Ninety six comes again here into our General Court as well the aforesaid Walter Brooke Executor as aforesaid by his attorney aforesaid as the aforesaid Thomas Contee and Benjamin Contee by their attorney aforesaid And the Jurors of the Jury whereof mention is within made being called come that is to say William Hammond, Samuel Chase Junior, Ignatius Matthews, John Bull of William, Samuel Moale, Benjamin Green Junior Luke Bole, James Lawrence, William Gordon Thomas Hodgkin Junr. John Gebhart and Theodore Hodgkin, who being duly elected tried and sworn to say the truth in the premises, upon their Oath do say, as to the first Issue between the said Walter Brooke Executor aforesaid and the aforesaid Thomas Contee within joined that the bill obligatory within mentioned is not the Deed of the aforesaid Thomas Contee as he by his plea within by pleading hath alledged, And as to the second Issue between the said Walter Brooke Executor aforesaid and the aforesaid Benjamin Contee within joined the Jurors aforesaid on their Oath aforesaid do further say, that the aforesaid Benjamin Contee did pay to the said Sarah Martin in her life time the said sum of Money, in the bill obligatory aforesaid mentioned, in manner and form aforesaid as the aforesaid Benjamin Contee within thereof in pleading hath alledged.

Therefore it is considered by the Judges here that the said Walter Brooke Executor aforesaid take nothing by his writ aforesaid but that he and his pledges of prosecuting, to wit, John Doe and Richard Roe be in mercy for his false Clamour and that the aforesaid Thomas Contee and Benjamin Contee go thereof without day &c.

And it is also considered that the aforesaid Thomas Contee and Benjamin Contee recover against the said Walter Brooke Executor aforesaid the quantity of seven hundred and eighty three pounds of Tobacco by the Court here unto the aforesaid Thomas Contee and Benjamin Contee on their Assent adjudged according to the form of the Statute in such case made and provided for their Costs and Charges by them about their defence in this behalf laid out and expended and that they have their Execution thereof against the aforesaid Walter Brooke &c.

Memorandum, Before the Jurors aforesaid withdrew from the barr of the Court here the Plaintiff by his attorney aforesaid filed in Court here the following Bill of Exception, to wit.

Brooke Excor. of Martin, against Thomas Contee.

The Plaintiff to prove the Issue in this Cause offered in evidence to the Jury

Jury the following Bond to wit.

Know all men by these presents that we Thomas Contee and sons of Baltimore Town and State of Maryland merchants do owe and stand justly indebted to Sarah Martin of Charles County and State aforesaid in the full and just sum of one hundred and seventeen pounds fourteen shillings and four pence Current money which we promise and engage to pay on or before the 25th. Decemr. next ensuing in the penal sum of two hundred and thirty five pounds eight shillings and eight pence Current money as aforesaid it being for value received. Given under our hand and seal this 28th. August 1784.

Witness Present
Wm. Innallwood } Thom Dent &c. for Thomas Contee & Sons seal

But the court were of opinion and upon the prayer of the Counsel for the Defendant so directed the Jury that the said Bond was not sufficient to charge the Defendant unless evidence was given to shew the same was made and executed by Thomas Dent by virtue of some Authority given by the Defendant to him for that purpose at or before the time of executing the same. The Plaintiff then offered to the Jury the following Letter which was written as admitted by the defendant to Col. Charles Sims as the Agent or Attorney of the Plaintiff and the payment of the money therein mentioned on Account of said Bond, but the Counsel for the Defendant objected to the said Letter being given in Evidence to the Jury as not being sufficient Evidence to prove any power from the defendant to said Thomas Dent to execute the said Bond on his behalf before the making of the same and the Court were of opinion and so directed the Jury that the said letter was not evidence to prove any Authority to Execute such bond in the name of the Defendant, To which opinion the Plaintiff by his Counsel prays leave to except and prays the benefit of such exception and so forth.

R. Goldsborough (Seal)
Jeremiah Townley Chase (Seal)
G. Duvall (Seal)

And thereupon the said Walter Brooke Executor aforesaid by his attorney aforesaid prays an Appeal from the Judgment aforesaid so as aforesaid rendered to the High Court of Appeals of the State aforesaid and the same is granted unto him.

It is therefore ordered by the Court here that the record and proceedings aforesaid with all things thereunto relating be transmitted to the said High Court of Appeals of the State aforesaid and the same are ~~hereby~~ transmitted