

with their obligations and do not offer to account to defendant although they wish to trial him as a member of the association ;

" 6. Because the penal clause invoked by the plaintiffs is comminatory, and plaintiffs do not allege any *mise en demeure* against the defendant, or that they have suffered any damage.

" Considering that it appears from the declaration that the plaintiffs were associated together as individuals to carry on jointly an enterprise for common profit and it is not even alleged that plaintiffs association was to be known by any particular name ;

" Considering that any voluntary association may exist and may sue and be sued by the names of its members as is done in the present cause ;

" Considering that it is alleged that the defendant by authentic deed consented to become a member of the association of pilots under the condition of the deed of association which obliged it to admit every licensed pilot in good standing, that the passing of such deed was the final act to establish the membership of a pilot in the association, and to be authentic evidence of his agreement to be a member and to bind himself by the conditions of membership.

" Considering that the passage of such deed by the defendant implies the performance of conditions precedent to be performed by himself, such as making a demand in writing or proving that he was in good standing with the Harbour Commissioners ;

" Considering that under the terms of the *acte of association* as alleged in the declaration the plaintiffs had no discretion to exercise as to the admissions of qualified members, but was bound to treat as members such as complied with the conditions of membership ;

" Considering that the declaration does sufficiently show that the plaintiffs are now the only members of the association ;

" Considering that although the declaration does show that the defendant became a member of the association by non-compliance with the conditions of membership ;

" Considering that under the allegations of the declaration, the defendant ceased to be a member of the association by failure to comply with the conditions of membership and that plaintiffs are not obliged to account to him for any share in the fine now demanded ;

" Considering that plaintiffs do allege that defendant has refused to comply with the conditions of membership and that such