

to William Nichlas, captain of the ship, at six pounds sterling per ton. Nichlas, however, despite his promise, did not pay his £30, so Royston sued him for the usual double amount, £60. He kept after the captain, who seems to have spent some time in the Province, and, on April 4, 1676, he had him arrested and held to answer. Three days later there was a hearing: both sides appeared by their attorneys "and the plaintiffs [Royston's] attorney informing the Court that the cause of action was considerable and the defendant a ff foreigner moved the Court for Special Bayle, and it is granted by the Court here". So in 1676 an Englishman in the Province was a foreigner! Then Nichlas appeared in court with two sureties and acknowledged that if he were cast in the suit and did not satisfy the verdict or surrender himself to go to jail, the sureties would "satisfie & pay the Same". A year later the case came to trial. Nichlas or Nichols pleaded not guilty and both men put themselves upon the country, that is, prayed a jury trial. The jury found for the defendant Nichols and the Court granted that he recover 1755 pounds of tobacco for his costs and charges (*post*, pp. 146, 458-459).

Captain Thomas Peighen, of London, believed he had a good case against the London merchant, George Fulford, and his factor or agent, Edward Leach, and he pursued it for several years, through Provincial Court and Court of Chancery, in common law and in equity. The Provincial Court did not hesitate to act in equity if it saw fit. In 1675, Peighen was master of the two-hundred-ton ship, *Ruth* of London. On September 28, acting for the owners, he made a charter party of affreightment for her with George Fulford. The charter party was to last for eight months, and possibly for four months longer. Peighen agreed that the *Ruth* should be ready to sail on the first fair wind and weather after September 28, 1675, from Gravesend for Maryland or Virginia as Fulford ordered. Fulford for his part contracted to pay £65 a month for the rent of the vessel with her skiff and longboat, and he agreed also to victual her, man her with sixteen men and a cabin boy, pay port duties and seamen's wages (the cabin boy got 20 s. a month), and, finally, to provide, on this side the ocean, sloops to bring the tobacco or any other cargo alongside the ship. Payment was to be made in London, after certificates of the vessel's arrival in the Province reached home. For his observance of the contract Fulford gave bond of £1000 sterling. Peighen sailed September 28, the day the charter party was signed, as he was to do. But the weather grew bad, and the *Ruth* was so much damaged that the captain had to put into Barbados for repair and refitting. Here he found that the only way he could pay for the repairs was by selling some of the cargo. But before he did this, he applied to Edward Leach, Fulford's factor, to whom the cargo was consigned, for advice and aid, and Leach refused to help unless Peighen signed two bills of lading for the cargo, one to Fulford, and one to Leach himself. Peighen did not know of any interest Leach had in the cargo in his own right, but, under pressure, he signed the two bills. Soon after the repairs were completed, the *Ruth* put to sea, and, on May 3, 1676, she arrived in the Port of Maryland. Here Peighen put most of the cargo ashore at Leach's store. Before he could finish unloading, he and his first mate and some of the seamen got letters from