DD 15/1/6

Ans^rs for William Halero of Bea to the Protest by Patrick Hoffman of Gremcay ag^t him

That altho the Protester seems ~~to be~~ highly offended at the Respondents demolishing the Dyke in Restion ~~lately~~ built by the Protester ~~yet~~ and pretends to Justify the Incroachments upon the Common in dispute yet the Respondent ~~is fully~~ ~~convinced that he~~ ~~cannot only~~ Justify himself by so doing ~~but also~~ at the same time that he has been highly provoked ~~to do so~~ at the same time it will appear that the Protester only is to blame ~~for the several unwarrantable incroachments he has made or attempted~~ when the following facts are duly attended to in the first place ~~it will~~ is notorious & cannot justly be denyed that the Space of ground commonly called the Brake of Butten was a Common twixt the Town of Claistron in the Parish of Orphir and the Town of Ireland in the Parish of Stenness and that the line of Division twixt the said two Parishes & towns runs from a March stone on the said Brake ~~next to the shore~~ above that part of the shore called the Voile of Mottin in a straight line to the top of the Hill called Gruff hill ~~[illegible]~~ with line ~~would upon a division~~ ~~does~~ nearly cutts the said Brake of Button in about two ~~equal~~ parts and Consequently that part to the South of the said line would fall ~~upon said Division~~ ~~fall~~ to the share of the Town of Claistron of which Town the Protester is believed may be sole proprietor and the ~~[illegible]~~ north part of said Brake would of Course fall to the share of the said Town of Ireland of wch town the said Protester ~~w~~ the Respondent are the most Considerable proprietors there being some ~~[illegible]~~ lesser Heretors in the said Town this being the case ~~it is hoped~~ in fact the Protester ~~will not~~ cannot deny that he has lately ~~built~~ taken down the old mansion House of Claistron wch stood to the southward of the said Brake and built a ~~[illegible]~~ new & elegant mansion House near to the middle of the said Brake & Close to the said line of Division ~~of the said two town & parishes above mentioned~~ and also built several ~~[illegible]~~ Parks w^t gardiner & large inclosures ~~[illegible]~~ & office houses and ~~[illegible]~~ works all upon the said South Half of the said Brake by the Protester has lately at his own hand ~~fully~~ taken in and ~~[illegible]~~ the whole of that Half that would upon a division have fallen to the said Town of Claistron and that not being interrupted by the Respondent tho he justly could have ~~[illegible]~~ interrupted him as the whole of the said Brake had formerly been ~~formerly~~ all along occupied promiscuously

by the tenents & possessors both of the Towns of Ireland & Clauchron as a Common ~~and~~ undivided priviledge ~~betwixt them and~~ equally among them ffurther as said place the Protester not satisfyed with the former encroachments to the southward of the said line of division ~~betwixt the said two towns and parishes~~ has still more lately made several encroachments upon the said Breke or Common to the northward by building dykes and inclosures upon ~~[illegible]~~ which ~~several encroachment~~ the Respondents made different & severall interruptions to which the Protester paying no regard he had proceeded to make the present encroachment [illegible] by building the dykes or inclosure now recently demolished ~~[illegible]~~ These several encroachments so illegal unjust and unwarrantable on the part of the Protester and so prejudicial to the Respondents will doubtless justify them ~~the Respondents~~ by all means used legally or even by violence to vindicate his own right ~~to the [illegible] of the Commonty that the [illegible] would be unjustly offer to deprive him of~~ till a legal division ~~[illegible]~~ take place so as every heritor concerned may have their share [illegible] that Protester as appears would be put out [illegible] And besides these several encroachments ~~above mentioned~~ the Protester and his predecessors ~~and authors~~ have made several of the most unwarrantable encroachments upon ~~the~~ different parts of the said Town of Ireland the Commonty to the prejudice of the ~~[illegible]~~ Respondent & of other heritors in the said Town And whatever pretence the Protester may alledge in vindication of all or any of the said encroachments they must be ~~[illegible]~~ utterly void of [illegible] and false or feigned and inadmissible [illegible] till the said ~~Legal~~ division take place and ~~[illegible] in the mean time ought [illegible] further encroachments but also to demolish [illegible] from all and every [illegible]~~ all and every the above mentioned encroachments ought to be demolished and desisted from by the Protester and he should be ordained to desist from encroaching any ~~[illegible] for the future~~ unjustly [illegible] or any ways molesting the Respondent or his tenents for the future under the pains & penaltys of Law

At the same time that there can be no poinding warrented by Law on a common and that if he had a [illegible] the [illegible] of the common Breke that would fall to Clauchron is already taken in by the Protester at that [illegible] and the Respondent can only enjoy the remain ing north half of [illegible] undivided commonly of [illegible] in common with others to their right [illegible] heritors in the Town of Ireland and particularly that the Respondents House of Ollergill enjoy the 2/3ds of the said remaining north half of the Breke say until a legal division