
in the year of Our Lord One thousand Seven hundred
and Seventy seven obtained a Cowle from the
Governor and Council of Fort St George for ten years
and that upon some Arrangement between him and
Trevengadiah he Assigned it over to him and he
Exhibited the Covenants Entered into in Consequence
between the parties Under the letter A the first Article

of

of which was in the Words that Mr Dawsonne Drake agrees with Trevengadiah to get him Assistance from the Governor in Council in Every Article for ten years In Consideration of which there is also a Covenant on the part of Trevengadiah to pay to the said Dawsonne Drake four thousand pagodas per Annum for so long as the Cowle &c. should Continue in his hands — upon which last Article the Original &c. Defendant and Cross Complainant seemed to insist that had the Cowle remained in Trevengadiahs hands only twelve Months it was Sufficient to give the said &c. Dawsonne Drake a right to the four thousand Pags and that those articles were binding upon the said &c. Dawsonne Drake no longer than he should think proper to Continue them However that the preceding article Effectually did away the Idea by shewing the term Assigned and that term to be ten years so that in fact the Assignment should be considered and so should its operation be as a lease of a Farm for a &c. period of ten years in which the Lessor and Lessee &c. mutually Covenant with each other the one to protect and the other to pay the Annual Rent the original Defendant and Cross Complainant further stated that previous to the departure of Nathaniel Barlow from Madras the Complainant held out threats and Menaces through the means of his Attorney at Law

Law respecting his determination to commence a prosecution against the said Nathaniel Barlow unless his demands were complied with — In the course of the Examination the Original Defendant and Cross Complainant had Exhibited Interrogatories to the Attorney at Law of Trevengadiah afterwards the Attorney at law of the Original Defendant and Cross Complainant and the person of course agreeable to the Original Defendant and Cross Complainants own shewing who could have proved the fact if such threats and menaces ever had been held out by Trevengadiah against the said Nathaniel Barlow but although they had Examined him to a Variety of other points upon that particular point he had been totally silent and therefore it was fair to conclude that he was well aware no such threats and menaces ever were made use of The answer further stated that the Original Defendant and Cross Complainant had heard and believed the matter in dispute were referred to Arbitration when the Bond on which the present action was brought was adjudged in favour of your Petitioners said &c. Intestate a matter which he allowed would have been at once conclusive Against the Estate but for certain Circumstances which he pretended to point out and to that end he Entered into the Opinion of the Arbitrators

Marked

marked E and stated that although the said Nathaniel
Barlow was in posession of the Agreument A and
the Account B that it did not appear they were produced
before the said Arbitrators — In the course of the
Examination of Witnesses the Original Defendant and
Cross Complainant had not been enabled to Establish
that fact although he had Examined the Arbitrators
and the then Attorney at your Petitioners said late
Intestate Afterwards the Attorney for himself who all
declared that they did not know whether such papers
were or were not produced however it would Appear
from Circumstances Amounting to demonstration that
those papers were before the Arbitrators although from
the length of time which had elapsed the memory of
the parties Examined relative to the fact might have
escaped them for the arbitrators in the opinion given
at the time they gave their award Mentioned the three
years Doccum to the said Dawsonne Drake and said
that as the Farm was taken from your Petitioners said
Intestate seven years before the Expiration of his term
had the said Dawsonne Drake been living he would
have been bound in honor to have made Your Petition
=ers said Intestate Compensation and your Petitioner
did shew that the full Amount of the three years
Doccums was in no wise Mentioned but in the Exhibit

B

B and the term of the lease of the farm was set forth
in the Exhibit A and no where else The Original
Defendant and Cross Complainant then stated that in
Order to impose upon the said Nathaniel Barlow
the more effectually with respect to the Exhibit C
Your Petitioners said Intestate procured a kind of
under Written Certificate from one Alavar Chitty
Signifying that the sum of Seven thousand Seven
hundred and Seventy two Pagodas had been received
by him but your Petitioner did shew that instead
of Operating as an Imposition upon the said
Nathaniel Barlow it had the Contrary Effect
putting him upon his Guard and inducing him
to Enter into an investigation for by his own Certifi=
=cate at the foot of the Certificate alluded to he
said he Examined the Books and found the same
to be true and Again your Petitioners said Intestate
could not have had any such intentions as Alledged
by the Original Defendant and Cross Complainant
because it fully appeared both by the testimony of
the said Josias Dupre Porcher and the said cotton
Bower Banks Dent that the said Exhibit C never
was produced to the Arbitrators for they said With
Reason that had it been produced they would have
Examined it with the Exhibit B which Your

Petitioner

Petitioner had just then shewn was Undoubtedly before them The Original Defendant and Cross Complainant then pretended that the said Nathaniel Barlow was frightned into the measures of Arbitration that a number of Accounts in Exhibit Annexed to his the Original Defendant and Cross Complainants answ were never presented by Nathaniel Barlow to the Arbitrators that he was a man of weak intellects and easily intimidated and not able to Cope with your Petitioners said Intestate whom he Abused in the grosest Language of Scandal and said Nathaniel Barlow was frightened by Various threats and &c Menaces of your Petitioners said Intestate respecting his determination to commence a prosecution for the Recovery of the Amount due to him whereupon your Petitioner did submit to the said Court of Appeals that it was an Extraordinary idea to promulgate that a man should be frightened into measures that were regarded as the most amicable and certainly furnished the best and least Expensive means of &c settling matters in dispute between party and party and further that the said Nathaniel Barlow coul not have been Apprehensive of a prosecution consid =ing the matter personally for as an Administrator he could not be arrested wm Although he should

have left the Jurisdiction for the benefit of his Health as was asserted as the afsets of the Estate Remained as they Always had Remained in the hands of his Attorney so that his fears must have been if he really Entertained any from the threats of your Petitioners said Intestate that the Estate of his &c Intestate and not himself would Suffer much in the event of a Suit and therefore to serve the Interest of the Estate he Submitted to the now Reprobated Arbitration and if that position was Just and Nothing could or had been proved to the contrary and the Natural Conclusion was that a Man who felt so much for the Interest and Advantage of the Estate would not have abandoned that Interest and Advantage When the matter in Dispute were submitted to Arbitration It was also to be &c Considered and Which your Petitioner did submit to the said Court of Appeals that the said Nathaniel Barlow had the Afsistance of professional men which Appeared in Evidence on the part of the &c Original Defendant and Cross Complainant and it was not to be presumed that those Gentlemen also were then of such weak Intellects and so easily intimidated as to prevent them from stating the case of their client fairly and properly to the

Arbitration

Arbitration for his benefit and Advantage and again it was Unreasonable and Unfair to suggest that the Arbitrators would blindly have given an Award without Weighing Considering and throughly Examining into the premises disposing of a Considerable property belonging to the Estate without any investigation into the right of the Claimant or into the facts that could or might be brought forward had they taken the least trouble to that end or the part of the apponent It almost Amounted to an impossibility and it was evident from the Opinion of the Arbitrators hereinbefore alluded to that Barlow either appeared in person before the Arbitrators to contend the point brought forward by your Petitioners said Intestate or that he furnished them with a state of his Case for the Arbitrators in their said Opinion said with respect to the Bond given previous to his the said Nathaniel Barlows departure from India there was no doubt but it was a prudent act on the part of Mr. Barlow as it prevented law process no do I think however he may think Advantage may have been taken of his hasty departure that he could with propriety have Litigated it which shewed plainly that the said Nathaniel Barlow appeared your Petitioners said Intestate with Sentiments of

Resentment

Resentment but if the Original Defendant and Cross Complainant had been desirous of being informed fully on that head he would have Examined Peter Walker who Appeared in Evidence to have been the Attorney at Law of the said Nathaniel Barlow who was on the Spot and the not having done so your Petitioner did humbly submit Amounted to the Conclusion that he the Original Defendant and Cross Complainant knew an Examination of the said Peter Walker would have defeated his purposes and therefore declined it again he had Examined the Cash and Book keeper and other Clerks of the said Dawsonne Drake to a Variety of points but had not Examined them to the point whether the Books and Accounts of the said Dawsonne Drake or either of them were or were not produced before the Arbitrators and your Petitioner did submit to the said Court of Appeals that in Order to shew the absurdity as well as the injustice of the insinuations of the Original Defendant and Cross Complainant had the said Nathaniel Barlow intended a collusion with your Petitioners said Intestate had he been intimidated or otherwise meant to promote his objects at the expence of the Estate of the said Dawsonne Drake there was no necessity of

going

going into an Arbitration at all a Bill could have been brought for the Amount now Sued for or for a greater Amount the said Nathaniel Barlow could have confessed a Judgment and Execution would have issued and the premises given by the said Nathaniel Barlow as a collateral Security for the performance of the Condition of his Bond would have been seized and sold in the satisfaction of a Decree therefore from reason and the nature of the thing as well as from the fact arising out of the Submission to Arbitration and the award given thereon the only made which actuated the said Nathaniel Barlow was that of doing his utmost to Discharge his duty for the benefit of the said Estate of his Intestate as an Administrator and supposing the said Nathaniel Barlow had it in his power and yet Neglected to bring forward all proofs Necessary to be laid before the Arbitrators it was as contrary to the law as it was inconsistent with reason and Justice that your Petitioners said Intestate should have suffered for such a Neglect where two people submit to Arbitration supposing one of them for want of Attention or by attempting to do too much leaves that undone which he ought to have brought forward and

an

an award was given against him should than Man in whose favor the award was given when endeavouring to obtain the benefit it had afforded him be told that he had no right thereto because the opposite party had been Negligent In the Rejoinder the Original Defendant and Cross Complainant stated that your Petitioners said Intestate could not law fully claim under a Bond upon an unfair Consideration nor detain the Bond and the Assignments whereupon Your Petitioner shewed that the Bond arose out of the award and granted for the Amount awarded and as the Original Defendant and Cross Complainant had not shewn that the Award was unfair nor impeached the Conduct of the Arbitrators the Consideration for which the Bond was granted it was therefore fair and Just that the Original Defendant and Cross Complainant had not shewn that your Petitioner had no right to detain the Bond and the Assignments for although he had brought his Cross Bill he had not set forth they or either of them was or were illegally Obtained or with held nor had he prayed that they might be delivered up The Original Defendant and Cross Complainant then denied there were any Accounts depending between the said Dawsonne Drake in his life time and your Petitioners said Intestate Except what was due to the said Dawsonne Drake on Account of the four thousand

Pagodas

Pagodas per Annum Whereupon your Petitioner did shew that the Account Current annexed to his Crofs Bill positively Contradicted the Affertion and so did almost all the Witneffes Examined to the point Alavar Chitty Examined on the part of the Original Defendant and Crofs Complainant to the fourth Interrogatory depofed that your Petitioners said Intestate and the said Dawsonne Drake had Considerable dealings and Money transactions together and Sadasheva also on the part of the Original Defendant and Crofs Complainant to the tenth Interrogatory said it did appear by the Books of the said Dawsonne Drake that he had Money transactions with your Petitioners said Intestate further than what was Expreffed in the said Account Current B from the thirty first day of August One thousand Seven hundred and Eighty until the day of his death and further that he the said Dawsonne Drake did on his Bond dated the fifth day of September One thousand Seven hundred and Eighty Borrow of your Petitioners said Intestate the sum of One thousand five hundred Pagodas and Domingos Johnson another of the Witneffes examined on the part of the Original Defendant and Crofs Complainant said that the said Dawsonne Drake and your Petitioners said Intestate had considerable dealings and Money transactions together and they were also concerned together in the Bettle and Tobacco farm which shewed that

that those Considerable dealings and Money transactions between the said Dawsonne Drake and your Petitioners said Intestate were independant of and unconnected with the Annual Sums of four thousand Pagodas on Account of the Bettle and Tobacco farm and the said Sadasheva Moodelly to the last Interrogatory said that Meffieurs Johnson and Maffey Attornies of the said Nathaniel Barlow in the year One thousand Seven hundred and Eighty two found out of themselves that there was a Balance of two thousand Pagodas and upwards due to your Petitioners said Intestate and Wrote accordingly to the said Nathaniel Barlow and therefore Your Petitioner humbly presumed it fully Appeared by the Original Defendant and Crofs Complainant own shewing that his Affertion as Aforesaid was Altogether untrue — The Original Defendant and Crofs Complainant then proceeded insisting on the Matters stated in his Answer Relative to the Argument in Exhibit A. and said he had charged Your Petitioners said Intestate up to the day of the Surrender of the Cowle for the four thousand Pagodas Annual Allowance which your Petitioner shewed was by the Original Defendant and Crofs Complainants own Account nearly one Month after the death of the said Dawsonne Drake and by which it is apparent that the Idea Originally Entertained was that things were to have remained

Remained After his death of the said Dawsonne Drake as to the Bettle and Tobacco farm as during his life time and therefore if his Representative Barlow Surrendered up the coule before the ten years had Expired it followed of course that your Petitioners said Intestate was Entitled to damages for the loss of the farm and the great loss he suffered in Consequence by the New Renter Amounting as the same Appeared in proof by the testimony of Vencatahistnah to the fourth Interrogatory to the Sum of twenty thousand Pagodas the Arbitrators in their Opinion said that if as the farm was taken from your Petitioners said Intestate Seven years before the Expiration of the term that had the said Dawsonne Drake been living he would have been bound in honor to have given your Petitioners said Intestate a Compensation and it Appeared by the Evidence of the said Vencatahistnah to the fourth Interrogatory that the said Nathaniel Barlow arriving at Madras from the North=ward to take charge of the affairs of the said Dawsonne Drake did at the Solicitation of Government agree to Surrender up to Government the said Coule and did surrender the same Accordingly as the Representative of the said Dawsonne Drake the Original Defendant and Cross Complainant them said that the said Nathaniel Barlow by collusion with your Petitioners said Intestate or being ignorant of his right as Administrator or that your Petitioners

Petitioners said Intestate did take an unfair Advantage of the ignorance or Weakness of the said Nathaniel Barlow to induce him to Arbitrate any other Accounts framed After the said Dawsonne Drakes death that an Award obtained by such Consent or means could not operate to defraud the Arbitrators and legatees nor that the artful formality of Executing Arbitration Bonds and making that submission a rule of Court made that legal which was illegal in its foundation Whereupon Your Petitioner humbly shewed that Although the Original Defendant and Cross Complainant had frequently insinuated and urged a collusion between your Petitioners said Intestate and the said Nathaniel Barlow he had not established the fact by proof he had Endeavoured indeed to do so by the most elliberate and ungrious meant the thirteenth Interrogatory Exhibited on the part of the Original Defen=dant and Cross Complainant to the Arbitrators was in the Artful words "did you regard the said Arbitration between the said parties as a Matter of Convenience and Accomodation previously agreed to by them or as a Matter that would be disputed and contested before the Arbitrators however the answer given by the said Josias Dupre Porcher did not favor the purpose of the Original Defendant and Cross Complainant for he said he Regarded the Arbitration as a matter of convenience and

Accomodation

Acomodation to both parties but of Course subject to such an award as the Arbitrators should think proper to give and Charles Baker to the Swenth Additional Interrogatory in nearly the same Words said he believed the Arbitration was intended as a matter of mutual Accompdation in the same Manner as all other Arbitrations were Entered into from whence it did not appear that there was any collusion between the said parties and it had really been shewen that so far from a conclusion that the said Nathaniel Barlow either personally or by a state of his Case Combated the points advanced by your Petitioners said Intestate with a degree of resentment so as to draw forth the pointed Comments of the Arbitrators in the Opinion before mentioned and it was Evidint that the said Nathaniel Barlow was not ignorant of his rights as an Administrator he found the Accounts between his deceased Intestate and your Petitioners said Intestate were intricate and therefore in order to Arrange and settle them and in order to save the Expence of a law proces he Submitted to Arbitration in which he had the Assistance of professional Man and Arbitration was held in high Estimation by our first lawyers and Sanctioned by an Act of Parliament it was safe it was the less Expensive Mode of settling disputes and an Award was not to be impeached but for some corrupt iniquitious or partial act in the Arbitrators

Arbitrators and therefore it was fair and just to have said that such the Assertions and insinuations of the Original Defendant and Cross Complainant were ill founded unsupported and highly Reprehensible the Original Defendant and Cross Complainant after along preface said that the Submission was not to such Matters as the said Nathaniel Barlow could legally Consent to as Administrator and the award granted upon that Submission could not have a legal operation to bind the Estate of his said Intestate as an Administrator he had a right to Arbitrate and his Act by the Submission bound the Estate of his Intestate as the Attorney bound his Constituent and the award granted in such Submission would have a legal Operation Against the Assets in the Administrators hands but be that as it might such matters in Objection Ought to have been brought forward either by plea or Demurrer or by the Cross Bill and not in a rejainder which ought not to have Entered into any new Matter and was merely a part of the Defendants defence to the Complainants Bill of Complaint and could Neither establish nor take any legal Exceptions to any part of the former pleadings the Original Defendant and Cross Complainant then went on insisting on a Matter relative to the Agreement A which he said was dissolved by the Act of God and the Coule was in the said Dausonne Drake a more personal duty and could not Extend further than his life Whereupon your

Petitioner

Petitioner did state that the Original Defendant and Cross Complainant thought proper to charge the Douceur until the act of man interfered that was until the said Nathaniel Barlow as the Representative of the said Dawsonne Drake Surrendered the said Cowle to Government Your Petitioner had thereinbefore shewn that the said Cowle was in the Nature of a lease for ten years and the same was further Established by the testimony of the said Vincatakistniah to the second Interrogatory and of course not depending on the said Dawsonne Drakes life and your Petitioners said Intestate could have held it for the said term of ten years had not the said Nathaniel Barlow as the Representative of of the said Dawsonne Drake Surrendered it to Government and your Petitioner had shewn the same thing in and by the Account Current annexed to the Original Defendants and Cross Complainants Cross Bill for he had continued the Douceur until that Surrender took place — The Original Defendant and Cross Complainant then reasoned upon the matters stated in the Opinion of the Arbitrators given after their Award but he drew no Conclusion further than that the said Nathaniel Barlow was frightened into Arbitration to avoid a Suit at law whereupon your Petitioner said he had thereinbefore shewn that it was a very prudent fear the said Nathaniel Barlow was impressed with and it was to his Credit to save

save Expences to the Estate to submit to Arbitration he them insisted that the said Nathaniel Barlow was either in Collusion with your Petitioners said Intestate or that your Petitioners said Intestate took a dishonest Advantage of him when he Acknowledged the Estate was greatly indebted to your Petitioners said Intestate and gave a Bond for the Sum of Swen thousand five hundred pagodas by way of Securing the payment Whereupon your Petitioner humbly insisted as thereinbefore stated that the Original Defendant and Cross Complainant had not proved any Collusion he had Examined indeed some Evidence who said they had accefs to the said Dawsonne Drakes Books and that no such Accounts appeared but they did not pretend to shew any collusion or a tendency to collusion between the said Nathaniel Barlow and your Petitioners said Intestate and it appeared by the Opinion of the Arbitrators as thereinbefore shewn by your Petitioner that so far from Collusion the said Nathaniel Barlow apposed your Petitioners said Intestates claim upon the identical Bond in question and further your Petitioner did humbly submit to the said Court of Appeals that by the Submifsion to Arbitration the Bond became as a price of waste paper for it was Opened Entered into and its origin and Validity investigated by the Arbitrators and if in their Judgment they had thought it unfairly or Unjustly

Unjustly Obtained they would upon the Apposition which was made to it by the said Nathaniel Barlow as Appeared by their Opinion thereinbefore Mentioned have set it aside and in fact the Arbitrators did not sum to have been guided by it in giving their award as they spoke of it in their Opinion given with the award as an Additional Argument why the said Nathaniel Barlow ought to have performed and kept the said award with which it thereby appeared he was not Satisfied nor such Additional Argument would have been Unnecessary the Original Defendant and Cross Complainant after Enumerating a Variety of pretended fraud and Collusion said that the said Nathaniel Barlow was prevailed on and by some unfair means induced and instigated to Confederate himself with your Petitioners Intestate to refer certain demands in his rejoinder Mentioned to Arbitration and that the Arbitrators gave their Award and Opinion Whereupon your Petitioner said that such Assertion was Vague and Nugatory inasmuch as the same was unsupported by any kind of proof and Submitting differences to Arbitration had ever been held as the most fair and provided the Arbitrators were men of integrity no improper Advantage could possibly be taken and such was the object the law had in Contemplation when Judging upon the Exception taken taken to or a plea offered against or a Bill filed to set aside an award the Arbitrators had every thing before them and if not by the Submission restricted to certain points had a right to call for such documents as they might think proper in the present instance the Submission to Arbitration was general and therefore the Arbitrators could have had the said Dawsonne Drakes Books or his Conicoplys and Clerks before them perhaps they had for the Original Defendant and Cross Complainant had not interrogated the Cash and Book keepers and other Writers of the said Dawsonne Drake to that point nor had they interrogated the Arbitrators thereto although he had Examined them to many others nor had he thought it proper as your Petitioner had therein before shewn to Examine the said Peter Walker who as the Attorney at law of the said Nathaniel Barlow must have had full knowledge thereof the Original Defendant and Cross Complainant their said it did not appear by the Opinion of the Arbitrators delivered in with their said award and which was the ground thereof that any Accounts or documents were produced on the part of the Estate by the said Nathaniel Barlow but that the award was Entirely grounded upon the Accounts produced by your Petitioners Intestate which Commence and Collusion of the parties was Sufficient to Vestiate the award whereupon your Petitioners shewed that the Opinion could not have

have been the ground of the award insomuch as it appeared to have been given after it and in Consequence thereof and was the private Sentiments of the Arbitrators which could not be setforth in their award to shew to the said Nathaniel Barlow the Necessity and Justice of complying therewith so as to promote the Interest and Advantage of the Estate of the said Dawsonne Drake and further your Petitioners said it did not appear in proof that the said Natthaniel Barlow withheld any Accounts Necessary for the information of the Arbitrators but it was evident that he either Attended in person or gave in a state of his Case objecting to the demands of your Petitioners said Intestate suggesting that he had been hardly dealt with by your Petitioners said Intestate and it also appeared that the Arbitrators combated the Suggestion of the said Nathaniel Barlow for they said in their opinion nor do I think however he the said Nathaniel Barlow may think advantage may have been taken of his hasty departure that he could with propriety have letigated it and your Petitioner did further submit to the said Court of Appeals that the Suppression of Papers attached properly to the Original Defendant and Cross Complainant for that having in Consequence of the terms of the award became possessed of all documents and papers in the

possession

possession of your Petitioners said Intestate previous to the Award and relative to the Matters in dispute had selected such as would Answer the purposes of his defence and kept back others that might have produced a contrary effect and that was partly Evident from the said Opinion of the Arbitrators and from the Original Defendant and Cross Complainants own shewing for in the said opinion the Arbitrators said it appears by account now produced by Trevingadiah that he debits Mr. Barlow as administrator in the sum of 129,215 Pagodas for the three years Douceurs for Mr. Drakes support the administrators own Bond for losses by the seizure of Tobacco by the New Renter and for Interest and your Petitioner did shew the three years Douceurs was no where setforth but in the Exhibit B which the original Defendant and Cross Complainant had shewn to be in his possession the Administrators own Bond the Original Defendant and Cross Complainant had also shewn to be in his possession as he had Annexed a Copy thereof to his answer and to his Rejoinder and having such Documents in his possession forming a part of the documents before the arbitrators as mentioned in their Opinion it was prima facie Evidence that he possessed the whole thereof to wit the Account of one hundred and twenty Nine thousand two hundred and

fifteen

fifteen Pagodas the Account of the losses by the farm for the seizure of Tobacco by the New Renter and the Account for Interest and that was Confirmed by the testimony of Yataraugoodoo which to the Second Interrogatory on the part of your Petitioner said he was present when Mr Porcher one of the Arbitrators informed Your Petitioners Intestate that in Consequence of the said award he your Petitioners said Intestate should deliver up to Mr Barlow the Papers Relating to the Matters in Arbitration between them that than your Petitioners said Intestate in speaking of the Matter to the Defendant Observed that as the award was given it was useless to keep the papers any longer in his possession and therefore directed him the Defonent it to carry and deliver them to the said Nathaniel Barlow which he the Defonent Accordingly did And which your Petitioner stated was in Conformity to the terms of the said Award and therefore your Petitioner did humbly submit to the said Court of Appeals he was Justified in Saying that the Original Defendant and Cross Complainant had Suppressed and kept back the said Account of one hundred and twenty Nine thousand two hundred and fifteen pagodas the Amount of losses by the farm for the Seizure of Tobacco by the New Renter and Also the Account of Interest the Original Defendant and Cross Complainant

in

in his said Rejoinder further stated that your Petitioners said Intestate was Beetle and Tobacco farmer at the time signing the Arbitration Bond and that he had obtained a cowle for the remaining Unexpired term of Seven years and that therefore the Arbitrators were wrong in saying that your Petitioners said Intestate was deprived of the farm Seven years before the Expiration of the Cowle and that if the said Dawsonne Drake had been living he would have been bound in honor to make your Petitioners said Intestate a Compensation with respect to the demand for Seizure of the Tobacco Whereupon your Petitioner did humbly shew that the Original Defendant and Cross Complainant Attempted an insinuation contrary to his own shewing and to his own conviction it was true that your Petitioners said Intestate did obtain a Cowle of the Beetle and Tobacco farm after it had been taken from him that was after it had been Surrendered by the said Nathaniel Barlow as the Representation of the said Dawsonne Drake but it was one year after such Surrender had taken plea and after it had been that length of time in the hands of another Renter who during his Rentership plundered your Petitioners said Intestate and as proved in Evidence stated in the Opinion nor did your Petitioners said Intestate obtain the said cowle through the means of the said Nathaniel

Barlow

Barlow but by the same means and in the same manner as any other person would have obtained if the farm was publickly Advertised and your Petitioners said Intestate was the highest bidder of the advance of many thousand Pagodas beyond the terms of the Original Cowle as appeared by the testimony of the said Vencatakistniah and therefore the Assertion of the Arbitrators was strictly true and their conclusions fair and Equitable and when the Arbitrators gave their opinion that the said Dawsonne Drake had he been living would have been bound in honor to make your Petitioners said Intestate a Compensation it was under the Consideration that the said Nathaniel Barlow the Representative of the said Dawsonne Drake had Surrendered the Cowle and that had the said Dawsonne Drake in his life time done the same thing he would doubtless have been liable to an action of damages and been obliged to make good the loss occasioned by his own wrongs — The Original Defendant and Cross Complainant lastly said that he had charged such collusion of parties and other frauds and incapacities as were Sufficient in Law and Equity to set aside the said award which your Petitioner said erroneously because no such charge appeared in the original Defendant and Cross Complainant Cross Bill which was merely general and brought for the pretended balance of an Account thereunto annexed he could not have Exhibited Any

Any charges in his Original Answer and Rejoinder for an Answer contained Matters of defence set up against charges and the Rejoinder was merely a Continuation of that defence and he could not have made his charges in his Cross Replication for a Replication arose Out of the Defendants Answer and in Apposition thereto supported the matter Set forth in the Bill of Complaint from which it could not depart so that the charge of collusion by the Original Defendant and Cross Complainant was merely ideal but even if he had charged if he had not proved it and which Amounted to the same thing as if no such charge had been made

And your Petitioner humbly sheweth unto your Most Excellent Majesty in Council that he did in his said Petition of appeal further shew that the Evidence produced by and on the part of the Original Defendant and Cross Complainant was in some parts so uncertain in others so Nugatory and in others so Contradictory that it could not be considered as supporting the defence of the Original Defendant and Cross Complainant Even in those trivial points to which it went Alavar Chitty to the fourth Interrogatory said the Exhibit B shewn to him at the time of his Examination Contained an Account of all and Singular the transactions of the said Dawsonne Drake with your Petitioners said Intestate

Intestate from the period of commencement and conclusion of the said Account Sadasheva to the tenth Interrogatory depased that it appeared by the Books of the said Dawsonne Drake that he had Money transactions with your Petitioners said Intestate further than what were Expressed in the Exhibit B from the thirty first day of August one thousand Seven hundred and Eighty till the day of his death To the fifth Interrogatory the said Sadasheva said he had seen the Journal Ledger and Cash Books of the said Dawsonne Drake and that they were kept by his direction by one Alawar Chitty although he immediately afterwards said he came to a knowledge of the said Books in Consequence of being in the service of Messieurs Wafsery and Johnson attornies of the said Nathaniel Barlow sometime in the year of our Lord One thousand Seven hundred and Eighty three which was some years after the said Dawsonne Drake died the said Sadasheva also said that the several items in the Account in Exhibit C was not truly Extracted but he did not attempt to shew in what manner it was incorrect further than that there was not any Account in the Books of the said Dawsonne Drake and the said Trevengadiah Braminy commencing on the Eighth day of May one thousand seven hundred and Seventy Eight and ending on the fifth day of March One thousand seven hundred and Eighty but that there was in the said Books an Account Entitled Trevengadiah Braminy Commencing from the Eighteenth day of July one thousand Seven hundred and Seventy Seven and Ending in the fifth of September One thousand Seven hundred and Eighty which your Petitioner did state to the said Court of Appeals plainly shewed there were in the Books of the said Dawsonne Drake other Accounts than those brought forward by the Original Defendant and Cross Complainant and Your Petitioner did further shew that the said Alawar Chitty further said that the Reason why the debits were not included in the aforesaid Account C was in Consequence of Your Petitioners said Intestate threatening the said Nathaniel Barlow to sue him in the Mayors Court if he refused to sign the said Account but the said Alawar Chetty shewed that the Exhibit C was drawn a few days after the said Dawsonne Drakes death and the said Sadasheva did shew that he derived knowledge of the Books of the said Dawsonne Drake by being Servant to Messieurs Wafsery and Johnson some years after the death of the said Dawsonne Drake and of course some years before he the said Sadasheva could have known any thing of the matters to which he had depased — That Sadasheva did also shew that the Books of the said Dawsonne Drake Consisted of a Cash Book Journal and Ledger and Tanapah Moodeliar to the Eleventh Interrogatory

Interrogatory said there were other Books to wit a day Book an account Current Book and a Bill Book that Videnadah and Tanapah to the Eleventh Interrogatory said they did not know nor had they heard that there were any other dealings between Trewingadiah Braminy and the said Dawsonne Drake otherwise than expressed in the Account B which your Petitioner did state shewed their ignorance for the Account annexed to the Original Defendant and Cross Complainants Cross Bill shewed other dealings and transactions and so did Sadasheva Moodelly as above setforth — That Gooroorty Braminy to the Nineteenth Interrogatory swore to have seen the Copy of an Advertisement although he said he only heard of the Original and the said Videnadah Moodelly to the twentieth Interrogatory said the Words Trewingadiahs a/c was as he believed in the hand Writing of the said Trewingadiah Braminy and the said Gooroomoorty Braminy and the said Tanapah Moodelly did say that were written by James Johnson

And Your Petitioner humbly Sheweth unto Your Most Excellent Majesty in Council that your Petitioner did in his said Petition of Appeal further state to the said Court of Appeals that the said Josias Dupre Porcher to the Various interrogatories Exhibited to him

to him did shew a total want of Recollection of the matters and things referred to and Candedly and fairly acknowledged in answer to the last Interrogatory that it was impossible for him at that distant period to recollect the particulars of the Circumstance to which he had been interrogated Relative to the dispute in question and the said Charles Baker in and by his deposition did shew himself to be incapable of speaking as to certainly except in one or two trivial instances and Except in the instance that the said Nathaniel Barlow had the Assistance of a professional Man for he spoke positively to that point and said he had the Assertion of Peter Walker one of the Attornies of the said Mayors Court and the said Cotton Bower Bank Dent in the course of his deposition displayed a degree of Warmth Against your Petitioners said Intestate and his Cause and apparently in obeying the dictates of his feelings had hurried himself into Errors — the said Cotton Bower Bank Dent to the twenty Ninth Interrogatory on the part of the Original Defendant and Cross Complainant said he did not Recollect whether he was chosen an Arbitrator with the said Josias Dupre Porcher he thought he was but did not recollect whether he made an Award or not and Examined on the part of your Petitioner he said he did not recollect he

he was an Arbitrator or that he had made any award to the twenty Ninth Interrogatory on the part of the O. Original Defendant and Crofs Complainant he said he believed your Petitioners said Intestate was dispofsefsed of the farm in consequence of a Complaint from Government and your Petitioner did thereupon state that it was confefsed by the Original Defendant and Crofs Complainant and it was also in proof that your Petitioners said Intestate was dispofsefsed of the said Farm by the said Nathaniel Barlow who surrendered the same to Government That the said Cotton Bower Bank Dent to the thirteenth Interrogatory did say he did not Recollect whether the said Nathaniel Barlow did or did not deliver in Any Accounts Vouchers or Testimonies of any kind or Nature in opposition to the Accounts produced before him by Trevengadiah Braminy or whether the said Nathaniel Barlow did or did not deliver in a state of his case for the Arbitrators information or whether he did or did not admit of the Accounts Vouchers and Testimonies produced by the said Trevengadiah Braminy and Your Petitioner did thereon state to the said Court of Appeals that it was not Extraordinary that a Man should not Recollect the transactions that had pafsed before him when he did not recollect whether he was an

Arbitrator

Arbitrator or not But that if the said Cotton Bower Bank Dent had turned over his Opinion given with the award he would have been enabled to have corrected himself for the Opinion shewed the said Nathaniel Barlow Actually did give in a state of his case and disputed the points brought forward by the said Trevengadiah Braminy as that he did so in person for in the Opinion the said Cotton Bower Bank Dent said. With Respect to the Bond given previous to the said Nathaniel Barlows departure from India there was no Doubt but it was a prudent act on the part of Mr. Barlow as it prevented law proceſs nor did I think however he may think Advantage might have been taken of his hasty departure that he could not with propriety have litigated it and your Petitioner did state that it did thereby appear that whatever might have been done by the said Nathaniel Barlow when he was ill and going to Europe for the benefit of his health on his Return to India no Advantage whatever was taken for every things was open to Arbitration That to the thirty Second Interrogatory the O. said Cotton Bower Bank Dent did say he had looked of the Exhibit D of which it was Expreſsed in the Opinion there appeared a Paper Writing before them of fourteen thousand Pagodas in which the Bond of Seven thousand

five

five hundred pagodas before Expressed was inserted and said he did not Recollect Whether the same was or was not before the Arbitrators Which your Petitioner did Submit to the said Court of Appeals was very Extraordinary as his Opinion ought to have set him right for it was therein expressed in the most direct and positive terms that it was before the Arbitrators — That to the thirdy fourth Interrogatory the said Cotton Bowes Banks Dent did say he did not recollect the Exhibit B was before the Arbitrators but believed not which Answer Your Petitioner did Submit to the said Court of Appeals was still More Extrabrdinary than the preceding answer for in one place he said he Really did not know whether he was or was not an Arbitrator and Afterwards took upon him to state that he believed a certain paper of a few figures only was not before him when he was an Arbitrator however your Petitioner did say that it appeared by his own Opinion given upon Mature deliberation and Consideration at the time of making the Award that it Actually was produced for the

therein

therein spoke of the three years Douceurs to the said Dawsonne Drake and said that as the farm was taken from Trevengadiah Seven Years before the Expiration of his term that had the said Dawsonne Drake been living he would haeve been bound in honor to have made the said Trevengadiah a Compensation and your Petitioner did shew as he had therein before shewn that the Douceurs were no where Mentioned but in Exhibit B and the term of the farm no where Set forth but in the Articles of agreement A That the said Cotton Bowes Banks Dent to the thirdy fifth Interrogatory did say he believed the Exhibit E was not produced to him during the Arbitration on the Contrary it excited his astonishment and that he was not informed by the said Nathaniel Barlow or by the said Trevengadiah Braminy that he the said Trevengadiah Braminy had Received a Dividend on the Bond Whereupon Your Petitioner did shew that the same Arguments Submitted by your Petitioner to the deposition of the said Cotton Bowes Banks Dent to the

thirdy

thirty fourth Interrogatory Equally applied to the present deposition that to the thirty sixth Interrogatory he said he did not Recollect the Exhibit A was produced to the Arbitrators In his Opinion he clearly shews as Your Petitioner had thereinbefore shewn that it Absolutely was before the said Arbitrators from all which Circumstances Your Petitioner did say he did humbly trust it would fully appear to the said Court of Appeals that the said Decree of the said Mayors Court was Contrary to Evidence and to the practice of the said Mayors Court — Fourthly Because the said Mayors Court had Evidently taken the irregular prayer Contained in the Rejoinder of the Original Defendant and Cross Complainant instead of the prayer set forth in his said Cross Bill of Complaint and had decreed certain Securities and Monies to be delivered up and paid to the Cross Complainant which were not prayed for in and by his said Cross Bill and Your Petitioner did say he was Advised and believed that it was the Course of practice of the said Mayors Court and of His Majestys High Court of Chancery that whenever a Security set forth and Exhibited on the part of the

the Complainant was Required to be given up by a Defendant it should be done by Bill of Complaint charging the Special Circumstances and praying According to the Circumstance of the Case and of the Original Defendant and Cross Complainant seemed to be aware of for in and by his said Rejoinder he said the Law had provided and did furnish him with a more direct means of Repairing the injury done to the Estate of the said Dawsonne Drake by an action Against your Petitioner as having in his possession and detaining and unlawfully converting to his own use the identical and marked property of the Estate described in the Assignment and lastly your Petitioner did say that as the matters in question had been many years ago finally settled and determined by the award of Arbitrators indifferently chosen by the said Nathaniel Barlow and Your Petitioners said Intestate and that in Obedience to the said Award the said Nathaniel Barlow did Execute to your Petitioners said Intestate the Bond upon which he Your Petitioners said Intestate had in his life time Exhibited his Bill of Complaint in the said Mayors Court and as at the time of Making the said Award the same Appeared so

Just

Just and Reasonable to the Arbitrators that independant of the said award they gave a strong and pointed Advice to the said Nathaniel Barlow as contained in the Exhibit E to which your Petitioner did in and by his said Petition of Appeal beg leave to refer to perform and keep the same as Eligible Just and proper for the good of the legatees in England and furthermore as no Exceptions wer were taken or put against the said award by the said Nathaniel Barlow in his life time and no plea or Demurrer offered by the Original Defendant and Cross Complain=ant against the said award nor any Bill filed by him praying that the same might be set aside nor any of those Objections made upon which alone Awards were impeachable Your Petitioner did Or Submit to the said Court of Appeals that the said award ought to have been held by the said Mayors Court as sacred and inviolable and that the said Mayors Court ought to have decreed in favor of your Petitioner as Administrator as aforesaid and your Petitioner humbly shew=eth unto your Most Excellent majesty in Council that your Petitioner did in and by his said Petition of Appeal to the said Court of Appeals pray that the decree of the said Mayors Court might stand Reversed and that they would be pleased to gr=ant unto your Petitioner such further Relief as to the said Court might seem Meet

And

And your Petitioner humbly sheweth unto your most Excellent in Council that to your Petitioners said Petition and Appeal the defendant did on or about the tenth day of December One thousand Seven hundred and ninety two exhibit and file his answer in the said Court of Appeals and did therein Amongst other things set forth and say that your Petitioner had Misrecited Some parts of the Evidence which he did say he thought it his Duty thereafter to point out as your Petitioner had undertaken in Opposition to the order and Rule of practise of the said Court of Appeals to Recite Verbation the whole of the proceedings and Evidence which your Petitioner Ought in Conformity thereto only to have briefly recited — By which littiral Copying of the whole of the said proceedings and evidence which your Petitioner Ought in conformity thereto to have done briefly except in some cases of suppression and Misrecital the Defendant had been put to charge and expence of upwards of forty two sheets of Demy Paper without any Necessity or the same being of any service to your Petitioner towards the illucidation of the Merits of his case or in any degree tending to throw a light thereupon so as to enable the said Court of Appeals to from an Ampler Judgement from the said Copy than they could from the Original Records of the said Mayors Court from whose decree thereupon the said Appeal was founded and which Records did of Course attend the said Appeal and

and the Defendant did therefore pray that the said Court of Appeals would privious to the giving of their Judgment upon the Merits of the Cause and of the said Appeal be pleased to take in to consideration the pretended vexatious conduct of your Petitioner in putting the Defendant to such an unnecessary and Unreasonable charge and expence contrary as he did pretend to the order and Rule of practice of the said Court and that the your Petitioner should pay and refund to him the Respondent the Fees for the Office Copy of the said forty two sheets of Demy Paper he had paid to the Clerk of the said Court of Appeals and thereupon your Petitioner humbly submits to your most Excellent Majesty in Council that the said Court of Appeals did Neither order your Petitioner to pay the fees by the Defendant prayed as afore mentioned Nor that the same should be Expunged and therefore that the Defendant said Objections were irregular and erroneus And the Defendant further Answering did Admit the Decree of the said Mayors Court from which your Petitioner had Appealed to have been in the words as your Petitioner had Stated the same in and by his said Petition of Appeal to the said Court of Appeals and did say he was Advised and did Maintain that the same was in Strict conformity with law and Equity upon the Case in question and did deny that your Petitioner was or could be Aggrieved thereby but was bound and Ought in consience as he will know to Comply with and fulfill the same in every matter and thing therein ordered and decreed to be done and performed and that the Reasons for Appeal exhibited in the said petition were frivolous evasive and litigious — And your Petitioner humbly sheweth unto your Most Excellent Majesty in Council that the Defendant did thereupon enter into a long state of the Case and therein and thereby did briefly Recite the whole proceedings and introduce agreements and other matters and enter into Arguments and draw conclusions therefrom to a very Considerable length contrary to the Course of the said Court of Appeals and to the express orders thereof and thereupon your Petitioner humbly submits to your Most Excellent Majesty in Council that the same is highly irregular and irrelevant and therefore your Petitioner humbly submits to your Most Excellent Majesty in Council that the same might be expunged with Costs as thereby your Petitioner has been put to a very heavy and Altogether unnecessary Expence and the Defendant in Answer to your Petitioners first reason for appeal did say that the said Order and decree of the said Mayors Court was not contrary to the law in any instance whatever but was conformable to the law and Consistant with the evidence thereupon and was not therefore contrary to the cause and practise of the said Mayors Court as your Petitioner had as the

Defendant

Defendant did pretend erroneously Asserted — To the
Second the Defendant did say that Although your Petitioners
Suit was grounded on the said Bond and Asignment
given in Consequence of the said Award upon the &c.
Submissions of parties the said Mayors Court were not
Confined in their determination thereupon to Consider
whether the said Award had or had not been excepted to
in the life time of the said Nathaniel Barlow because it
was not the Submission but the matter in difference was
pretended fabricated and Without any Consideration at
all or without such as the law regarded as binding or real
but on the Contrary upon a Consideration that both law
and Equity did disallow as fraudulent and Corrupt and
Contrived merely to defraud persons not parties thereto —
that not only a Court of law but a Court of Equity would
retrospect the matters in difference and first determine
upon their existence or Validity before they proceeded to
determine upon the legality of an Award which was &c.
disputed upon grounds of the Submission thereto being in
very respect deficient of those indispensible requisites with-
out which it could not in law or Equity acquire effectual
force and virtue so as to render it binding upon the
Defendant as Administrator of the said Dawsonne
Drake and his Estate liable to an incumbrance laid upon
it by a right claimed under by your Petitioner and his

Intestates

Intestates upon the ground of such Award merely because
he was in possession of a deed bearing indeed that legal
discription but in every other respect defective of those
qualifications which alone could make it so by legal &c.
Operation and the Defendant did say that he denied that
the said Mayors Court had determine themselves in respect
of the said Award Upon the mere suggestions as your &c.
Petitioner very improperly expressed himself and with equal
impropriety did your Petitioner term the said determination
or decree upon the said award an interference with the &c.
Judgments of Arbitrators who your Petitioner had said
were Judges of the parties own chusing and therefrom would
infer as a point of law that an award however Corrupt or
however founded upon ignorance of the fact or of the law
by the Arbitrators or Notwithstanding that the same
might have been procured by the Collusive submission
of parties themselves by a Suppression or misrepresentation
in the facts Submitted or by a Corrupt Admission of
Matters as fact that were without truth or existence in
order by such fraudulent means to impose upon their
Judges the said Arbitrators and thereby rendering this
Judges the innocent instruments of defrauding persons
whose Claims and Interest were not before them
and of whose rights they were totally ignorant under
which Unfavorable Circumstances the Defendant did

insist

insist that an Award was not inviolable as your Petitioner would wish to make the law regard it to be but on the Contrary the law would regard a Deed so obtained as founded upon original fraud and as the offspring of fraud neither law or equity would carry it into execution and the Defendant did further insists that the said Mayors Court had weighed the merits of the Case before them and that being Governed thereby and the Evidence thereupon they could not give a Decree otherwise than against the said Award — And the Defendant did furthermore insist that the said Court could not have a formed their said Decree without entering into an investigation of those matter which had been laid before the Arbitrators and those also which ought to have been laid before them previous to their said Award because by such investiga-tion they were enabled to discover the Corrupt manner in which the same was obtained from the Arbitrators — And the Defendant did say that the your Petitioner could not avail himself in this instance of the act of Parliament by which Arbitrators were sanctioned and Altho it might upon a general view properly explain the intention of the legislature in enacting the said law that the Award of Arbitrators should be as binding upon the parties Submitting to Arbitration as a &c. Judgement of any of his Majestys Courts of Record — the

Defendant

Defendant denied that interpretation of the said Act was Admissible in the present Case which was that of an Administrator with the will annexed entering into a Submission of matters as in difference to Arbitration upon fraudulent and Corrupt grounds to the wrong and &c. injury of the Creditors and legatees of the testator an award given upon such ground merely was not one within the meaning of the act that nothing could affect it but what could also affect a Judgement or Decree that Judgments might be set a side for Error in law and also decrees in Chancery upon the suggestion of their having been obtained by fraud and deceit and no &c. particular time was limited for such Act of Justice by a Court of Equity even in Annulling their former Acts upon Discovery or shewing that they were not founded upon law or the real state of the merits of the Case tried before them — as to the time limitted by the &c. aforesaid Act for excepting to awards — The present Case was not at all governed by it because it was in its &c. principle different from those Arbitrations of differences and disputes between parties entering into Mutual Submissions which could be understood of parties personally interested themselves or Authorized by others that the Submission in question also was not made a Rule of Court although the Arbitration Bond was &c.

Declarative

declarative what it was and it not being so made might be fairly presumed to arise from a caution of keeping the transaction secret - Moreover the Defendant did say that Exceptions of Corruption or Misbehaviour in the Arbitrators were not made use of by the Defendant against the said Award it was the Defendant did say the Corruption and Misbehaviour of the parties themselves to mislead the Arbitrators with a design to defraud the Creditors and legatees of the Estate of Dawsonne Drake the Defendant did therefore say that his Exceptions were not grounded upon Alledged Error or supposed Fraud of which your Petitioner had said the said Mayors Court should have been carefull of interfering with lest by opening the said Award they might destroy the wise intention of the &c. legislature in its endeavours to promote so solutary a law because it Appeared by the proceedings and evidence that your Petitioners Intestate and the said Nathaniel Barlow had themselves in the first instance destroyed the wise intention of the legislature by entering into a &c. fraudulent submission for the purpose of perverting the intent purpose and effect of so salutary a law - an &c. Abuse the Defendant did say which the legislature Could not itself sanction and legatize nor did it seem that in the framing of the Act that so pernicious a deviation required to be particularly guarded against by

Declaring

Declaring that Awards grounded Upon fraudulent &c. Submissions should be void the Act only went to protect the parties in Submission from the Corruption or &c. Misbehaviour of the Arbitrators - The framers of the act in all probability Regarding it Unnecessary to Declare upon so self evident a Consequence in legal Reasoning that an Award founded upon a Submission to do away the right of persons not parties thereto should be entirely void and of no effect - According to the Maxim - that which was once a fraud would be always so that your Petitioner Notwithstanding did say that it was laid down in the books that Court of Justice were now more liberal in the Constructions of awards than formerly and that the distinctions to be met within former proceedings were by no means to be Admitted as precedents in expounding Award at this day - But that he had not pointed not those deviations in Modern practise nor upon what principles they were made nor did he in the least attempt to Accommodate that supposed Alteration to the state of his own Case or to the refutation of the legal merits upon which the Defendant had stated his that your Petitioner had not therefore from those premises &c. enabled the said Court of Appeals to determine how far they could follow the practice of other Courts in forming a liberal construction of awards and is peculiarly of awards obtained under the unfavorable Circumstances of the

present

present and Lending as the Defendant did say to so bad and pernicious Consequences both in Effect and example that your Petitioner had next Undertaken to shew that in order to make an Award good or valid it was necessary First that the parties to the submission could legally Arbitrate second that the award should be made According to the Submission that it should be certain that it should be equal of a thing lawful and possible and that the award should be final and that nothing could touch such an Award Unless it should be proved that Arbitrators were Manifestly corrupt — In Answer whereto the Defendant did say that instead of two there were five different requisites which should Concur to make an Arbitrament good — First that the matter in Controversy which was in the present instance the payment of a large part of the Estate of Dawsonne Drake to Frewingadiah Braminy upon demands that had been praved by the Defendant as he did pretend to have been unjust and in part not to have ever had any foundation whatever in the lifetime of the said Dawsonne Drake — Second — a Submission of the matter in Controversy the Defendant did say he was Advised that as there was in the present instance not any matter in Controversy or not any upon a legal ground of Controversy that the mere setting up of fictious ground of Controversy by the said Frewingadiah Braminy by the suppression of the only real accounts

Accounts between him and Dawsonne Drake in his life time and the Substitution of others framed long after his death as in the instance of the Suppression of the Account B and the Substitution of the Account C could not make that become essentially true that was before Absolutely false for Although it was one of the powers of Equity to enforce the executing of Agreements it was a Maxim in equity and of law also — that wherever there was suppression or Suggested false a Deed grounded upon such indirect principles should be Void — And the Defendant did say he was advised that Although that Maxim might not apply to Reserve any benifit to the colluswe parties — the same was fairly applicable to the Arbitrator who were deceived by such collusion and the benifit of the maxim by the same party reserved to the Defendant Administrator with the will Annexed on behalf of the Creditors and legatees who had been injured by the parties thus fugning a matter of Controversy when not any existed — Thirdly — parties in Submission — the Defendant did say he was Advised that they could not shape themselves into any legal right of being parties the one to Deliver any part the Estate of the said Testator Dawsonne Drake deceased and the other to receive or possess any part of his Estate nor legally enter into any Agreement so to do but upon an equal Consideration of the thing to be

Delivered

Delivered being equal to the Value of some Just Debt by the testator in his life to the said Trewingadiah Braminy owing — And the Defendant did pretend that he had Asserted and proved that the said Dawsonne Drake was not indebted if in any but in very inconsiderable Sum of Money Unto the said Trewingadiah Braminy at the time of his death and the said Trewingadiah Braminy had not proved That the said Dawsonne Drake was indebted unto him at such time of his death — which this your Petitioner did say he was Advised it was incumbent on him if he could to have done so — And that upon stranger ground of law or Reason then any shewn by your Petitioner that it was the duty of your Petitioner to have pleaded or demurred to the said Award — Because action was not commenced upon the Award but upon the Bond which was disputed upon the ground that the Consideration thereof was the illegal Award and that the Defendant had filed a Cross Bill upon the ground of his Answer whereby the Original Debt pretended to be due was put at Issue and your O. Petitioner or his Intestate become thereby indispensibly bound to prove his debt But this he had waded doing under pretence that the debt was Confirmed to him by an Award and upon that Award solely he rested the merits of his suit and his defence to the Defendants

Cross

Cross Bill and only urged that the Defendant ought to have Demurred or plead to the said Award and that not having done so Accordingly the Award however illicitly and O. indirectly obtained as the Defendant did pretend had O. become thereby equal to a Judgment or decree in Equity or law — all which your Petitioner Asserted the Defendant did pretend with a confidence that had made him inattentive to such Consideration that if it was the duty of this Respondent to plead or demurr to the Your Petitioner said Bill that it was equally the duty of your Petitioner to have pleaded or demurrer to the Defendants Cross Bill and that by his not having done so even if the Cross Bill had contained any matter that was demurrable the benifit thereof could not insure to him at any subsequent stage of the Suit and Cross Suit the merits of which were whether the Defendant as Administrator of Dawsonne Drake deceased was or was not indebted unto your Petitioner as Administrator of his said Intestates praying of the execution of the award was O. Superplusage as it was the instrument by which the O. Defendant complained he was injured consiquently the only means whereby the Cause of Complaint could be removed from the breast of Justice was the proof of his demand being Justly due and owing at the time of the death of the said Dawsonne Drake the wasion he had made use of as the Defendant did pretend that it was not in his power to prove

it

it the Court would not allow him to avail himself of because he was in full possession and knowledge of every means whereby the Defendant had pledged himself to perform the more difficult task of proving that Dawsonne Drake was not nor could not be indebted unto him at the time of his death which means did in the greatest part consist of Original Papers and Accounts under the hand writing of the deceased Trivengadiah Braminy And of one Account executed by the said Nathaniel Barlow after the death of the said Dawsonne Drake wherein there was a suppression of Twelve thousand Pagodas Allowed in the Account signed by Trivengadiah Braminy in the said Dawsonne Drakes life time the Defendant therefore did say that the Collusion of the said Nathaniel Barlow with the said Trivengadiah Braminy in that and other instances detected was Sufficient in the law not to Allow to either of them the right of being parties in Submission to an Award that was meant by them not to effect either of their own property or Estates but the property of the Creditors and Legatees claiming under the Estate of Dawsonne Drake deceased of which the said Nathaniel Barlow was Administrator Fourthly that Arbitrators which Colton Bower Bank Dent and Josias Dupre porcher could not properly be said to be because they were totally uninformed of the fraction of the matter in Controversy of the Submission And the Corrupt Agreement of the parties to the submission Fifthly the Award the Superstructure laid upon the fraudulent and deceitful foundations All which &c. fundamental requisites of honesty fairness and unconcealed discovery being as the Defendant did pretend Wanting to Validate the said Award the mayors Court did in Course Order and Decree the said Award should be null and Void and that the Securities thereby Awarded or in Consequence thereof given should be delivered up and the Defendant did maintain that the said decree was not only grounded upon all these corrupt facts fully stated in the proceedings but upon the ground of Evidence fully and unequivocally proving the same so to be— To the third— the &c. Defendant did Maintain Contrary to what he said your Petitioner had Asserted that the matters and things asserted by him in his Answer and Cross Bill and &c. further insisted on in and by his Rejoinder were in every part not only supported but proved of Course that your Petitioner had erroneously Asserted that the same in &c. some particular and important points were contradictory and the Defendant did say that it was improper that your Petitioner should say that the grounds and &c. principles of his said Defence or that the Decree of the said Mayors Court thereupon was in any instance Contrary to Equity or the law or that they were Arbitrary

And

and Unjust — And the Defendant did say that the &c.
Arguments urged by your Petitioner at this time Against
the grounds and principles of the Defendants Defence were
were irregularity and Unreasonably introduced because
the same went upon grounds that he had not made part
of his original Bill and which were not made any part
of your Petitioner Answer to the Defendants Cross Bill
that if the said matters had been therein fairly and &c.
timely introduced the Defendants Rejoinder to the original
Replication and this Replication to the Cross Answer &c.
might have contained other matter of Fact and law —
thereupon or have shewn to the Mayors Court the invalidi
-ty and error of What he had then irregularily made
use of as part of his appeal the Defendant therefore did
say he would in a cursory manner only remark upon
what your Petitioner had then shewn Against the several
exhibits produced and proved by the Defendant at the
hearing but at the same time he did pray to insist that
your Petitioner by entering into Arguments upon the said
exhibits at that time that he did thereby admit the same
to be true and Consequently the evidence thereupon and
therefore that the said Arguments could be introduced
by your Petitioner with no other view than to Confuse
and Render intricate the plain and unequivocal
state of facts used by the Defendant as a ground of his
proceedings

proceedings and to Confound and perplex the uniform and
Connected evidence that had been produced to Support them
the Defendant did say that your Petitioners Observations
on the Articles of Agreement Marked A were very &c.
inconsistant and such as the Defendant had in no part
of his proceedings insisted upon for he had never did
insist that the said Articles were binding upon the said
Dawsonne Drake no longer than he should think proper
to Continue them but it was shewn there from that the
said Trewngadiah Braminy was in possession of them
at and after the death of the said Dawsonne Drake when
in fact the said Articles Agreement were dissolved by the
act of God and the Cowle or Grant was resumed by
Government who gave and dispensed it to another the
term of ten years was the term of the grant from Govern
-ment to the said Dawsonne Drake and there was no
Covenant Against the death of Dawsonne Drake nor
of deprivation from Government after his death except
that both those events were provided for in the second
Article whereby the said Trewngadiah Braminy agrees
to pay the said Dawsonne Drake Four thousand &c.
Pagodas every year in quarterly payments so long as
the Cowle for Betle and Tobacco farm should &c.
Continue in his hands and as the Assistance that
the said Dawsonne Drake was to give to the said &c.

Trewngadiah

Trivengadiah Braamy in the third Article was a personal duty it ended of course with the life of the said Dawsonne Drake and the said Mayors Court regarded the sense of the said Agreement to operate in that Manner between the said parties by decreeing that the said Dawsonne Drake should receive the proportion of the said Annual Sum of Four thousand Pagodas untill the day of his death only it was absurd therefore to say that it could be Regarded between the said Contracting parties that the said Dawsonne Drake Covenanted that he his heirs Executors and Administrators should Guarrantie the said Trivengadiah Braminy in the possession of the said Betle and Tobacco farm for ten years when no such covenant existed any more than that the said Trivengadiah Braminy his Heirs executors and Administrators should under any circumstances whether of death or other impediment Arising from publick or private Causes continue to pay to the said Dawsonne Drake his heirs Executors or Administrators the Sum of Four thousand Pagodas Annually for ten years although the said Trivengadiah Braminy should not so long Continue to have the said Betle and Tobacco Farm in his hands — Evidence upon which matters the Defendant did pretend could have been produced if that question had been in due time and from stated — This Defendant did say that the Circumstances of the said Nathaniel Barlow being

being prevailed upon by threats and Minaces to execute the Bond Marked H for Seven thousand five hundred Pagodas on the twenty Ninth day of January One Thousand Seven hundred and Eighty four was as strongly proved by the Evidence of Charles Baker / Contrary to What your Petitioner had said that there was no evidence whatever thereupon / as a Circumstance of that Nature could be proved for that Witness to the Eleventh Interrogatory on the part of this Defendant did depose that he had not heard or been informed that any Consideration was given for the said Bond — But that he believed from what he has heard the said Nathaniel Barlow in his life time Mintion that the said Bond was given by the said Nathaniel Barlow having been on his departure from India very much importuned by the said Trivengadiah Braminy on Account of a demand the said Trivengadiah Braminy Alledged was due to him from Dawsonne Drake — that Colton Bower Bank Dent to the twenty Sixth Interrogatory on behalf of the Defendant deposed to the general bad state of health of the said Nathaniel Barlow although he did not recollect that he was About to depart from Madras in January One Thousand Seven hundred and Eighty four Notwithstanding the Agreement G being wrote date with the said Bond whereto he was a Witness as Acting Justice and

Also

Also a Witness to the said Bond Particularly mentioned that he was But the said Witness did depose further that the said Nathaniel Barlow was most probably in a bad State of health at that time and that his disorder was &c. Nervous and hypocandriac and to the last Interrogatory on behalf of the Defendant he deposed that Trewingadiah Braminy was of a very designing troublesome and &c. litigious deposition and Universally known to be so and that Nathaniel Barlow was a man of weak intellect caused by repeated illness of dibility of constitution and very unqualified on that Account to have the Manage- ment of so large a Concern as the Estate of Dawsonne Drake that your Petitioner had Ventured to examine as to the capacity of the said Nathaniel Barlow the afore &c. named Cottin Bower Bank Dent and Josias Dupre Porcher who both deposed to the fifth Interrogatory to the purport of the afore in part recited Deposition of the said Cottin Bower Bank Dent and Sadasavah Moodily to the Ninth Interrogatory on behalf of the Defendant deposed that the reason why the sums of twelve thousand Pagodas credited in the Account B are not Credited in the Account G was in Consiquence of the said &c. Trewingadiah Braminy treatening Nathaniel Barlow to sue him in the Mayors Court if he refused to sign the Account G the Defendant did say that it was not

Necessary

necessary that the said Charles Baker should be informed of the means used by the said Trewingadiah Braminy to Obtain the said Bond but there was the Strongest Evidence of undue means having been practised upon a Weak and timed person worn down by repeated indispositions to a debilitate and enervate state of Body and Mind that your Petitioner had Misrepresented these Circumstances of Evidence to the Court doubtless with a view as the Defendant did pretend of Obscuring in Any degree the Strong light they threw not only upon this part of your Petitioner Intestates but upon the whole of the Transactions until his designs were effected by procuring the Award in question upon demands and Accounts framed After the death of the said Dawsonne Drake that he encreased from Seven thousand and five hundred Pagodas in January One thousand Seven hundred and Eighty four to upwards of one lack and &c. twenty thousand Pagodas in September One thousand Seven hundred and Eighty five But Although that your Petitioner had taken those unfair Means to detract the Witnesses produced by Defendant and to throw as much as in his power a blemish on their Evidence he had not been able to produce a Single Evidence in Support of the various demands made and Bonds obtained by his Intestate from that weak Administrator

nor

nor to trace up a single Circumstance that could lead to a possibility much less a probability of the said D.
Dawsonne Drake at the time of his death being indebted to his Intestate if in any but in a very small sum of money the Defendant did further say that he denied that he did allow of any Circumstances under which the said Bond on which he said your Petitioners action was
founded would have been conclusive nor had he simply pretended but hath actually pointed out nor Circumstances but facts against the legality of the said Bond — Facts stated and proved and not controverted by any Evidence on behalf of your Petitioner Admitted that he had not only made use of the said Opinion of the Arbitrators marked E but of the Evidence of the said Arbitrators to prove that although the said Nathaniel Barlow was in possession of the agreement A and the Account B that they were not produced before the Arbitrators Notwithstanding what your Petitioner hath so bold by asserted that the said Arbitrators and the said Attorney the said Charles Baker had deposed that they did not know whether such papers were or are not produced which the Defendant did say was a gross Misrepresentation of the Evidence For the said Josias Dupre Porcher deposed that he only did not know whether the said Account B was or was not produced before him during the

Arbitration

Arbitration and previous to the Award which makes the Conclusion rather preponderate in the Negative
scale that neither it nor the Article A were produced because a person could not possibly recollect what was not but might Certainly recollect that which was — that the presumption was rendered still clearer by the widence of Cotton Bower Bank Dent who deposed to the same (the fourteenth) Interrogatory that he did not recollect but he believed the Account B was not produced before him during the said Arbitration and previous to the said Award — the Evidence of the Attorney Charles Baker was more positive that it was not for he deposed that to the best of his Recollection and knowledge the Account B was not produced during the Arbitration or previous to the Award by the said Nathaniel Barlow or by any other person or persons on his behalf and that he did not know nor could he pretend to say why the said Account was not produced before the said Arbitrators and the Defendant did say that he would shew thereafter by full Evidence that the said Account B was not produced before the Arbitrators but that the same was supplied by the fictitious Account C drawn out after the said Dawsonne Drakes death and the Defendant denied that there were any Circumstances to be drawn from the proceedings or widence that Could shew in any degree

that

Testimony of the said Josias Dupre Porcher and the said Cotton Bower Bank Dent that the exhibit C never was produced to the Arbitrators and that they say that had it been produced that they would have examined it with the Exhibit B the Defendant did say he had shewn that this last assertion was intirely erroneas and he would pray to shew to the Court that the Account C was the Account that was really produced and the Account B suppressed your Petitioner himself did not admit that they were both produced and had left the task totally abandoned to the Defendant to prove from the evidence that as they were not both produced that the Account C was that Account which was produced Cotton Bower Bank Dent upon both these these Accounts B and C being produced before him at the time of his examination deposed that he had Compared them together and that he did not remember ever to have seen the books of the said Dawsonne Drake or to have heard of them and that he did not of Course refer to them to see whether the Account C was Just According as the same was Certified by Alvar Chitty and further so Confirmed by the said Nathaniel Barlow and that had he had both the said Accounts B and C before him previous to giving his word he most Undoubtedly would

would have thought it Necessary to examine which of them was Just — Josias Dupre Porchers evidence is nearly verbatim the same — Charles Baker to the fourteenth Interrogatory Deposes that he believes that the Account C was produced and he Deposes the Contrary of the Account B that it was not produced that it Appeard from the Aforegoing evidence that the Books of the deceased Dawsonne Drake were not laid before the Arbitrators because as the Petitioner did suppose there was no Competition Against the Account Current C which was certified by the deceased Dawsonne Drakes Booke keeper by order of Nathaniel Barlow who certified it also to be true upon on examination of the Books of the deceased the Arbitrators could not possibly dispute such Unquestionable Authority at that time and took for granted that Nathaniel Barlow would not injure himself or the Estate of the said Dawsonne Drake by producing before them false Accounts certified to be true Their evidence did shew as the Defendant did pretend that had they seen the Account B that they would have discovered which had been true from an examination unto the Books of the deceased the difference between them was thirteen thousand and Eight hundred Pagodas about the sum awarded had the Account B been produced that sum could not have

have been found due by the Arbitrators as the Defen-
-dant did pretend because they would have found
that by all that the deceased Estate was made Debtor
in the Account C he ought to have been an equal &
Creditor by the Account B it was therefore out of the
Nature of things possible as the Defendant did &
pretend that the Account B could have been produced
and this award haise been given there was not as the &
Defendant did pretend any reference to the Account B
In any of the Subsequent Accounts produced before
the Arbitrators but only to the Account C as the Defen-
-dant did say he would shew to the said Court of &
Appeals by an original Account Current Marked
D and fully proved to be in the hand Writing of the
said Truvengadiah Braminy and dated on the &
fifth of September One thousand Seven hundred and
eighty five previous to the Arbitrament wherein the
said Estate of Dawsonne Drake was not indebted in
the Sum of seven hundred and Twenty two Pagodas
the Balance of the Account B but in the Balance
of the account C being the sum of Fourteen thousand
five hundred and Twenty two Pagodas the Account
Current B was proved to be in the hand Writing of
Truvengadiah Braminy and to agree with the said
Dawsonne Drakes Books under the Date of the Thirty
first

first of August One thousand Seven hundred and Eighty
by the several evidence of Charles Baker Alwar Chitty &
Vydenaudum Tanapah Goorroomoorty and Sadarwah
the manner of Mr Drake keeping the Books and
examining the same Monthly and to put his signa-
-ture as an Approbation of the Accounts therein was
proved by Alwar Vydenaudum and Tanapah that
Mr Drake had no Account with Truvengadiah Braminy
after that account except by Bond for one thousand
and five hundred Pagodas was proved by Vydenaudum
Tanapah and Goorroomoorty Whereas the Account C
was disproved in every Respect and particularly by
being proved to have been written After Mr Drakes
death although dated the fifth of September one
thousand Seven hundred and Eighty Alwar Chitty
deposed he drew it by the direction of Mr Barlow but did
not know for what purpose deposed Also to Mr Barlows
Signature Sadasawah deposed to no such Account as
C being in Mr Drakes Books whose evidence was &
Confirmed by Tanapah and Goorroomoorty it was proved
likewise as the Defendant did pretend that it was
Customary for the deceased Dawsonne Drake to give
Bonds and Notes for money borrowed Witness the
Bond for One thousand and five hundred Pagodas
the day on which the Account C brought him indebted

in

in Fourteen thousand five hundred and seventy two &
Pagodas upon Items from the Eighth of may One thousand
Seven hundred and Seventy Eight an Account of which
no Bond or Note was given nor so much as any Account
debited on Account Whereof it was paid which Uncertain-
ties the Defendant did pretend your Petitioner had not
Undertaken to explain nor to give any reason why
there was no account but cash Credited for the Payments
therein pretended to have been made But the Defendant
did say that except the sum of One thousand and
Eight hundred Pagodas charged as having been paid
to Mr. John Sykes which was not pretended to be in
Mr. Drakes Books all the other sums were Accounted
for in Account B to have been paid on Account of the
Yearly Allowance According to Agreement which it
was Absolutely Necessary towards their design as the
Defendant did pretend to Suppress because they would
have been under the same Necessity to have given Credit
for the like sums due to Mr. Drake According to Agreement
which would except in the Items of one thousand and
Eight hundred Pagodas have made the Account C an
exact Copy of the Account B which was a clear proof the
Defendant did say that the design of drawing out the
Account C was to Suppress the Credit given in the Account
B and therefore that it is not possible for the Account B
to

to have been produced before the Arbitrators because in that
Case no sum but the sum of Seven hundred and Seventy
two Pagodas except the Band of One thousand and five
hundred Pagodas would have been awarded as due to the
said Trivengadrah Braminy and not even that sum in
full if the said Nathaniel Barlow had done his duty
as Trustee for the Creditors and legatees of the Estate of
Dawsonne Drake It was evident therefore that as both
Accounts were not produced that the Account C was the
only one that was produced before the Arbitrators by the
Effect it had upon their Minds in giving their said
award that the Suppositions in favor of the said &
Nathaniel Barlows acting different from the manner
he is charged to have acted by him the defendant and
the arguments to shew that it would have been for his
Interest and Credit to have acted in a different manne-
were Wrongly founded in as much as they were grounded
on facts that as the Defendant pretended never did
exist But the Defendant did pray to observe that it
was in that shape as the Defendant did pretend Your
said Petitioner had entirely formed his Appeal &
Misrepresentation and Suppression of facts and &
Arguments upon Facts that never existed that your &
Petitioner attempting to derive an Advantage from the
following Circumstances stated with the fullest &

Exaggration

Exaggination was a Particular instance of the manner your Petitioner had adopted in furthering his Appeal before the said Court of Appeals your Petitioner said that the D.ᵗ Deceased Nathaniel Barlow had the Afsistance of professional Men which he did say appeared by the D.ᵗ evidence on the part of the Defendant and them persumed that those Gentlemen were not Men of Weak Intellects and so easily intimidated as to prevent them from stating the Case of their Client fairly and properly to the Arbitrators for his benefit and Advantage the only evidence to D.ᵗ Warrant any Afsistance being had by Nathaniel Barlow in the Matters in question was that of Master Charles Baker on behalf of the Defendant who deposed to the fourth Interrogatory That he did not recollect that the said Nathaniel Barlow did deliver in before the D.ᵗ Arbitrators any Accounts, Voucher or testimony in Oppo=sition to the Accounts Vouchers and testimonys produced by Trivengadiah Braminy that he did Not recollect that the said Nathaniel Barlow did deliver in any state of the Case of the matters in difference that he did not belive that the said Nathaniel Barlow did or personally attend at the said Arbitration That he did not know Whether the said Nathaniel Barlow did or did not directly or indirectly by any means oppose any or put to proof any of the matters and things Alledged by

by the said Trivengadiah Braminy before the said D.ᵗ Arbitrators That he was not able at that distance of time to Recollect particularly what Accounts testimonies and Vouchers produced by the said Trivengadiah Braminy before the Arbitrators were or were not Admitted by the said Nathaniel Barlow that the said Nathaniel Barlow had the Afsistance of M.ʳ Peter Walker one of the Attornies of the Mayors Court in the matters in question And the Defendant did say that he had exhibited the said Deposition to shew That not any thing was done by the said Nathaniel Barlow or any one for him in Opposition to the Accounts Vouchers and Testimonies produced by Trivengadiah. that the said Nathaniel Barlow having an Attorney merely for shew without putting any Confidence in him or Asking his advice Upon the real state of the Case was rather a Circumstance that Marked Against your Petitioners Intestate the said Trivengadiah Braminy that your Petitioner to have derived any Advantage from the Circumstances of Natha=niel Barlow having employed an Attorney to Afsist him in that Business should have shewn as the Defen=dant did pretend that Nathaniel Barlow stated his Case to him fairly that he shewed him the Agreement A and the Account B that he informed him of the Cause of Making out an Account different from it by Suppressing the whole Credit side and reserving only the debit

debit side of the Account of the Estate of Dawsonne Drake with the said Trevingadiah Braminy that if the Attorney had been rightly instructed in those respects the Defendant Admitted that his silence might not have proceeded from Weak intellects or timidity But as the framing of the Account C was not done by the Advice of an Attorney it was not necessary to inform him of the former Account And if the Attorney had drawn out any state of the Case which it did not appear that he did or that there was any on his the said Nathaniel Barlow Behalf drawn out the same could only have been on the ground of information furnished by the said Nathaniel Barlow and if he had employed fifty Attornies upon the same matter they would not have been able to give otherwise than the same Opinion because the Matter they would have had to go upon would have been the said Nathaniel Barlows own act and Deed produced by his opponent the said Trevingadiah Braminy To wit the Account C— the Defendant therefore did say that a professional Man not being bound otherwise than by his Instructions was not Responsible if his Client misled him by Mistating his Case Any more than Arbitrators were Responsible for an award injurious to third Persons to which they had been led by Misrepresentation

Misrepresentation and concealment of the true state of the Case by the Collusion of the parties in Submission upon which ground the defendant did say that he denied that it was either unreasonable or unfair to suggest that the present Arbitrators had blindly (in respect of real information) given an Award upon false premisses laid before them for their examination and Consideration and for the Defendant to insist that it was upon the investigation of these illusory matterials only that the said Arbitrators have disposed of a Considerable property belonging to the Creditors and legatees of the Estate of Dawsonne Drake deceased that the Opinion of the Arbitrators drawn out by the said Cotton Bowyer Bank Dent the Defendant did pretend shewed that the Bond of Seven thousand and five hundred Pagodas was given previous to his departure from Madras and that it was given to prevent law process might serve as a support to what had been before set forth by the Defendant that it was given under compulsion and that an Advantage had been taken of his hasty departure and the Weak state of Body and mind he was at that time in Defendant denied that the words of the said opinion recited by your Petitioner did in any degree shew that there was any Opposition made by the said Nathaniel Barlow before the

the Arbitrators and the whole proceedings and evidence did as the Defendant pretended deny there being any nor was it possible that there could have ben any opposition and the Defendant did pray to observe without that the said Nathaniel Barlow had receded from his Acquiescence in giving the said Trivengadiah Braminy the said Account C and had declared himself deceived and imposed upon when he Condescended to put his Name to it that he did so under unfair influence that he Claimed the impartial Justice the Arbitrators had Warranted to him by Accepting his submission to it and had Confidently laid before them the Agreement A and the Account B and had produced the books of Dawsonne Drake as evidence of the imposition and deceit that had been practiced upon him when he certified the Account C to be a true transcript from them that had such been the Conduct of the said Nathaniel Barlow the Defendant did by no Means Admit the conclusion of your Petitioner that an examination of the said Peter Walker would have defeated his purposes and that this Respondent therefore declined it but did insist that if the said Peter Walker had been informed of the true state of facts between the said Trivengadiah Braminy and Nathaniel Barlow that he would have been an Additional Evidence to the Many that the

the Defendant had Ventured to examine in support of them and that it was not possible to believe that he would not have examined him had he known as before stated that he was so material an Evidence as the Defendant conceived he would have been for the Estate of his Testator therefore Defendant did say that he esteemed himself Justified not only in resisting that false conclusion of your Petitioner but by retorting the same upon himself which the Defendant did pretend he might very fairly do from the face of the other evidence which was uniformly connected in supporting the whole of the facts stated by him in the course of the proceedings and that as your Petitioner had declined examining to the merits on his own part stated that he was well Apprized that the evidence of Peter Walker would be Against them did that although he did not examine the Cash keeper and books of the said Dawsonne Drake as to the production of the Books of Accounts of the said Dawsonne Drake he had examined the Arbitrators and the said Charles Baker who uniformly declared that the Books were not produced before them that there was Neither Absurdity nor injustice in his insinuation that there was a Collusion between the said Defendant and the said Trivengadiah Braminy and Notwithstanding what your Petitioner hath shewn of other ways by which the said Nathaniel Barlow might have

have injured the Estate of Dawsonne Drake or by which he could have Avoided the present means he has taken to effect that purpose by saying - That had he meant to promote his object at the expence of the Estate of D. Dawsonne Drake that there was no Necessity of going to an Arbitration at all a Bill might have been brought for the Amount now sued for or for a greater Amount That the said Nathaniel Barlow might have confessed a Judgement an execution would have issued and the premisses given by the said Nathaniel Barlow as a Collateral security would have been seized and sold as the Satisfaction of a Decree but the Defendant denied that such was a fair Argument that because the said Nathaniel Barlow would have taken those fraudulent Means more expeditious but therefrom perhaps more liable to detection then those he has fallen upon by a formal and deliberate act of Similar Justice and impartiality towards the Estate of Dawsonne Drake that he therefore stood Justified by his chusing the mode of Arbitration to Effect his purpose rather than any other or that he Appeared in any Degree therefrom to have been doing his utmost to discharge his duty for the benefit of the Estate That your Petitioner then changed his ground as the Defendant did pretend and framed Another Supposition - That of the said Nathaniel Barlow

Barlow had it in his power and had neglected to bring forward all proofs Necessary to be laid before the Arbitrators it was Contrary to law that your Petitioners Intestate should suffer for such Neglect - the Defendant did say that the present Case was not in the least Applicable to the Neglect of parties in Submission bringing forward their proofs which the law would not in some instances remedy because the Neglect might arise from bad purposes but the present Case was the laying before the Arbitrators such Documents or proofs of Accounts which were false and the suppressing of such as were true upon which this Defendant may Justly make use of your Petitioners own words That by doing too much he had left that undone which he ought to have done That these several matters were strongly charged by the Defendant in the proceeding on his part upon the ground of the several exhibits annexed thereto of which he tendered the Originals and by your Petitioners Intestate Neglecting to Pray Oyer of them or of any of them which it was certainly his business to have done previous to Issue being Joined thereon if he had any Objection to make to them or had any Witnesses to examine to disprove the same or the proceedings thereupon charged and that your Petitioners and his Intestate having Neglected so to do he came now Unseasonably before the Court by his Attempts to invalidate

invalidate them by way of Appeal in which no matter could be brough forward or Consisted on but what was made part of the proceedings and Evidence upon which the Decree so Appealed from was founded that he insisted and would maintain that he did Justly and truly alledge in his Rejainder that your Petitioners Intestates could not lawfully claim under a Bond upon an unfair consideration nor detain the Bond and Assignment upon which the said Bill was founded that the Defendant had as he pretended shewn throughout the proceedings that notwithstanding the said Bond was charged to arise out of an award and granted for the Amount awarded Nevertheless that the said award could not Validate the Bond without being legal and valid itself and being invalid and illegal in as much as it was given upon a fraudulent submission every deed connected with or given in consiquence of the said Award was of course Absolutely void that the objections made by your Petitioner to the Sufficiency of the Cross bill were not very proper because it Appeared from the proceedings that there was not any part of the said Decree of the Mayors Court which had not a direction to the particular relief thereby granted and to all other relief that the Court might moreover have Judged fit to grant thereupon for the purpose of doing effectual and Substantial Justice that if the your Petitioners Intestate had been so advised he

he might have demurred to the Cross Bill as being so insufficient or he might have excepted to any other part of the proceedings which he might otherwise have been advised had improperly supplied the defects of the said Cross bill but the whole Merits and the Evidence thereupon being once before the Court they were in every sense Justified in decreeing thereupon to the full extent that the law and equity could reach in giving that remedy which the injury Complained of required by restoring to the Defendant that property of the Estate of Dawsonne Drake which had been as he did pretend unlawfully alienad from it that he had Justly and fairly stated in the proceedings the Accounts existing between the said Dawsonne Drake in his life him with the said Trevingadiah Braminy and denied that the said Account Current annexed unto his Cross Bill did shew any other then those he had therein stated that if any such there were it was the duty of the said Trevingadiah Braminy and his Administrators to have brought them forward for if any such there had been they must have been in so possession thereof or of some vouchers to prove them or they must have existed as the Defendant did pretend in the Intestates Books of Accounts as it could not be believed he did say but that the Intestate did keep Books a person who had such large and extentive dealings and

that

that he did was shewn by the different Original Accounts
B.D. and E. in his own hand writing exhibitted and proved
at the hearing of the Cause that if there were any other Accounts
and that your Petitioner and his Intestates had not produced
them it could not be presumed that such Accounts were in
any degree in their favor and therefore that they had suppressed
them and kept them back, or destroyed them that with respect
to the charge on the debit side of the Fourthousand Pagodas
Annual Payment until the day of the death of the said
Dawsonne Drake the same did not let into any Idea
that the Defendant had at any time that the Bottle and
Tobacco farm were to remain after the said Dawsonne
Drakes death in the same manner as during his lifetime
because the same would have been unjust and Absurd
as the Defendant would had he entertained such an
Idea have followed up the said Charge until the day
that he made out his Account which shewed on the Contrary
Contrary as the Defendant did pretend that the Defendants
Idea was that the said Intestate was no longer to
Answerable than during his holding the said farm
that your Petitioner ought not to have Attempted any
Advantage from the Surrender of the Cowle by the said
Nathaniel Barlow because his having done so before
he had obtained letters of Administration could not
Way connect the said act with the powers he afterwards

Obtained

Obtained from them the Defendant did not therefore
think himself at liberty to enter into any Supposition of
the legal consequences of the said Surrender being the act of
the said Nathaniel Barlow After he was invested with
the powers of an Administration except only by observing
therein that had your Petitioner or his Intestates entered
into the said question in the proceedings in as full a
manner as he had upon the ground of the Evidence of
Venkatahistnah and had made the same an Issuicable
Matter the same might have appeared quite different
at the hearing Notwithstanding that it was in fact only
Serviciable to your Petitioner in his object of drawing
off the Attention of the Court from those matters that
were only at Issue and to furnish him with an addition
to the extraneous and inconsistent Materials he has
framed his Appeal upon without Venturing in any
degree to discuss upon those which composed the Just
and real merits of the said or upon the Evidence that
had been produced by the Defendant in support of it
that it was not possible that the said Arbitrators at
the time that they were interrogated respecting the
intention of the parties in submitting their pretended
differences to their Arbitrament could depose otherwise
thereto than they had That they regarded it as a Matter of
convenience and Accommodation to both parties that the

Defendant

Defendant had not insisted that the said Arbitrators were in any other Sentiments No could he do so without involving them in the imputation of collusion with the parties in O. Submission but that upon a particular Attention being paid to the said Evidence it Amounted to no more than this that the Arbitrators at the time they Accepted that office believed that what the parties represented to them was true and that had they been informed of the real state of facts they would not have become Arbitrators and that they were not informed of the real state of such facts was proved by their depositions upon the exhibition of the Accounts B and C wherein they did say that had they seen them both previous to their giving their Award they would certainly have examined the said Dawsonne Drake's Books to see which was right - And Cotton Bower Bank Dent deposed to the Interrogatory immediately following upon the Exhibiting of the Account E wherby the said Estate was debited in the sum of Seven hundred and Seventy two Pagodas as the Balance of the Account B and the Sum of One thousand and five hundred Pagodas the O" Amount of the Bond from the said Dawsonne Drake to the said Trivengadiah Braminy of the fifth of O" September One thousand Seven hundred and Eighty and Interest calculated thereon up to the thirty first day of May One thousand Seven hundred and Eighty one

one that he believed the said Account was not produced to him during the Arbitration and he give a very satisfactory reason for such his belief to the Contrary that it O" excited his extreme Astonishment and that he was not informed at that or any time previous to his giving the said Award That the said Trivengadiah Braminy had sent the same to the said Nathaniel Barlow in Consequence of an Advertisement to the Creditors of the said Dawsonne Drake deceased to send into the said Nathaniel Barlow the Amount their several demands upon the Estate of the said Dawsonne Drake and that he was not informed by the said Trivengadiah Braminy only the said Nathaniel Barlow that the said O" Trivengadiah Braminy had in Consequence received a dividend upon the said Bond Notwithstanding which want of information in the said Cotton Bower O" Bank Dent all the said Matters that he was not so informed of were upon Evidence to have been existing - And the Defendant therefore maintained that the said Opinion of the said Arbitrators that the said Award was a convenience and accommodation to both parties only shewed that they were not put in possession of the real state of facts but that they were suppressed and concealed from them for the O" illegal purposes and designs set forth charged and fully

fully proved by the Defendant who did Absolutely deny that the Accounts between the said Dawsonne Drake in his life time with the said Trewingadiah Braminy were in any degree intricate because they consistid only of the Balance of the A. Account B and the Bond of One thousand and five hundred Pagodas before mentioned and referred to in the said Charles Bakers Deposition except the Credit that ought to have been given to the said Dawsonne Drake for the Yearly payment of Four thousand Pagodas from the first of August to the day of his death that your Petitioner had therefore A. Misrepresented the Situation of Accounts between the said Dawsonne Drake in his life time and the said Trewingadiah Braminy by Alledging That in order to Arrange and settle them and in order to save the expence of law process it was Necessary to submit them to Arbitration because the said Trewingadiah Braminy had Sent in an Account to Nathaniel Barlow of all demands he had on the Estate of Dawsonne Drake made up to the thirty first of may One thousan Seven hundred and Eighty one including all Accounts that were existing between them at the time of Dawsonne Drakes death except the unsettled arrear on Bettle from Account all the other Accounts were made up After his death that is to say the following to wit the Bond for Seven thousand and five hundred Pagodas the Account C for the Balance of Fourteen thousand Seven hundred and fifty two Pagodas Under date of the Fifth September One thousand Seven hundrid and Eighty the Account D for the Balance of twenty five thousand Seven hundred and fifteen Pagodas and Nine fanams under date of the fifth September One thousand Seven hundred and Eighty five Composed of the Balance of Account C and of the A. foresaid Bond for One thousand and five hundred Pagodas with Interest for five years in which Account the said Bond of Seven thousand and five hundred Pagodas of the twenty Ninth of January One thousand Seven hundred and Eighty four was said to be included Although it was dated Upwards of three Years and a half after the Date of the said Account that those were all the Accounts that were produced before the A. Arbitrators and if any thing was intricate in them they were so made by the parties in Submission not producing the Original Account B closed in the life time of the said Dawsonne Drake which would have Unravelled the Errors in the A. foresaid Accounts and detected the falsity of their Additions and Subtractions and therefrom have Satisfied the Arbitrators that the Account C Ought to have had Credit for the Sum of twelve thousand Pagodas and ought not to have been debited for one Thousand and Eight Hundred Pagodas

as

As paid to Mr. John Sykes which two sums make Thirteen thousand and Eight hundred Pagodas and with the Balance of Account B Seven hundred and O. Seventy two Pagodas exactly detected the fraud in the balance of Account C Fourteen thousand Seven hundred and fifty two Pagodas which ought only to have been seven hundred and Seventy two Pagodas that last Sum with the O. Addition of the Bond for One thousand and five hundred Pagodas shewed the real state of Accounts as they existed at the time of the death of the said Dawsonne Drake and the wants debits composing the Account F sent in by Trivengadiah Bramany on the thirty first of May One thousand Seven hundred and Eighty one as containing all the demands he had then upon the Estate of O. Dawsonne Drake it was Evident therefrom as the O. Defendant did pretend the Account C must have been framed since the thirty first of May One thousand Seven hundred and Eighty one and in all probability about the time that the said Nathaniel Barlow was about to leave India on Account of his bad state of health which was in January One thousand Seven hundred and Eighty four in which month he gave the Bond for seven thousand and five hundred Pagodas the Defendant denied that he had selected such Accounts only as would Answer his purpose because All those Accounts but those

which

which were true and those which were false had a connection with each other and it was by one false Debit and one false Credit only that they were different as had been shewn in the debit of One thousand and Eight hundred Pagodas and in the Credit of twelve thousand Pagodas in Account C Testify those false entries and the false Account stood Adjusted to the true Account which Adjustment the Defendant did pray to observe could not be effected if those Accounts were dependent upon any other Accounts nor did it appear that there was in those Accounts any Item which discovered clew that lead to any other Accounts by which further transactions could be discovered that had there been any other Accounts existing between Dawsonne Drake in his life time and the said Trivengadiah Bramany he or his Administrators must have been in possession of them and it was fully as Credible that the Intestate and his Administrators should be totally ignorant of the Account B signed by himself in the life of Dawsonne Drake and of the other Accounts in his own hands Writing drawn out after the death of the said Dawsonne Drake as that the Intestate or his Administrators should be in any degree uninformed of Any other Accounts between the said parties if any such ever had being in existence therefore that it was not possible but that if the Account said to be produced

before

before the Arbitrators Whereby the said Dawsonne Drake was made indebted in the sum of One lack twenty Nine thousand two hundred and fifteen Pagodas had been such an Account as the Intestate or his Administrators could have ventured to produce in support of their Claims on the Estate of Dawsonne Drake that they would not have hesitated to produce it is not possible that such an Account could have only one Article It must have had many for if it had only been composed of one the importance of the same Must have preserved some striching impression from the weight of the Credit or Value Against which the said Dawsonne D. Drake was debited for it and in the same degree According to the Number of Articles and if in ever so great a Number the leading branches from the transactions they sprong must have reached through All or a part of the Books of the said Trwengadiah Brahminy who it would not be credited did not keep any but the said Trwengadiah Brahminy Nor his Administrators had not either of them given Any Satisfaction to the Court even from the fallible record of Memory Respecting the Rise progress And enormous encrease of that Debit either in Respect of time place or consideration to that the Arbitrators themselves do not seem to have given it

any Credit nor in any Respect to have founded their Award upon it but solely upon the ground of the Account C that he denied that it did Appear by the testimony of Yatarauzooloo that there was other Accounts than what have been produced by him Nor could the evidence of the same person be credited for he presumed to Depose to the delivery of Accounts After the said Arbitration to the said Nathaniel Barlow and that he himself D. delivered them Although it Appeared by his depositions that he could not Only Neither read or Write the D. English language but that he could not read or write own and consequently could know what he delivered or he delivered any thing Which Matter this Defendant only observes upon to shew the Means Your D. Petitioner had taken not only to suppress the real state of facts between the said Dawsonne Drake in his life time and the said Trwengadiah Brahminy but by evidence also to Misrepresent and pervert them upon grounds that were not only improbable but D. impossible the Defendant for further Answer saith that he insists that evidence produced on behalf of the Defendant was uniform combined and correct in All its parts and Unites in An Uncontrovertable demonstration of the truth of the several Matters and things by him Charged alledged and Set forth in the Course of the

Proceedings

Proceedings which the said Evidence thereupon did not in any degree stand impeached by any Evidence on the part of your Petitioner which went to foreign and futile Matter Neither contained in nor Warranted by the pleadings by your Petitioner Made use in support of his illegal and in every respect ill grounded &c demand and the Defendant did say that the evidence produced to shew that the Account B was in the hand writing of the Intestate Trivengadiah Braminy and by him delivered to the said Dawsonne Drake in his life time and that there were no other Accounts &c existing between them at the time of the death of the said Dawsonne Drake was the Defendant did say unintestable except the Bond for One thousand and five hundred Pagodas and your Petitioner had not presumed the Defendant did say to examine any &c Witnesses Against the reality and Validity of the said Account or Against the Competency of the said Evidency Nor had he Ventured to Substantiate and prove the Account C which his Intestate in his life time Substituted in its place and stead nor to prove that there were any other transactions and dealings between the said Dawsonne Drake in his life time and the said Trivengadiah Braminy than Whatwere Contained in the said Account B nor insist so much upon

upon their being any other transactions and dealings between them wherefrom the said Dawsonne Drakes Estate could be brought indebted to that of the said Trivengadiah Braminy provided he could carry his point in Substantiating the Account C which in fact was the only point upon which your Petitioner and his Intestate had fixed their claim since the detection of the Suppression of the Account B and the Objections thereupon and by reason thereof made shew that the Arbitrators had been misled by the Exhibition of false Accounts before them in &c Consequence whereof they had been induced into a &c Unwilful injury towards the Estate of the said Dawsonne Drake and of course to the Creditors and &c legatees thereof — And the Defendant did say that the Exhibit D which your insisted had been laid before the Arbitrators is Trivengadiah Braminys Account drawn from the Balance of the Account C and the Bond for One thousand and five hundred Pagodas was rightly insisted upon but the paper Writing which Mentioned to have been supressed in Cotton Bowers Bank Dents Opinion of Fourteen thousand Pagodas (in which the Bond of seven thousand and five hundred Pagodas was said to have been included) was the Account C the Balance Whereof was Fourteen thousand five hundred and Twenty two Pagodas which was only made part

part of the Account D in these words fifth September One thousand Seven hundred and Eighty to the Amount of the Account Current of his own hand writing due &c. Amounting to the sum of Fourteen thousand five hundred and Twenty two Pagodas that the Defendant had never Objected to that Account D having been before the Arbitrators but had on his part insisted thereon and had Also proved the same so to have been but Maintained that the Account D could not have been produced without the Account C to which it so particularly refered being also produced and did therefore say that the want of Recollection of the production of that Account D before the Arbitrators by the said Cotton Bower Banks Dent was not a Matter Material at it was Admitted by your Petitioner and proved by widence and the Circumstances of the Account C being also produced before the said Arbitrators was in like Manner proved in the Manner before shewn and by their own Evidence that B was not produced Wherefrom the Defendant did pray to remark, that your &c. Petitioner himself had by an Admission of the production of the Account D been forced into an Admission that the Account C was Also produced a fact he had in other parts of his proceedings denied and insisted that the Account B was produced the impossibility

impossibility of which is shewn by the Account D not refering to Account B but to Account C and further Also the Defendant did pray to remark that as the Account D was framed upon the fallacy of the &c. Account C_ the Account E under date of the thirty first May One thousand Seven hundred and Eighty one (both in the hand writing of the said Trevengadiah Brominy) was framed upon Justness of the Account B_ to the fourth reason for Appeal the Defendant did say that he would Maintain in like Manner as he hath shewn that the said Mayors Court had not taken the prayer contained in the Rejoinder of the Defendant instead of the prayer setforth in his Cross Bill but that the said Court had taken into their Consideration the whole of the Merits of the Cause and Cross Cause as they Appeared before them and had determined thereupon According to equity and good Conscience – they dismissed Your Petitioners Bill with Costs and upon the full Merits before them did further Order and Decree upon the securities Unlawfully detained by your Petitioner under &c. pretence of the Bond and the Assignments upon &c. which your Petitioners Bill was founded and the said Court would not Consistently with the nature of the Case and the General relief prayed for Decree

Otherwise

Otherwise than they had done by decreeing also that remedy to this Defendant which his right shewn claimed and o. proved did equitably and Reasonably dictate to them and the said Court were not bound by any rule or practise of law or equity to leave this Defendant to a fresh suit to recover the possession of the property of the Estate of Dawsonne Drake unlawfully detained in your Petitioners hands But the Court did in making of their said Decree rather go upon this Maxim that equity will not direct a Suit where it can decree a remedy — And in Answer to the last reason the Defendant did say that your Petitioner could not be Allowed to Avail himself of any Advantage from the said Awards under pretence as he Alledged — That the Matters in question o. had been for Many years finally settled and determined by the Award of Arbitrators indifferently o. chosen between the Parties — because the said pretended settlement or conclusion of the said Matters in question was not the Defendant did pretend upon a fair and bonafide Consideration which notwithstanding Your Petitioner had made the want thereof a o. principal plea or part of his defence Against the right claimed by your Petitioner to with hold the said property of the Estate of the said Dawsonne Drake Your Petitioner had not in any degree proved to

to have existed at the time of the Death of the said o. Dawsonne Drake or at the time that the said collusive Submission as the Defendant did term it was made to the said Award which award had been the whole and entire foundation of your Petitioners claim and was the only Answer your Petitioner had furnished to the Claim the Defendant had made upon him for the property of the said Dawsonne Drake detained in his hands without shewing any other right existing as the Defendant did pretend previous to the said Award and without which the Defendant did say it was evident the Award must have been a Nullity because it had no real Consideration to go upon and it could not in its own Nature create any that the said Award being thus unfairly procured as the Defendant did pretend by the parties in submission from the said Arbitrators upon false suggestions and Suppressions of the real of facts the performance of the said Awards by the said Nathaniel Barlow could not make the same have effect but on the Contrary the Assignments of the said Dawsonne Drakes Estate to the said Trivengadiah Brauniy by the said Nathaniel Barlow was a fraudulent Conveyance and as such was void and your Petitioner and his Intestates were in their lives time bound by law to return the Estate of the said Dawsonne Drake which they had Severely o. possessed

possessions and detained in Consequence of it. —
And the Defendant did further say that he had very
fully proved the whole of the Matters by him alledged
Against the said Conveyance Although it was more
property the Duty of the your Petitioner to have proved
the original right whereby he held the said Nathaniel
Bacon Answerable for any debt or demand by him
pretended to be due and owing by the said Dawsonne
Drake after his death in order to Justify his claim
to the property of this Estate in his possession And his
not having done so he was to All intents and purposes
of the law Answerable to the Defendant for the
illegal detention thereof for the Defendant did
shew that as the law favored Justice and truth but
abhored falsehood it had determined that if a
Man made a Deed of Gift of his Goods in his
life time by Covin to defraud Credetors of their Debts
yet after his death the Vendee should be charged
with them as an Executor of his own Wrong D.r Bacon
f.o 60.5 — and it was inacted by the 43 of Elizabath
Chapter the 8.th — That every person who should
Attain any Goods or Debts of any person dying
Intestate upon Any fraud or Without such Consi =
deration as should Amount to the Value of the
same Goods or Debts or Near there Abouts except in
Satisfaction

Satisfaction of some Just and principal debts of the o.
Value of the same Goods or Debts to him owing by the
Intestate at the time of his decease should be charged so
far as those goods and debts would Satisfy as Executor of
his own Wrong by which act it was evident the defendant
did pretend that in order to Justify the original possessions
and the subsequent detention of the Assigned Securities or
debts by the said Twingadeah Bramin it was o. ce
requisite that he should have given such Consideration as
did Amount to the Value of the Assigned Securities or
Debts or that they had been given in Satisfaction of same
Just and principal Debt of the Value of the said
Securities or Debts to him owing by Dawsonne Drake
at the time of his death and it was the your Petitioners
duty at the hearing of the Cause and Cross Cause to have
shewn and proved such Consideration or such debts owing
by Dawsonne Drake at the time of his death in order to be
Justified in the possession and detention of the said
Assigned Securities and debts and his not having done
so made him to all the intends and purposes of the aforesaid
Act an Executor of his own Wrong and liable to an action
at the suit of the Defendant as Administrator of his
Estate for the recovery of the said Estate of the said
Dawsonne Drake so unlawfully possessed and Wrong
fully Converted as the Defendant did pretend to his
own

own use which right of Action however was evidently without any remedy if your Petitioner was not compellable to prove that he held the same upon good Consideration or without he was obliged to prove the Justness of that Debt and that the said Debt was bonafide owing to him at the time of the death of the said Dawsonne Drake But in that last respect your Petitioner had not given the Court any Manner of Satisfaction further than by holding out to them a Deed purporting to be an Award as the ground of that right upon which he had built his Claim to detain this part of the Estate and Absolutely refusing to be determined by any Other he had peremptorily rejected to Retrospect the Original Ground of Right as it was Situated at the time of the death of the said Dawsonne but had intirely Abandoned that task to the Defendant who made no doubt but that he had therein been fully Successful Notwithstanding the Attempts that have been made by the submitting parties to Alter and change the reality and from of the State of Accounts between the said Dawsonne Drake at the time of his death with the said Trewengadiah Braminy by a Variety covinous and fraudulent Means and instruments as the Defendant did pretend and that the same having been detected and the Wrong purpose they had been Applied to Discovered and laid

laid upon the Defendant Must confidently submitted to the Justice of the said Court of Appeals whether a Deed so perpetrated and effected could in law Equity or reason be thereafter Allowed to exist merely under the right of an Assumed Title or whether the real state of Accounts which were Suppressed to make way for this usurpation should not be Admitted to resume Under the Sanction of a Numerous connected and uniform evidence that right and Claim which had been given and Confirmed to them already by one Court before whom the relative merits and demerits of this question had been fully considered and determined and by way of further Answer the Defendant did say that the said Mayors Court Could not possibly hold the said award as Secred or inviolable because they were sensible and fully convinced and Satisfied that it was obtained by Wicked and fraudulent means for the purpose of wronging parties not interested therein — That fraud, Covin, and deceit, in Whatever shape they Appeared were always deemed odious in the Eye of the law and in a legal Sense were defined an Act Unwarranted by law prejudicial to third persons and Although a false or collusive Act should conclude Against the parties to the fraud Nevertheless all the World besides might be permitted to Controvert it Lofts 427 - By which it Appeared that

that the sense of the law was that if the Arbitrament had
been Submitted to by the said Nathaniel Barlow of his
own goods and Chattels the question would have been widely
different from this Submission which incurred only the
Alienation of the goods and Chattels of the Estate of
the said Dawsonne Drake to the wrong and prejudice of
third persons — To wit Creditors and legatees which
Conclusion the Defendant did say was fully Justified
by the Act of the 43 of Elizabeth Chapter the 8th by
this Defendant before referred to that as your Petitioner
had so strongly insisted upon the inviolable Nature of
an Award the Defendant would pray to refere to cases
of Awards being examined into by a Court of law and
Equity and sett aside which as they were of Submissions
between party and party immediately interested were
much stronger than the present which was made to bind
the property of parties not mentioned and who are only
interested therein by being prejudiced thereby Comeno
Vol. 2d fo. 108. Chancery the Court might examine
the reasons and grounds of the proceedings of the
Arbitrators and what matters they Considered Venus
Vol. 2d fol. 705 Award Sett aside Arbitrators going
upon a plain mistake in law or in matters of fact
Holt fo 80 Raymond Vol. the 2d fo. 850. Chancery
Cases fo. 186 fo. 279 Lofts fo. 554 Award to set it

aside mistake must appear Grofs and plain Therefore
if the mistake does appear Grofs and plain may be
set aside Equity Cases 2d Vol. fo. 80 — fo. G2 fo G3
Deeds or wills and Decrees may be set aside of obtained
by fraud or Circumvention as Appeared by the 2d Vol
pin William Reports fo. 73. 2d Vol. Equity Cases 478
479–480– and in fo 482 It was written that Equity
had so great an abhorence of fraud that it would set
Aside its own Decrees if founded thereupon it being one
of the maxims of Equity that it would relieve against
its own Act According to Circumstances Equity Also
would rectify Mistakes and supply defects the Co
Defendant therefore Referred to the Justice of the said
Court of Appeals wither it was posible for the Award
in question under all the incapacities frauds and
Mistakes that it was grounded upon should or ought
to meet with any but the sweerest discountrinance and
Reprehension in a Court whether of law or Equity and
whether it was not one of the peculiar tranches of Equity
to interpose in a Case like the present in which an
Administrator had made so wrong a use of his power
whether Voluntarily by Assenting or being induced
thereto by unfair Means and influence being practiced
upon him and Whether the said Act before referred
to was not equally Comprehensive to give a Court of
Law

Law or Equity a Jurisdiction to interfere and restrain an Act so prejudicial to third persons Creditors and legatees who were injured thereby whether through the Weakness or Wickedness of an Administrator who had fraudulently or ignorantly alienied the deceaseds Estate without Consideration or without a Just Debt being owing as the Petitioner did pretend by the Deceased Dawsonne Drake at the time of his death and whether the said Court of Appeals would not regard it as having been the duty of the said Frewengadiah Braminy or his Administrators to have shewn that he and they had a right to detain the Securities and Debts conveyed to him by the said Nathaniel Barlow by proving that the said Dawsonne Drake at the time of his decease was indebted to him in some Just and principal debt of the Value of the said securities and debts to him so conveyed and whether as your Petitioner and his Intestates having failed therein and the impossibility thereof having been proved by the Defendant upon the Strongest and most Unequivocal Evidence and particularly by bringing forward the only Accounts that did exist at the time of the death of the said Dawsonne Drake which positively shewed as the Petitioner did pretend that he was not so indebted unto the said Frewengadiah Braminy

and as the said Intestate had taken means to suppress the said Accounts and to obtain an Award upon other Accounts not Warranted by any that had existence in the life of the said Dawsonne Drake whether the Decree of the said Mayors Court is not founded upon the law Equity and the reason of the Case

And therefore and for as much as your Petitioner had not shewn any Just Cause founded on either of the above principles why the said Decree ought not to be affirmed the Defendant did pray that the same might be Affirmed accordingly and that your Petitioners said Petition and Appeal might be dismissed and that your Petitioner might further be decreed to pay all Costs

And your Petitioner humbly sheweth unto your most Excellent Majesty in Council that your Petitioners said Petition of Appeal and the Defendants said answer did come on to be heard before the said Court of Appeals on the fifth day of April in the present year of Our lord One thousand Seven hundred and Ninety four when the said Court of Appeals were pleased to Order and decree and did Accordingly order and Decree that the said Decree of the said Mayors Court should stand Affirmed and that your Petitioners said Petition of Appeal should stand Dismissed

Dismissed with Costs as may more fully Appear by a Copy of the said order and decree of the said Court of Appeals hereunto Annexed for the inspection of your most Excellent Majesty in Council to which your Petitioner humbly craves leave to refer and prays the same may be received as part of this his Petition of Appeal the Original being ready to be produced at the hearing

By which said Decree of the said Court of Appeals your Petitioner doth conceive himself much Aggrieved and doth therefore Appeal therefrom and from the said Decree of the said Mayors Court to your Most Excellent Majesty in Council for the following Amongst other Reasons

First Because the said Decree of the said Court of Appeals and of the said Mayors Court were Contrary to law in the first instance and Contrary to Evidence in the second Instance and furthermore that the said Decree of the said Mayors Court was contrary to the Course and Practice thereof and that therefore the Court of Appeals in affirming the same gave Judgment upon an Erroneous principle

Secondly Because the present Suit was brought for the Recovery of a certain Sum of Money awarded to your Petitioners said Intestate upon the Submission of the parties to Arbitration Regularly Executed According to the due forms of law in such Cases and therefore the Consideration for the said Mayors Court and Court of Appeals was whether an Award which had Never been Excepted to in the life time of the said Nathaniel Barlow one of the parties to the said Submission but on the contrary performed and kept so far as it laid in his power so to do and Against which there was no plea or Demurrer on the part of the Original Defendant and Cross Complainant ought not to be held inviolable and whether the said Mayors Court could or Ought upon the Vague and inconsistent Answer of the Original Defendant and Cross Complainant to your Petitioners said Bill of Complaint interfere with the Judgement of Arbitrators who were Judges of the partys own chusing but your Petitioner humbly sheweth unto your Most Excellent Majesty in Council that the said Court of Appeals did not Allow such the merits of your Petitioners Case to have any Weight with their Judgment thereon although your Petitioners Submits to your most Excellent Majesty in Council that as Arbitration are Sanctioned by an Act of the Legislature the awards given by Arbitrators are binding upon the parties submitting themselves thereto and therefore and for the other Arguments Matters and things in your Petitioners said second reason for Appeal from the said Decree of the said Mayors Court contained hereinbefore set forth

And

And to which your Petitioner humbly prays reference your Petitioner submits to your most Excellent Majesty in Council that the said Court of Appeals ought to have Reversed the said Decree of the said Mayors Court and the more particularly as your Petitioner begs leave to shew that no corruption or Misbehaviour on the part of the Arbitrators was Attempted to be brought forwards by the Original Defendant and Cross Complainant nor any collusion proved between the parties Arbitrating Although the Original Defendant and Cross Complainant in his said Answer to your Petitioners said D. Petition of Appeal has pretended the fact so to have been for your Petitioner submits to your most Excellent Majesty in Council that it Appears in Evidence and by the Opinion of the Arbitrators given with their award and subsequent thereto that the said Nathaniel Barlow made every Objection and opposition in his power to the Matters by your Petitioners said Intestate submitted to the said Arbitrators and that even after the said Award was given the Arbitrators found it Necessary to reason with him on the propriety of his performing the same and the Advantages the estate of his said Intestate would thereby receive before he could be D. induced to Abide thereby and Although the Original Defendant and Cross Complainant in Answer to Your Petitioners said second Reason for Appeal to the

Said

said Court of Court of Appeals from the Decree of the said Mayors Court has pretended that your Petitioners said Intestate did not make the said Submission to D. Arbitration a rule of Court merely because it was intended to keep the matter a secret yet your Petitioner submits to your most Excellent Majesty in Council that other more substantial Reasons operated thereto for the making a submission to Arbitration a rule of Court is as occasion might require to Enforce the Award given thereon by an Attachment and as the said Nathaniel Barlow was an Administrator an Attachment could not issue out of the said Mayors Court Against him and therefore to have made the said submission a rule of Court would have been an unnecessary act and your Petitioner submits to your Most Excellent Majesty in Council that it D. Appears in Evidence that upon the said Nathaniel Barlow performing the Award as Aforementioned your Petitioners said Intestate did deliver up to the said Nathaniel Barlow in Conformity to the said Award all Accounts Books Papers and Vouchers and Every other matter and thing belonging and in Reference to the transaction between your Petitioners said Intestate and the said Estate of the said Dawsonne Drake and therefore it was impossible for your Petitioner to bring forward any Accounts in Opposition to those introduced by the said Original Defendant and Cross Complainant who by being

in

in the possession thereof by the means aforesaid was
enabled to bring forward such as might best Answer
his purpose Against the claims of your Petitioner
and keep back those that were in Apposition thereto
a Circumstance which your Petitioner humbly submits
to your most Excellent Majesty in Council has enabled
the Original Defendant and Cross Complainant to
take an Advantage over your Petitioners by a state-
ment of an apparent deficiency of accounts before
the said Arbitrators and your Petitioner further
Submits to your most Excellent Majesty in Council
that the said Nathaniel Barlow did go to Arbitration
upon the fairest and most Equitable principles for it
Appears by the Opinion of the said Arbitrators that
in doing so he acted greatly for the benefit and &c.
Advantage of the Estate of his Intestate which
might have suffered severely and been liable to pay a
much greater sum than awarded by the said &c.
Arbitrators had the matters in dispute been subjected
to a litigation in a Court of Justice and that in cases
where an Arbitration is for the benefit and Advantage
of an Estate your Petitioner submits to your Most
Excellent Majesty in Council that an Executors or
Administrator is as Competent to submit thereto and
will be as fully protected therein as a Party Arbitrating
in his own right

Thirdly Because the matters and things suggested in the
Answer of the Original Defendant and Cross Complai-
nant to your Petitioners said Bill of Complaint and
further insisted on in and by his said Rejoinder were
Unsupported and in some particular and important
instances contradicted and the principles by him set
up as the ground of his defence contrary to Equity and
to the Law Notwithstanding the suggestion of the defendant
to the contrary in his said Answer to your Petitioners
said Petition of Appeal from the said Decree of the
said Mayors Court Contained for your Petitioner submits
to your Most Excellent Majesty in Council that an
irregular Attempt by an Administrator to set aside an
Award which had never been Excepted to by another
Administrator who on the contrary had Ratified and &c.
confirmed the same by a subsequent act arising out of
and in Conformity to the said Award is a principle
Contrary to Equity and to the law and your Petitioner
Submits to your Most Excellent Majesty in Council
that the Defendant is ill Advised when he says that
the said Award was not made any part of your
Petitioners Original Bill in so much as that the fact
is Evidently otherwise and your Petitioner thereon &c.
submits to your Most Excellent Majesty in Council &c.

Notwithstanding

notwithstanding the Suggestion of the Defendant to the Contrary in his said Answer to your Petitioners said Petition of Appeal from the Decree of the said Mayors Court contained that to have set aside the said Award he ought to have brought a Bill for that purpose or it o. Otherwise Advised he ought to have pleaded or demurred to your Petitioners said Bill of Complaint and which your Petitioner humbly conceives is a fact of which the Original Defendant and Crofs Complainant appears to have been fully convinced by the matters and things setforth in his said Rejoinder wherein he has irregularly introduced those pleadings which ought to have formed his said Crofs Bill of Complaint And your Petitioner humbly sheweth that without any legal Exception on the part of the Original Defendant and Crofs Complaint to the said Award the said Mayors Court did think proper to set aside the same and to Decree in the same Manner as if the Matter in suit had been an Open Account Current and as if no award had ever Existed And the said Court of Appeals have in Confirming the same given as your Petitioner humbly conceive a Judgment contrary to Equity and to the law and your Petitioner humbly submits to your most Exellent Majesty in Council Notwithstanding the suggestion of the Appellant to the Contrary in his said Answer to

Your

your Petitioners said Petition of Appeal from the said Decree of the said Mayors contained that the Exhibits by him brought forward in his said Petition of Appeal were fairly and regularly brought forward and not further to confound the facts insisted on by the Original D. Defendant and Crofs Complainant otherwise than to shew they are unfounded and to demonstrate the litigious conduct and evil intentions of the Original defendant o. and Crofs Complainant in the premises and your Petitioner humbly conceives that it will Appear that the Observations upon the Original Agreement in Exhibit A were not inConsistent and humbly prays reference thereto as uncontroverted by the said Answer of the Original Defendant and Crofs Complainant and your Petitioners submits to your most Exellent Majesty in Council that the said Agreement is upon the face of it Corrupt on the part of the Original Defendant and Crofs Complainant Intestate who Appears thereby to have taken an unwarrantable and illegal Advantage of the Intestate of your Petitioner but that if taken in another light it may Appear both Just and Equitable that as the Original Defendant and Crofs Complainant Intestate did thereby Covenant to protect and support Your Petitioners said Intestate and the Bittle and Tobacco farm for ten years for the Consideration in

the

the said Agreement setforth his Executors and
Administrators were by implication atthough not
Expressly bound to Continue the same After his death
in forfeit the said Consideration and your Petitioner
therefore humbly submits that the Act of God would
not have been a Good plea if the same had been
Regularly pleaded by the Defendant instead of being
brought forward as it Appears in his Rejoinder and
your Petitioner humbly submits that it doth not
Appear by the testimony of Charles Baker as the
Defendant in and by his said answer to your Petitioner
said Petition of Appeal from the Decree of the said
Mayors Court or by any other testimony that the said
Nathaniel Barlow was prwailed upon by threats
and minaces to Execute the Bond Marked I-I for
the said Charles Baker says no more than that he
hath heard the said Nathaniel Barlow say he had
been importuned to give the said Bond and your
Petitioner humbly submits that when it is Considered
that the said Nathaniel Barlow was an Administrator
only could not possibly suffer in his own fortune by
any Action that might be brought by your Petitioner
said Intestate Against the said Estate of the said
Dawsonne Drake it is not to be presumed that he
could have been terrified unto the execution of the said

Bond

Bond by any threats and menaces of this Respiants
said Intestate wen had such threats and menaces been
made use of and your Petitioner submits that such the
pretences of the Defendant is at total Variance with his
other pretences wherein he would suggest that the said
Nathaniel Barlow and your Petitioners said Intestate
Acted in collusion together to Defraud the Estate of the
said Dawsonne Drake when Entering into an Arbitra-
tion and shews that the Original Defendant and
Cross Complainant makes use of and rejects the same
facts as it Applies to or Apposes his views of injuring
Your Petitioner in the premises and your Petitioner
humbly submits to your most Excellent Majesty in
Council Notwithstanding the Asseritions of the Origina
Defendant and Cross Complainant to the Contrary
that he has not any where in his said Appeal from
the said Decree of the said Mayors Court Misrepre-
-sented the evidence on the part of the Original
Defendant And Cross Complainant but has fairly
and clearly stated the same and your Petitioner submits
that it was not incumbent on him to Enter into any
proof of the demands made and the Bonds obtained
by his Intestate humbly conceiving that all he had
to do was to prove the award and the Bonds by the
said Nathaniel Barlow granted in Consequence there-

and

and in Obedience thereto and your Petitioner has already shewn that all the Books Papers Vouchers and Accounts belonging or in any wise relating to the Transaction in question and in the possession of his Intestate had been delivered up to the said Nathaniel Barlow and that the same had Afterwards been possessed by the Original Defendant and Cross Complainant and your Petitioner submits to your most Excellent Majesty in Council that it fully appears by the Original Defendant own shewing and your Petitioner has actually stated the particulars relative thereto and connected therewith in his third Reason for Appeal from the said Decree of the said Mayors Court to the said Court of Appeals and he therefore prays leave to refer thereto that very possible objection on that part of the said Nathaniel Barlow was made to the demands of your Petitioners said Intestate and further that your Petitioner has not as the Original Defendant and Cross Complainant has asserted misstated Evidence on his part relative to the Exhibits A and B and that the said Exhibits must have been and were before the said Arbitrators at the time of their giving their said Award and your Petitioner humbly submits to your Most Excellent majesty in Council that the testimony of Cotton Bonner Banks Dent upon which the Original Defendant and Cross

Complainant

Complainant seems to much to rely ought not for the Reasons setforth in your Petitioners said Petition of Appeal from the said Decree of the said Mayors Court to have the least Weight or in fact to be considered as evidence in the Cause and as to the Various Arguments contained in the Original Defendant and Cross Complainants answer to your Petitioners said Petition of Appeal from the said Decree of the said Mayors Court on the Exhibits therein setforth your Petitioner submits to your Majesty in Council that he has in his said Reasons for appealing from the said Decree of the said Mayors Court fully stated every matter and thing regarding those Exhibits and which for the reason hereinabove submitted were in the power of the Defendant to use in such manner As might best Answer his purpose of perplexing the Cause of your Petitioner and promote his the Defendants attempts to shew that those Exhibits were inconsistent and incorrect as he had it in his power to derrange and keep back those that would if produced have fully Established the rights of your Petitioner and shewn how very litigious and unfounded the defence was that had been set up by the Original Defendant and Cross Complainant and your Petitioner humbly submits to your most Excellent Majesty in Council that he has clearly shewn in his said Reasons for appeal

that

that the Exhibit B was before the Arbitrators and it so
Appears that Cotton Bower Bank Dent must have
Examined a Variety of Accounts and Papers regarding
the Transactions Arbitrated to Enable him Jointly with
the said Josias dupre porcher to give the Opinion
herein before setforth and referred to and it would
have been Unpardonable in them if with the Voluminous
Accounts that were before them Embracing such large
sums they had not gone into that investigation of them
which by their said Opinion they appear to have done
and your Petitioner humbly submits in Answer to the
Objection of the Defendant in his said Answer to your
Petitioners said Petition of Appeal from the said Decree
of the said Mayors Court that it was not in his power
to Explain Apparent want of connection in the exhibits
partially produced by the Original Defendant and
Cross Complainant who having as hereinabove submi-
-tted possessed himself of all the Accounts of every
discription regarding the matters Arbitrated had brought
forward such only as would best support his defence
and being also in the possession of the Books of account
belonging to the said Dawsonne Drake he could apply
such facts of them in the same manner as he had
done the said Exhibits and by such means had very
Advantage of your Petitioner who as Administrator as
Aforesaid

Aforesaid was left with the Submission to Arbitration
the Award given in Consequence and the Bonds Executed
by the said Nathaniel in Conformity thereto and your
Petitioner Submits that the Reasoning of the Original
Defendant and Cross Complainant upon the testimony
of the said Charles Baker which is at the best only
negatory as he shews no more than that he did not
recollect such and such things and the further
Reasoning of the Defendant that the said Nathaniel
Barlow employed a professional Man in his Business
merely for show and that he did not lay a state of his
case before the Arbitrators is too Absurd to require any
reply as it fully appears that as hereinbefore submitted
that the said Nathaniel Barlow combated the claims
set up by your Petitioners said Intestate before the
said Arbitrators even After they had given their award
as Appears by their said Opinion and as the Attorney
Employed by the said Nathaniel Barlow was upon
the spot the Original Defendant and Cross Complai-
-nant ought to have Examined him to the point and
not having done so it is evident he knew that the
Examination of the said Attorney would have produced
a very different testimony for all which Reasons and
for the several Reasons setforth in your Petitioners said
third Reason of Appeal from the said Decree of the

said

said Mayors Court the said Court of Appeals in &c
Affirming the said Decree of the said Mayors Court
acted contrary to Evidence and to the law

Fourthly Because the said Mayors Court did give
their said Decree not upon the Cross Bill of the defendant
because that Bill was brought for a sum of Money only
but they did so irregularly give their decree upon the
irregular prayer contained in the defendants Rejoinder
and therefore and for the Reasons stated in the fourth
Reason of Your Petitioners said Petition of Appeal
from the said Decree of the said Mayors Court and
to which your Petitioner humbly prays leave to refer
Your Petitioner submits to your most Excellent majisty
in Council that in Affirming the said Decree of the
said Mayors Court the said Court of Appeals did
Act contrary to the Rules of Courts and to the law and
your Petitioner humbly submits to your most Excellent
Majesty in Council that the witnesses produced on his
part do fully substantiate every matter and thing &
Necessary for him to have proved in support of his
action and that the evidence on the part of the original
Defendant and Cross Complainant is evidently prejudi-
-ced and partial and in some parts inconsistent and
Contradictory that Although the Original Defendant
and Cross Complainant has pretended that your &
Petitioners

Petitioners said Intestate and the said Nathaniel
Barlow acted in collusion in submitting to Arbitration
yet he has not Attempted to prove the same and on the
Contrary it Appears by the Original Defendants and
Cross Complainant own shewing in and by the Opinion
of the said Arbitrators and otherwise that the said
Nathaniel Barlow did vomit at the Claims set up by
your Petitioners said Intestate and that he did shew an
Obstinacy even After the award had been given and it
also Appears by the said Opinion of the said Arbitra-
-tors that a full investigation of the matters in dispute
did take place before the said Arbitrators previous to
their giving of their said Award and your Petitioner
submits to your Most Excellent Majisty in Council
the great injury that would arise were a party to go
into the investigation of Accounts that had been
Submitted to Arbitration and upon which an Award
had been given and lain over many Years and when
in Obedience to that award one of the parties had
given up to the other all Accounts Vouchers
Documents and Papers in Any wise &
Relating to the Matters in dispute that
had been thus finally Settled —

For

For all which Reasons
And such others as may be offered at
the Hearing Your Petitioner humbly
prays Your Most Excellent Majesty
in Council will Vouchsafe to Reverse
the said Decree of the said Mayors
Court and of the said Court of Appeals
And that your Most Excellent Majesty
in Council will further Vouchsafe to grant
unto Your Petitioner such further and
other Relief in the premises as to your
Most Excellent Majesty in Council may
Seem most Meet

/Signed/ J. S. Hall
for himself
John Hamilton
Solicitors for appellant

Court of Appeals
at
Madraspatnam

Saturday the 5th day of April
Anno Domini 1794

Between Struneyassiah Rungiah
Braminy of Madras Inhabitant
Administrator to the Estate and Effects
of Trivengadiah Braminy late of the
same place Inhabitant Deceased
Unadministered by Struneyassiah
Deceased Appellant and Nathaniel
Edward Kindersley of Fort Saint George
Esquire Administrator to the Estate
and Effects of Dawsonne Drake &
Deceased unadministered by Nathaniel
Barlow Deceased 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 Hontble the Mayors Court together with the Decree
of the said Court given in this Cause on Saturday the
9th day of July Anno Domino 1792 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

Order and Decree and doth Accordingly Order and Decree that the said Decree of the Hon^ble the Mayors Court do stand Affirmed and that the Appellants Petition be hence dismissed With Costs

Hen^r

/Signed/ Chas^r White
Clk

A True Copy

/Signed/ P. S. Hall
for himself
John Hamilton
Solicitors for appellant