

afterwards thought proper to engage with the Respondents. That he himself did not so construe that document, is evident from his Letter of the 8th July. With respect to the reason which he last alleges for his belief, that he was entitled to carry on trade with the funds of his Principals, viz., their "silence and apparent assent to his various and earnest representations," it may be sufficient to observe that their silence could under no circumstances be considered as giving him authority to engage in dealings, for which he had himself felt it necessary (in the language of his above cited Letter of the 8th July) "to have their decided instructions." But the futility of this pretext will be still more broadly apparent when it is recollected that these "various and earnest representations" were no other than those contained in his letters of 14th June, 1st July, and 8th July, and that so soon afterwards as the 10th September, and before sufficient time had elapsed for his Principals to answer the last of these communications, the goods under his care had already been dispatched from the Island and had arrived at Halifax.

But independently of these answers to the case set up for the Respondents, it is evident that the case even if established to the fullest extent, did not form a foundation sufficiently wide to support the proceedings taken against the Appellant. It tends at most only to shew that Goff's commercial transactions with the Respondents were within the scope of his authority, but leaves wholly undefended that proceeding out of which the present appeal more immediately arises, viz., his granting them the warrants of Attorney, for the balance alleged to be due. It is submitted that even supposing his acts of trading to have been within the limits of his powers, *this* transaction at least was upon the widest possible construction of those powers plainly unwarrantable.

The Supreme Court, however, thought proper upon such cause shewn as above mentioned to discharge as well the said rule obtained by the Appellant, as also that obtained on the part of A. Birnie and Co. and consequently to confirm the whole of the proceedings that had taken place against them in the said Island.

Messrs. A. Birnie and Co. and the Appellant in his individual capacity on the 10th July, 1822, each brought an Appeal, by way of Writ of Error, before the Lieutenant Governor and Council, composing the Court of Error and Appeals in the said Island, who affirmed the Judgments of the Court below with Costs.

The Appellant, however, humbly hopes that the said Judgment of Affirmance in the proceedings in which he was individually a party, and the said original Judgment entered up against him, and all subsequent proceedings thereon will be reversed, and the said warrant of Attorney given under his hand and seal, by the said Fade Goff, will be taken off the file to be cancelled for the following among other

## REASONS :

- I. THAT the Appellant was not liable for the debt alleged to have been contracted by the said Fade Goff, in the course of his transactions with the Respondents, those transactions having been wholly unauthorized by himself or his firm : the powers granted by himself and his firm respectively to the said Fade Goff, having been of a special kind, not intitling him to send the goods under his care out of the Island for sale by other persons, nor to purchase other goods on account either of the Appellant, or of the firm in which he was a partner.
- II. THAT even supposing the Appellant to have been liable to pay the balance due to the Respondents upon the above mentioned transactions, yet the said Fade Goff had no authority to execute in their favour the said Warrant of Attorney under the hand and seal of the Appellant.

HENRY J. STEPHEN.