High court serial VI
Appeals against [illegible]'s Court decision
Vol-6.

APRlase

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25,000—4-5-32.

Block 7

Rack No.

Shelf No.

Serial No. 6

General No.

In the Court of Appeals

To the Honble George Stratton Esqr
President and Governor of Fort St George &c Coun

Between George Lord Pigot Compt
Sir Robert Fletcher Deft

The Petition of Appeal of Brigadier General
Sir Robert Fletcher Knight Commander in
Chief of the Forces belonging to the United
Company of Merchants of England trading
to the East Indies and on the Coast of Corromand

Sheweth

Filed the 24th
December 1776
Chas. Oakeley
Clk

That George Lord Pigot having on the Eighth
day of October in the present Year of our Lord One Thousand Seven
Hundred and Seventy Six filed his Bill of Complaint in the
Honble the Mayors Court of Madraspatnam against your Petition
in an Action of Assault and Battery and false Imprisonment an
therein did lay his Damages to the amount of Two hundred thousa
Pounds the said George Lord Pigot did pray of the said Honble
the Mayors Court a Summons returnable immediately and a
Warrant of Arrest he the said George Lord Pigot having
Declared that your Petitioner was about to depart the Jurisdiction
of the said Court Your Petitioner further Sheweth that on the
Eleventh day of the said Month of October that the said Summons
and Warrant of Arrest were prayed for upon the Affidavit of the sai
George Lord Pigot Your Petitioner was under the Necessity of Appea
from an Apprehension that his Person was likely to be arrested Your
Petitioner further Sheweth that the said George Lord Pigot by mea
of his Attornies did demand Bail and the same having been left
to the Consideration of the said Honble the Mayors Court as to the
the said Bail were to be held in the said Honble the Mayors Court wer

pl

pleased to Order and Direct that the Bail should enter into a Recognizance
of Ten Thousand Pounds and Your Petitioner did at the same time of his
Appearance pray Leave of the said Honble the Mayors Court to Plead
or Demur which was granted as will more fully appear by a Copy of
the Extract or Order of the said Honble the Mayors Court hereto annexed
for the Inspection of this Honble Court Marked B. N2 which
Your Petitioner prays a Reference to Your Petitioner further Sheweth
that having taken an Office Copy of the said Bill of Complaint to Demur
and did on the day allowed for Pleading or Demurring file his Demur
to the said Bill of Complaint in the said Honble the Mayors Court
Your Petitioner further Sheweth that on the Nineteenth Day of November
following the said George Lord Pigot did move the said Honble
the Mayors Court for their Opinion whether he should be obliged to Join
or Answer to the Demurrer is hereto annext Marked C. N3 for the ~
inspection of this Honble Court of Appeals to which your Petitioner prays
Reference Your Petitioner further Sheweth that this Special Motion
of the said George Lord Pigot having come on the twenty Sixth day
of the said Month of November to be taken into Consideration the said
Honble the Mayors Court were then of Opinion that there was no
Occasion for the said George Lord Pigot to Join in Demurrer and that
the Demurrer ought to be Set down for a future Day to determine on the
Merits of such Demurrer Your Petitioner further Sheweth that the
Attornies for the said George Lord Pigot did then move the Court for
leave to Withdraw their Bill of Complaint upon their filing an Amended
Bill which the said Honble the Mayors Court granted — Your
Petitioner having liberty to Plead or Demur which was also granted ~
Your Petitioner further Sheweth that on the perusal of the said Amended
Bill he found divers Defects and Imperfections in the said Bill
particularly form agreeable to the Practice of the said Honble the ~
Mayors Court and likewise for inclosing a Petition to the said Honble
the

the Mayors Court had thought proper upon due Consideration not to Comply
with the Prayer of the same and likewise your Petitioner did for other Special
Causes Specially Demur Your Petitioner further Sheweth that the said
George Lord Pigot did by the Means of his Attornies on the Tenth
instant move the said Honble the Mayors Court in the following Wo
"that as the Demurrer filed by the Defendant in this Cause Contains n
"Colourable Cause of Demurrer but appears to be introduced merely with
"a Design to impede the Justice of this Honble Court the Attorneys ~
"therefore pray Judgment whether the Complainant ought to Join in Demu
The Attorneys for your Petitioner objected to the said motion and prayed "tha
"the said George Lord Pigot might be obliged to put in his Joinder to
"this Demurrer or that the Demurrer might be held good and the Bill
Dismissed with Costs" as will more fully appear by a Copy of such or
Extract Marked D. N4. hereto annexed for the inspection of this
Honble Court this Motion Your Petitioner Sheweth was deferred to be
taken into Consideration untill Friday the Thirteenth instant when
the same came on and was determined in the manner set forth in a
Copy Marked E. N5 of the Extract or Order and Determination of
the said Honble the Mayors Court hereto annexed for the inspection
of this Honble Court of Appeals to which your Petr. prays this Honb
Court to refer from which said Order, Decree, or Sentence your Petr.
Appeals to this Honble Court for the following reasons —

First Because it has been the invariable Rule and Practice
of the said Honble the Mayors Court whenever there is a Demu
to a Bill of Complaint for the opposite party to Join in such
Demurrer and that the said Joinder and Demurrer shoul
come on to be Argued the next Court day after the filing of
such Joinder as appears by a Copy Marked F. N6 of the
Extract of the Rules relating to the Practice of the said Honbl
the Mayors Court hereto annext for the Inspection of this
Honble

pleased to Order and Direct that the Bail should enter into a Recognizance of Ten Thousand Pounds and Your Petitioner did at the same time of his Appearance pray Leave of the said Honble the Mayors Court to Plead or Demur which was granted as will more fully appear by a Copy of the Extract or Order of the said Honble the Mayors Court hereto annexed for the Inspection of this Honble Court Marked **B**. N2 which Your Petitioner prays a Refference to Your Petitioner further Sheweth that having taken an Office Copy of the said Bill of Complaint to Demur and did on the day allowed for Pleding or Demurring file his Demurer to the said Bill of Complaint in the said Honble the Mayors Court Your Petitioner further Sheweth that on the Nineteenth Day of November following the said George Lord Pigot did move the said Honble the Mayors Court for their Opinion whether he should be obliged to Join or Answer to the Demurrer is hereto annext Marked **C** N3 for the inspection of this Honble Court of Appeals to which your Petitioner prays Refference Your Petitioner further Sheweth that this Special Motion of the said George Lord Pigot having come on the twenty Sixth day of the said Month of November to be taken into Consideration the said Honble the Mayors Court were then of Opinion that there was no Occasion for the said George Lord Pigot to Join in Demurer and that the Demurrer ought to be Set down for a future Day to determine on the Merits of such Demurrer Your Petitioner further Sheweth that the Attornies for the said George Lord Pigot did then move the Court for leave to Withdraw their Bill of Complaint upon their filing an Amended Bill which the said Honble the Mayors Court granted — Your Petitioner having liberty to Plead or Demur which was also granted Your Petitioner further Sheweth that on the perusal of the said Amended Bill he found divers Defects and Imperfections in the said Bill particularly form agreeable to the Practice of the said Honble the Mayors Court and likewise for incerting a Petition to the said Honble

the

the Mayors Court had thought proper upon due Consideration not to Comply with the Prayer of the same and likewise your Petitioner did for other Special Causes Specially Demur Your Petitioner further Sheweth that the said George Lord Pigot did by the Means of his Attornies on the Tenth instant move the said Honble the Mayors Court in the following Wor "that as the Demurrer filed by the Defendant in this Cause Contains no "Colourable Cause of Demurrer but appears to be introduced merely with "a Design to impede the Justice of this Honble Court the Attorneys "therefore pray Judgment whether the Complainant ought to Join in Demu The Attorneys for your Petitioner objected to the said motion and prayed "tha "the said George Lord Pigot might be obliged to put in his Joinder to "their Demurrer or that the Demurrer might be held good and the Bill Dismissed with Costs" as will more fully appear by a Copy of such Extract Marked **D**. N4. hereto annexed for the inspection of this Honble Court this Motion Your Petitioner Sheweth was deferred to be taken into Consideration untill Friday the Thirteenth instant when the same came on and was determined in the manner set forth in a Copy Marked **E**. N5 of the Extract or Order and Determination of the said Honble the Mayors Court hereto annexed for the inspection of this Honble Court of Appeals to which your Petr. prays this Honble Court to refer from which said Order, Decree, or Sentence your Petr. Appeals to this Honble Court for the following reasons —

First Because it has been the invariable Rule and Practice of the said Honble the Mayors Court whenever there is a Demurr to a Bill of Complaint for the opposite party to Join in such Demurrer and that the said Joinder and Demurrer should come on to be Argued the next Court day after the filing of such Joinder as appears by a Copy Marked **F** N6 of the Extract of the Rules relating to the Practise of the said Honble the Mayors Court hereto annext for the Inspection of this

Honble Court of Appeals

Secondly Because the prayer of the said George Lord Pigot was too premature in desiring that the Demurrer might be dismissed with Costs and your Petitioner put upon his Answer as the Motion then before the Court was whether the said George Lord Pigot should join in Demurrer only therefore the Merits of the Demurrer on the part of the said George Lord Pigot as to its being quashed or approved of was not the Business of that Day as to its standing or falling —

Thirdly Because it appears that your Petitioners' Attornies did Object to such motion of the Demurrer being then taken under Consideration and praying that your Petitioner might be allowed a Copy of such Special motion and to be granted till the next Court day following to Answer such Motion, which prayer of your Petitioners' Attornies was regula Petitioner fo igh as had been done in other Cases that this Special Motion Court but which the igot having come on the twenty Sixth day Merits of ovember to be taken into Consideration the said the Mayors Court were then of Opinion that there was no Occasion for the said George Lord Pigot to Join in Demurrer and that the Demurrer ought to be Set down for a future Day to determine on the Merits of such Demurrer Your Petitioner further Sheweth that the Attornies for the said George Lord Pigot did then move the Court for leave to Withdraw their Bill of Complaint upon their filing an Amended Bill which the said Honble the Mayors Court granted — Your Petitioner having liberty to Plead or Demur which was also granted — Your Petitioner further Sheweth that on the perusal of the said Amended Bill he found divers Defects and Imperfections in the said Bill particularly form agreeable to the Practice of the said Honble the Mayors Court and likewise for inserting a Petition to the said Honble the

on the Demurrer Because allowing the said George Lord Pigot not to Join in Demurrer Yet the same does not nor could not vitiate the Demurrer because the Demurrer went to the Imperfections in the Bill of Complaint and not to the Action the Demurrer your Petitioner humbly apprehends ought to have been Specially argued and a Day set apart for the determining on the Merits of the same but instead of which your Petitioner shews the said Honble the Mayors Court did allow of the prayer of the said George Lord Pigot to be taken into immediate Consideration without the Assent of your Petitioners Attornies and without a Setting a Day apart for the same to be considered on All which appear to be very Evident by the Corroborating Dissent and Order of the said Court **E** No 5 hereto annexed of some of the Members of the said Honble the Mayors Court at that time sitting —

For all Which Reasons your Petitioner Appeals to this Honble Court against the Sentence Order and Determination of the said Honble the Mayors Court and prays that the same may be over Ruled and that all and every the Proceeding and Proceedings had on the said Bill of Complaint of the said George Lord Pig against your Petitioner may be Stoped and that an Injunction to the sai Honble the Mayors Court may be granted to Stay all the Proceedings in the said Cause of the said George Lord Pigot untill the determina of this Your Petitioners Appeal now before this Honble Court of Appe and that the said George Lord Pigot may pay all Costs both in this Honble Court of Appeals and in the Mayors Court

And Your Petitioner as in Duty bound
Shall Ever Pray

Chas. Bromley
Jno. Sykes
Attys. Appellant

Honble Court of Appeals

Secondly Because the prayer of the said George Lord Pigot was too premature in desiring that the Demurrer might be dismissed with Cost and your Petitioner put upon his Answer as the Motion then before the Court was whether the said George Lord Pigot should join in Demurrer only therefore the Merits of the Demurrer on the part of the said George Lord Pigot as to its being quashed or approved of was not the Business of that Day as to its standing or falling

Thirdly Because it appears that your Petitioners' Attornies did Object to such motion of the Demurrer being then taken under Consideration and praying that your Petitioner might be allowed a Copy of such Special motion and to be granted till the next Court day following to Answer such Motion, which may prayer of your Petitioners' Att … fore the said Honble the May … ugh as had been do … said Honble Court declined to enter into the … Court but a

Fourthly Because the said Honble the Mayors Court did not withstanding the Objection and prayer of your Petitioners Attornies proceed to take into Consideration the prayer of the said George Lord Pigot and did of their own accord proceed to take into Consideration the Demurrer of your Petitioner and Adjudged the same insufficient / which they the said Honble the Mayors Court said to Bar the said George Lord Pigot's Action and that the said Demurrer of your Petitioner should be thrown out with Costs and your Petitioner put upon his Answer which Sentence Order or Decree your Petitioner humbly lays before this Honble Court of Appeals as greatly injurious to his Cause and irregular in the pronouncing Judgment or Sentence or Determination on … answer for incerting a Petition to the said Honble

the

on the Demurrer Because allowing the said George Lord Pigot not to Join in Demurrer Yet the same does not nor could not vitiate the Demurrer because the Demurrer went to the Imperfections in the Bill of Complaint and not to the Action the Demurrer your Petitioner humbly apprehends ought to have been Specially argued and a Day set apart for the determining on the Merits of the same but instead of which your Petitioner shews the said Honble the Mayors Court did allow of the prayer of the said George Lord Pigot to be taken into immediate Consideration without the Assent of your Petitioner's Attornies and without a Setting a Day apart for the same to be considered on All which appear to be very Evident by the Corroborating Dissent and Order of the said Court **E** N^o. 5 hereto annexed of some of the Members of the said Honble the Mayors Court at that time sitting

For all Which Reasons your Petitioner Appeals to this Honble Court against the Sentence Order and Determination of the said Honble the Mayors Court and prays that the same may be over Ruled and that all and every the Proceeding and Proceeding had on the said Bill of Complaint of the said George Lord Pigot against your Petitioner may be Stoped and that an Injunction to the said Honble the Mayors Court may be granted to Stay all the Proceedings in the said Cause of the said George Lord Pigot untill the determinat of this Your Petitioners Appeal now before this Honble Court of Appea and that the said George Lord Pigot may pay all Costs both in this Honble Court of Appeals and in the Mayors Court

And Your Petitioner as in Duty bound
Shall Ever Pray

Chas. Bromley
Jn^o. Sykes
Attys. Appellant

B N2

Extract from the Minutes of a Court Held at the Town Hall on Friday the 11th day of October Anno Domini 1776

Present

John Turing Esquire Mayor
James Call Charles Edward Jones
George Proctor Eyles Irwin and
Edward John Holland Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

The Attornies for the Complainant in Consequence of their Prayer made last Court day beg leave to file an Affidavit and Pray that the Court will take the same as also their said Prayer into Consideration — Affidavit Read and filed The Court proceed to take the said Prayer into Consideration and having had Due Consideration thereon are of opinion that the Writ of Ne Exeat Regno shall not Issue — It is therefore Ordered that, that part of the Prayer Relative to the said Writ be Over Ruled

Messrs George Smith, George Savage George Proctor and Eyles Irwin beg leave to Dissent from the Resolution of Court The Attorneys for the Complainant Pray that a Summons and Warrant of Arrest may issue against the Defendants Body upon the Affidavit filed this day to Compell him to give Bail for the Sum Sued for or for such other Sum as the Court shall Judge proper The Court having taken the same into Consideration are of Opinion that a Summons returnable immediately and Warrant of Arrest do Issue — Messrs Aldermen Jones and Holland beg leave to enter their Dissent — The Defendant Sir Robert Fletcher Appear by his Attorneys Charles Bromley and John Sykes who Acquaint the Court that the Defendant is not about to Depart from the Jurisdiction of this Court and Submitt to their

Determination

Determination whether the Defendant shall be Obliged to give any and what Special Bail — And further Pray that they may be allowed till the 22d Instant to put in a Plea or Demurrer — The Court having taken the same into Consideration do Order that the Defendant do give Bail for the Sum of £10,000 — that the same be marked on the back of the Writ and that the Defendant be allowed till the 22d instant to put in a plea or Demurrer — Messrs Smith, Savage Proctor and Irwin beg leave to enter their Dissent Ordered with the Consent of the Complainants Attornies that the Defendant do give Bail by Tomorrow at 12 o'Clock or in default thereof a Summons Returnable immediately and Warrant of Arrest do issue

A True Extract
James Taylor Regr

A true Copy
Chas. Bromley } Attys Appellt
Jno. Sykes }

C. N3

Extract from the Minutes of a Court Held at the Town Hall on Tue the 19th Day of November Anno Domini 1776

Present

John Turing Esquire Mayor
James Call and Edward John Holland
Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

Messrs Sedgley and DuPuy The Attorneys for the Complainan finding upon Reference to the Book of Instructions that Demurrers in General are Discouraged but that after an Attachment has once issued the Receiving them is Prohibited beg leave to Submit to the Honble Court whether it would not be improper and Irregular in them to offer any Paper in the Nature of a Joinder or Answer to the Demurrer which the Defendants Attorneys have thought proper to deliver to this Honble Court more especially on perusal thereof it evidently tends to call in Question the Right and Authority of the Court to hear Try and Determine this or any other Personal Action or Suit founded upon Personal Injuries and wrongs and so to defeat the gracious Intention of the Royal Charter in giving relief and redress where a Man is injured in his Person and Reputation which is of the first importance to the Peace and good order of Society and even of still greater Consequence than Matter of Property

For the Demurrer Advances that the Court Cannot be Competent to Assess the Quantum of Damages or any Damages without the Aid of a Jury and this the Complainants Attornies Humbly Conceive is a matter which relates to the Authority and Constitution of the Court and therefore as they think not proper to be argued or debated by the Sworn Attornies of this Court Least they should incur the displeasure thereof

With regard to the other part of the Demurrer Complaining of an irregularity in laying the Damages at a Specifick Sum and which the Demurrer Says the Complainant has himself assessed and Awarded as adequate to the Injury he has Sustained and is therein called an Arbitrary Adjudgment contrary to Law The Complainants Attornies humbly apprehend this is introduced merely to Mislead this Honble Court and can in no ways be offered as Matter of Objection to the Complaint of their Client Since it is the established Rule and Practice of the Law that every Man who is injured and brings his Complaint before a Court of Justice for relief and redress in such case to Specify a Certain Sum to which he thinks himself Justly entitled as a Reparation for the

injurys

injurys he has Sustained

In respect to the third Matter introduced in this Demurrer complaining of an irregularity in the Complainants Attornies by making reference to a writing or Paper in the form of a Petition which he had before delivered to this Honble Court The Complainants Attornies freely and of their own accord offer to remove any Ground for Demurrer in that respect by amending their Bill and Adding thereto an attested Copy of the said Petition taken from the Records of this Court or else to introduce the same into such amended Bill as this Court shall think most proper or Consistent

For these Reasons therefore the Attornies for the Complainant Submit to this Honble Court whether the said Demurrer should not be taken off The file and the Defendant put upon his Answer — The Attorneys for the Defendant object to the above Motion as unprecedented irregular and not Conformable to the constant and invariable Practice of this Court and therefore pray that a Day may pass for the Complainant to put in a Joinder to the Defendants Demurrer

Deferred taking the same into Consideration till Tuesday next when a full Court is ordered to be Summoned

A True Extract
James Taylor
Regr

A true Copy

Chas. Bromley
Jno. Sykes
Attys Appells

Extract

D No 4

Extract from the Minutes of a Court Held at the Town Hall on
Tuesday the 10th Day of December Anno Domini 1776

Present
John Turing Esquire Mayor
Andrew Majendie and James Call
Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

The Attornies for the Complainant pray leave to move the Court that as the Demurrer filed by the Defendant in this Cause contains no Colourable Cause of Demurrer but appears to be introduced merely with a Design to impede the Justice of this Hon.ble Court they therefore pray Judgment of the Court whether the Complainant ought to Join in Demurrer — The Attorneys for the Defendant object to the above motion and pray that the Complainant may either be obliged to put in a Joinder to their Demurrer or that the Demurrer may be held good and the Bill Dismissed with Costs — Deferred taking the same into Consideration till Friday Next at 8 oClock in the Morning when a full Court is ordered to be summoned when all the Members are to be particularly desired to Attend

A True Extract
James Taylor
Reg.r

A true Copy
Rich.d Bromley
Jn.o Sykes
Att.rs Appellant

E No 5

Extract from the Minutes of a Court Held at the Town Hall on
Friday the 13th Day of December Anno Domini 1776

Present
John Turing Esquire Mayor
George Smith Andrew Majendie
James Call George Procter
Eyles Irwin and Edward John Holland
Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

In Consequence of the Resolution of Last Court
Day, The Court proceed to take into Consideration the Motion then
made in this Cause by the Attornies for the Complainant as also
the Objection and Prayer made on behalf of the Defendant on
regarding the Complainants amended Bill of Complaint the
Defendants Demurrer the Motion made last Courtday &
On Hearing the Pleadings made Use of by the Attornies on both
Sides on the motion whether the Complainant shall be obliged to Deliver
in a Joinder to the Defendants Demurrer or not The Attornies for the
Defendant Objecting to the Merits of the Demurrer being taken into
Consideration without a Joinder being first delivered in and on due
Consideration had thereon The Court are of Opinion that the Complainant
ought not to be obliged to put in a Joinder to the Defendants Demurrer
The Attornies for the Complainant pray that the Demurrer may be
Dismissed with Costs and the Defendant put upon his Answer to
which the Attornies for the Defendant Object and pray that they
may be furnished with a Copy of the said Prayer and be allowed till
next Court Day to Answer the same — The Court having taken the said
Prayer into Consideration and it appearing to them that the Pleas made
use

use of by the Defendant in his Demurrer are insufficient to Bar the Complainants Action — This Court doth therefore think fit to order and doth accordingly Order that the Defendants Demurrer be thrown out with Costs and the Defendant put upon his Answer

Mess.rs Aldermen Majendie Call and Holland beg leave to enter their Dissent to the aforegoing resolutions

Dissent

Mess.rs Majendie Call and Holland dissent to the resolution of this Court on the motions made in the Causes of George Lord Pigot against Sir Robert Fletcher and Captain Arthur Lysaght because such Resolutions are contrary to the established and invariable Practice of this Court the Rules of which should be preserved for the Guidance of the Attornies

Because they do not consider the Subject of the Demurrer without a Joinder as really at Issue and therefore not determinable by this Court

And because they tend to bring the Demurrer to a Double hearing for if the Decree of the Court had been against the Complainant he would have been ordered to Join in Demurrer which would have brought on a Second hearing

A true Copy
Chas. Bromley } Attys Applts
Jno. Sykes }

A true Extract
James Taylor
Regr

F No.

Extract from the Rules relating to the Practice of the Court

Forasmuch as divers Persons being Prosecuted in this Court for Debts and other matters Cognizable here have for delay and to prevent as much as in them lay the due and Speedy Administration of Justice put into the Bills preferred against them Pleas and Demurrers The Court Taking the Premises into Consideration do for the Prevention of such evil Practice in future Order that no plea or Demurrer be

be at any time hereafter received or Admitted to any Bill to be Exhibited Unless such Plea or Demurrer be put in on the very day assigned for the Appearance of the Defendant in such Suit Provided the Summons is served upon him four days before the time limitted for appearance and It is further Ordered that in future it be a Standing Rule of Practice of this Court that whenever a Demurrer and Joinder are thrown into Court they shall come on to be Argued the Next Court day after such Joinder is Delivered in which shall be done as soon as Possible after the Demurrer is filed which shall not exceed the time Limitted for delivering in an Answer

A True Extract
James Taylor
Regr

A true Copy
Chas. Bromley } Attys Appellants
Jno. Sykes }

Court of Appeals at Madraspatnam } ss — Tuesday the 24th December 1776

The Attorneys of Sir Robert Fletcher who is Defendant in an action commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Friday the 13th Day of December Anno Domini 1776 which they pray leave to file

As it appears to this Court that the Suit instituted in the Mayors Court by the said George Lord Pigot against the said Sir Robert Fletcher is founded on an action for assault and false Imprisonment the Members of this Court think it their duty to declare that in their capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots

Person was arrested and put under Confinement and that the said Sir Robert Fletcher was one of their body at the time This appearing to be the ground of the present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may interested in the Event of the Suit This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attorneys of the Appellant be furnished with a Copy of this Minute

P Curo

To the Kings most Excellent Majesty in Council

Between George Lord Pigot Complainant
and Brigadier General Sir Robert Fletcher Knight
Commander in Chief of the Forces belonging
to the United Company of Merchants of England
Trading to the East Indies and on the Coast of
Coromandel Defendant

The Humble Petition and Appeal of the said Sir Robert Fletcher

Humbly Sheweth

Filed in my Office
2^d January 1777
Chas. Oakeley
Clk of App^ls

That George Lord Pigot having on the Eighth day of October in the Present Year of Our Lord One thousand Seven hundred and Seventy Six, filed his Bill of Complaint in the Honorable the Mayors Court at Madraspatnam against your Petitioner in an Action of Assault and Battery and false Imprisonment and therein did lay his damages to the Amount of Two Hundred Thousand Pounds the said George Lord Pigot did pray of the said Honorable the Mayors Court a Summons returnable immediately and Warrant of Arrest he the said George Lord Pigot having declared that your Petitioner was about to depart the Jurisdiction of the said Honble Court Your Petitioner further Sheweth that on the Eleventh day of the said Month of October that the said Summons and Warrant of Arrest were prayed for your Petitioner was under the Necessity of Appearing from an Apprehension that his Person was likely to be Arrested Your Petitioner further Sheweth that the said George Lord Pigot by means of his Attornies did Demand Bail and the same having been Left to the Consideration of the said Honble the Mayors Court as to the Sum the said Bail were to be held in the said Honble the Mayors Court were pleased to Order and Direct that the Bail should enter into a Recognizane of Ten Thousand Pounds and your Petitioner did at the same time of his Appearance pray Leave of the said Honble the Mayors Court to Plead or Demur which was granted as will more fully appear by a Copy of the Extract or Order of the said Honorable the Mayors Court hereto annext for the Inspection of Your most Excellent Majesty in Council (Marked B N°2) which your Petitioner Prays a Reference to, Your Petitioner further Sheweth that having taken an Office Copy of the said Bill of Complaint your Petitioner on the perusal thereof thought proper from various Defects and Imperfections in the said Bill of Complaint to Demur and did on the day allowed for Pleading or Demurring, file his Demurrer to the said Bill of Complaint in the sa Honble the Mayors Court Your Petitioner further Sheweth that on the Nineteenth day of November following the said George Lord Pigot did move the said Honble the Mayors Court for their Opinion whether he should be obliged to Join or Answer to your Petitioners Demurrer a Copy of which Motion of the Prayer of your Petitioner for the said George Lord Pigot to Join in Demurrer is hereto Annext Marked C N.3. for the Inspection of your Most Excellent Majesty in Council to which your Petitioner Prays Reference Your Petitioner further Sheweth that this Special Motion of the said George Lord Pigot having come on the Twenty Sixth day of the said Month of November to be taken into Consideration the said Honble the Mayors Court were then of Opinion that there was no Occasion for the said George Lord Pigot to Join in Demurrer ought to be Set down for a future day to determine on the Merits of such Demurrer Your Petitioner further Sheweth that the Attorneys for the said George Lord Pigot did then move the Court for leave to withdraw the Bill of Complaint upon their Feling an Amended Bill which the said Honble the Mayors Court granted Your Petitioner having time to Plead or Demur Your Petitioner further Sheweth that on the Perusal of the said Amended Bill he found Divers Defects and Imperfections in the said Bill Particularly the want of form Agreeable to the Practise of the said Honble the Mayors Court and Likewise for incerting a Petition to the said Honble the Mayors Court for a Habeas Corpus which Petition which Petition the said Honble the Mayors Court had thought proper upon due Consideration not to comply with and likewise your Petitioner did for other Special causes Specially Demur Your Petitioner further Sheweth that the said George Lord Pigot did by the means of his Attornies On the Tenth day of last December move the said Honble the Mayors Court in the "following Words," that as the Demurrer filed by the Defendant in this "Cause contains no colourable cause of Demurrer but appears to be "Introduced merely with a Design to impede the Justice of this said "Honorable Court the Attornies therefore prayed Judgment whether "the Complainant ought to Join in Demurrer" The Attornies for your Petitioner Objected to the said Motion and Prayed that the said George Lord Pigot might be obliged to put in his Joinder to their Demurrer might be held good and the Bill Dismissed with Costs as will more fully appear by a Copy of such Extract Marked **D N4.** hereto annexed this Motion your Petitioner most humbly Sheweth was Defered to be taken into Consideration untill Friday the Thirteenth of last December when the same came on and was Determined in the manner Setforth

in

in a Copy Marked **E N5** of the Extract or Order and Determination of the said matter the Mayors Court hereto annexed for the Inspection of your most Excellent Majesty in Council to which your Petitioner most humbly prays a Reference from which said Order Decree or Sentence of the said Honble the Mayors Court of Madraspatnam your Petitioner appeals to Your most Excellent Majesty in Council.

First Because it has been the invariable Rule and Practise for the said Honble the Mayors Court whenever there is a Demurrer to a Bill of Complaint for the Opposite party to Join in such Demurrer and that the said Joinder and Demurrer should come on to be Argued the Next Court day after the filing of such Joinder as appears by a Copy (Marked **F N6**) of the Extract of the Rules relating to the Practise of the said Honble the Mayors Court hereto annexed for the Inspection of Your most Excellent Majesty in Council.

Secondly Because the Prayer of the said George Lord Pigot was too premature in desiring that the Demurrer might be Dismissed with costs and Your Petitioner put upon his Answer as the Motion then before the Court was whether the said George Lord Pigot should Join in Demurrer only therefore the Merits of the Demurrer on the part of the said George Lord Pigot as to its being quashed or approved was not the Business of that Day as to its standing or falling.

Thirdly Because it Appears that your Petitioners Attornies did Object to such motion of the Demurrer being then taken under Consideration and praying that your Petitioner might be allowed a Copy of such Special Motion and to be granted to the next Court day following to answer such Motion which Prayer of your Petitioners Attorneys was Regular enough as had been usual in other Cases before the said Honble the Mayors Court but which the said Honble Court declined to enter into the Merits of

Fourthly Because the said Honble the Mayors Court did not withstanding the Objection and Prayer of your Petitioners Attornies proceed to take into Consideration the Prayer of the said George Lord Pigot and did of their own accord proceed to take into Consideration the Demurrer of your Petitioner and Adjudged the same insufficient which they the said Honorable the Mayors Court said was to Bar the said George Lord Pigots Action and that the said Demurrer of your Petitioner should be thrown out with Costs and your Petitioner put upon his Answer which Sentence Order or Decree your Petitioner humbly lays before Your most Excellent Majesty in Council as greatly injurious to his Cause and irregular in the pronouncing Judgment or Sentence or Determination on the Demurrer Because allowing the said George Lord Pigot not to Join in Demurrer Yet the same does not, nor could not vitiate the Demurrer because the Demurrer went to the Imperfections in the Bill of Complaint and not to the Action, The Demurrer your Petitioner humbly apprehends ought to have been Specially Argued and a Day Set apart for the Determining on the Merits of the same but Instead of which Your Petitioner Shews the said Honble the Mayors Court did allow of the Prayer of the said George Lord Pigot to be taken into immediate Consideration without the Assent of your Petitioners Attorneys and without setting a Day apart for the same to be considered on As which appears to be very Evident by the corroborating Dissent and Order of Court (Marked No 1) hereto Annext of some of the Members of the said Honble the Mayors Court at that time Setting

For all which reasons your Petitioner Appeals to your most Excellent Majesty in Council against the Sentence Order and Determination of the said Honble the Mayors Court and prays that the same may be Over ruled and that all and every the Proceeding and Proceedings had on the said Bill of Complaint of the said George Lord Pigot and Your Petitioner may be Stoped and that an injunction to the said Honble the Mayors Court may be granted to stay all the Proceedings in the said Cause of the said George Lord Pigot untill the Determination of Your most Excellent Majesty in Council and that the said George Lord Pigot may pay all Costs not only in this Petition to Your Majesty in Council but also in the said Honble the Mayors Court

Your Petitioner further Sheweth that he did Appeal by Petition to the Honorable George Stratton Esqr. President and Governor of Fort St. George &ca Council then Setting and Presiding at the Government of Fort St. George &ca Districts on the Coast of Coromandel which Petition of Appeal of your Petitioner was taken into Consideration by them who were pleased to make the following Order Vizt,

Court of Appeals
at
Madraspatnam } &c Tuesday the 24th December 1776

The Attornies of Sir Robert Fletcher who is Defendant in an action commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Friday the 13th day of December Anno Domini 1776 which they pray leave to file

As it appears to this Court that the Suit instituted in the Mayors Court by the said George Lord Pigot against the said Sir Robert Fletcher is founded on an Action for Assault and false Imprisonm the Members of this Court think it their Duty to Declare that in their Capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Order by which the said George Lord Pigot's Person was arrested and put under Confinement and that the said Sir Robert Fletcher was one of their Body at that time This Appearing to be the Ground of the Present Action the Member of the Court conceiv[e] from the Petition of Appeal now Delivered in that they may be interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellan[t] be furnished with a Copy of this Minute

Per Cur

Chas. Oakeley
Clerk of Appls.

Your Petitioner doth therefore think proper to Appeal To your most Excellent Majesty in Council from the said Orders of the said Mayors Court for the reasons beforementioned and which he Your Petitioner Assigned for appealing to the said Court of Appeals and most humbly prays that the said Orders of the said Mayors Court may be Reversed and Setaside That the said George Lord Pigot may either Deliver in a Joinder to your Petitioners Demurrer or that the said Demurre[r] may be held good and that the said Bill of Complaint may be Dismissed with Costs or that your Most Excellent Majesty in Council may be Pleased to make such other Order relative to the said matter as to your most Excellent Majesty may appear Legal Just and Equitable and your Petitioner doth Lastly Pray such further or other General relief in all and Singular the Premises as to your Most Excellent Majesty may Seem Meet

Chas. Bromley
Jno. Sykes
Attys. Appellt.

B No. 2.

Extract from the Minutes of a Court Held at the Town Hall on Fryday the 11th Day of October Anno Domini 1776

Present

John Tiring Esquire Mayor
James Call   Charles Edward Jones
George Proctor   Eyles Irwin and
Edward John Holland   Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

The Attornies for the Complainant in Consequence of their Prayer made last Court day beg leave to file an Affidavit and Pray that the Court will take the same, as also their said Prayer into Consideration Affidavit Read and filed — The Court Proceed to take the said Prayer into Consideration and having had due Consideration thereon are of Opinion That the Writ of Ne Exeat Regno shall not Issue — It is therefore Ordered that part of the Prayer Relative to the said Writ be Over ruled —

Messrs. George Smith, George Savage, George Proctor and Eyles Irwin beg leave to Dissent from the Resolution of Court

The Attornies for the Complainant Pray that a Summons and Warrant of Arrest may Issue against the Defendants Body upon the Affidavit filed this day to Compell him to give Bail for the Sum Sued for or for such other Sum as the Court shall judge proper — The Court having taken the same into Consideration are of Opinion that a Summons returnable Immediately and Warrant of Arrest do Issue — Messrs. Aldermen

Jones and Holland beg leave to enter their Dissent The Defendant Sir Robert Fletcher appears by his Attornies Charles Bromley and John Sykes who Acquaint the Court that the Defendant is not about to Depart from the Jurisdiction of this Court and Submit to their Determination whether the Defendant shall be obliged to give any and what Special Bail — and further Pray that they may be allowed till the 22d Instant to put in a Plea or Demurrer — The Court having taken the same into Consideration do Order that the Defendant do give Bail for the Sum of £ 10,000 …. That the same be marked on the Back of the Writ and that the Defendant be allowed till the 22d Instant to put in a Plea or Demurrer — Messrs. Smith, Savage, Proctor and Irwin beg leave to enter their Dissent — Ordered with the Consent of the Complainants Attornies that the Defendant do give Bail by tomorrow at 12 Clock or in Default thereof a Summons Returnable immediately and Warrant of Arrest do issue —

A True Extract
James Taylor
Regr.

C. N.o 3..

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 19th Day of November Anno Domini 1776

Present
John Turing Esquire Mayor.
James Call and Edward John Holland
Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

Messrs. Sedgley and Dubuy the Attornies for the

the Complainant finding upon Reference to the Book of Instructions that Demurrers in General are Discouraged but that after an Attachment has once issued the Receiving them is Prohibited beg leave to Submit to the Honble Court whether it could not be improper and Irregular in them to offer any Paper in the nature of a Joinder or Answer to the Demurrer which the Defendants Attorneys have thought proper to Deliver to this Honble Court more especially on Perusal thereof it evidently tends to call in Question the Right and Authority of the Court to hear Try and Determine this or any other Personal Action or Suit founded upon Personal Injuries and wrongs and so to defeat the gracious Intention of the Royal Charter in giving relief and redress where a man is injured in his Person and Reputation which is of the first importance to the Peace and good Order of Society and ever of still greater Consequence than matter of Property —

For the Demurrer Advances that the Court cannot be Competent to Assess the Quantum of Damages or any Damages without the Aid of Jury and this the Complainants Attorneys Humbly conceive is a matter which relates to the Authority and Constitution of the Court and therefore as they think not proper to be Argued or Debated by the Sworn Attorneys of this Court least they should incur the displeasure thereof —

With regard to the other part of the Demurrer Complaining of an irregularity in laying the Damages at a Specific Sum and which the Demurrer Says the Complainant has himself assessed and Awarded as Adequate to the Injury he has Sustained and is therein called an Arbitrary Adjudgment contrary to Law The Complainants Attorneys humbly Apprehend this is introduced merely to mislead this Honble Court and can in no ways be offered as matter of Objection to the Complaint of their Client Since it is the Established Rule and Practise of the Law that every Man who is injured and brings his Complaint before a Court of Justice for Relief and Redress in such Case to Specify a Certain Sum to which he thinks himself Justly intitled as a Reparation for the injurys he has Sustained.

In Respect to the third matter introduced in this Demurrer complaining of an irregularity in the Complainants Attornies by making referrence to a writing or Paper in the form of a Petition which he had before delivered to this Honble Court — The Complainants Attorneys freely and of their own accord offer to remove any Ground for Demurrer in that Respect by Amending their Bill and adding thereto an Attested Copy of the said Petition taken from the Records of this Court or Else to introduce the same into such Amended Bill as this Court shall think most proper or Consistent

For these Reasons therefore the Attorneys for the Complainant Submit to this Honble Court whether the said Demurrer should not be taken off The file and the Defendant put upon his Answer — The Attorneys for the Defendant Object to the above Motion as Unprecedented irregular and not Conformable to the constant and invariable Practice of this Court and therefore pray that a Day may pass for the Complainant to put in a Joinder to the Defendants Demurrer

Deferred taking the same into Consideration till Tuesday next when a full Court is Ordered to be Summoned

A True Extract

James Taylor
Regr.

Extract

D. N4.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 10th Day of December Anno Domini 1776

Present

John Turing Esquire Mayor
Andw. Majendie and James Call
Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

The Attorneys for the Complainant pray leave to move the Court that as the Demurrer filed by the Defendant in this Caus contains no colourable Cause of Demurrer, but appears to be introduce merely with a Design to impede the Justice of this Honble Court they therefore pray Judgment of the Court whether the Complainan ought to Join in Demurrer — The Attorneys for the Defendant objec to the above motion and pray that the Complainant may either be Obliged to put in a Joinder to their Demurrer or that the Demurrer may be held good and the Bill dismissed with Costs — Deferred taking the same into Consideration till Fryday next at 8 O'Clock in the Morning when a full Court is Ordered to be Summoned when all the Members are to be Particularly Desired to Attend —

A True Extract

James Taylor
Regr.

E. Nº 5

Extract from the Minutes of a Court Held at the Town Hall on Friday the 13th Day of December Anno Domini 1776

Present

John Turing Esquire Mayor
George Smith Andw. Majendie
James Call George Proctor
Eyles Irwin and Edwd. John Hollond
Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

In Consequence of the Resolution of Last Court day The Court Proceed to take into Consideration the Motion then made in this Cause by the Attornies for the Complainant as also the Objection and Prayer made on behalf of the Defendant on Reading the Complainants Amended Bill of Complaint the Defendants Demurrer the motion made last Court day On Hearing the Pleadings made use of by the Attornies on both Sides on the motion whether the Complt. shall be Obliged to Deliver in a Joinder to the Defendants Demurrer or not, The Attornies for the Defendant Objecting to the Merits of the Demurrer being taken into Consideration without a Joinder being first Delivered in and on due Consideration had thereon The Court are of Opinion that the Complainant ought not to be Obliged to put in a Joinder to the Defendants Demurrer — The Attorneys for the Complainant pray that the Demurrer may be Dismissed with Costs and that the Defendant put upon his Answer to which the Attys. for the Deft. object & pray that they may be furnished with a Copy of the said Prayer & be allowed till next Court day to Answer the same The Court having taken the said Prayer into Consideration & it appearing to them that the Pleas made use of by the Deft. in his Demurrer are insufficient to Bar the Compl. Action The Court doth therefore think fit to order & doth accordingly Order that the Defts. Demurrer be thrown out with Costs & the Defendant put upon his Answer.

Messrs. Aldermen Majendie Call & Hollond beg leave to enter their Dissent to the aforegoing resolutions

Dissent Messrs. Majendie Call and Hollond Dissent to the Resolutions of the Court on the Motions made in the Causes of George Lord Pigot against Sir Robert Fletcher and Captain Arthur Lysaght because such Resolution are contrary to the established and invariable Practise of this Court the Rules of which should be preserved for the Guidance of the Attornies — because they do not consider the Subject of the Demurrer without a Joinder as Really at Issue and therefore not determinable by this Court And because they tend to bring the Demurrer to a Double hearing for if the Decree of the Court had been against the Complainant he would have been Ordered to Join in Demurrer which would have brought on a Second hearing —

A true Extract
James Taylor
Regr.

F. Nº 6

Extract from the Rules Relating to the Practise of the Court

For as much as Divers Persons being Prosecuted in this Court for Debts and other matters Cognizable here have for delay and to Prevent as much as in them lay the due and speedy Administration of Justice put into the Bills Preferred against them Pleas and Demurrers The Court taking the Premises into Consideration do for the Prevention of such evil Practise in future Order that no plea or Demurrer be at any times hereafter Received or Admitted to any Bills to be Exhibited Unless such Plea or Demurrer be put in on the very day assigned for the Appearance of the Defendant in such Suits Provided the Summons is Served upon him four Days before the time Limitted for Appearance and It is further Ordered that in future it be a standing Rule of Practise of this Court that whenever a Demurrer and Joinder are thrown into Court they shall come on to be Argued the Next Court Day after such Joinder is Delivered in which shall be done as soon as possible after the Demurrer is filed which shall not exceed the time Limitted for Delivering in an Answer

A true Extract
James Taylor
Regr

Chas. Bromley
Jno. Sykes
Attys. Appellant

In the Court of Appeals

Between George Lord Pigot Complainant
and Arthur Lysaght Defendant

To the Honble George Stratton Esquire
President and Governor of Fort St. George &c. Council

The Petition of Appeal of
Arthur Lysaght Esquire Captain of Infantry
in the Service of the Honble the United
Company of Merchants of England trading
to the East Indies on the Coast of Coromandell

Sheweth

Filed the 24th Decr
1776
Chas. Oakeley
Clk

That George Lord Pigot Baron Pigot of Patsull in the Kingdom of Ireland &c. did on the Twenty Sixth Day of November last in the Present Year of our Lord One Thousand Seven hundred

hundred

hundred and Seventy Six file a Bill of Complaint in the Honble the Mayors Court of Madraspatnam against your Petitioner for an Assault and Battery and false Imprisonment and layed his Damages to Fifty Thousand Pounds. That upon the reading of the said Bill of Complai and of an Affidavit made by the said George Lord Pigot a Summons returnable immediately and a Warrant of Arrest were prayed for and granted Your Petitioner being under the Necessity of appearing to hinder the arrest of his Person did on the same Day that the said Prayer was granted appear by means of his Attornies and upon such Appearance the Attornies for the said George Lord Pigot prayed that your Petitioner might give Bail which the Court taking into Consideration they decreed your Petitioner to give Bail in the Sum of Ten Thousand Pounds which your Petitioner complied with notwithstanding its being excessive against which Order of Court some of the Members then setting did Dissent as appears by a Copy (Marked A No. 1 of the Extract or Order of Court hereto annexed for the Inspection of this Honble Court Your Petitioner further Sheweth that at the time of his Appearance he moved for leave to plead or Demur which was granted him according to the usual Practice of the said Honble the Mayors Court Your Petitioner further sheweth that on the Perusal of the Copy of the sai Bill of Complaint of the said George Lord Pigot against your Petition Your Petitioner found divers Defects and Imperfections in the said Bill of Complaint and without the removing of the same it was impossible for your Petitioner to Answer Your Petitioner did Demur as by Law he had a Right so to do and accordingly did file his Demurrer in the said Honble the Mayors Court Your Petitioner further Sheweth that the said Attornies of the said George Lord Pig did on the Tenth day of this Instant December make a Special

Motion a true Copy of which /marked B N2/ is hereto annexed whether the said George Lord Pigot ought to Join in Demurrer when the said Honble the Mayors Court were pleased to adjourn the Motion till Friday the Thirteenth following in the said Month of December when the same came on to be determined and Decreed in the manner Setforth in a Copy (marked C N3) of the Extract or Order of the said Honble the Mayors Court hereto annext for the Inspection of this Honble Court from which Order Sentence or Decree of the said Honble the Mayors Court Your Petitioner does appeal to this Honble the Court of Appeals for the following Reasons Vizt

First. Because it has been the Determinate Rule and Practice of the said Honble the Mayors Court for the Party to join in Demurrer where one is to a Bill of Complaint thrown in and that the same should come on to be argued the next Court Day or soon after the filing of the said Joinder as appears by a Copy /marked D N4/ of the Extract of the Rules relating to the Practise of the said Honble the Mayors Court hereto annext for the Inspection of this Honble Court

Secondly. Because the Prayer of the said George Lord Pigot so made by his said Attornies for the Demurrer to be dismissed and your Petitioner put upon his Answer was too Sudden and not agreable and Conformable to the Special Motion made on the Tenth Instant of December the Motion of that Day being Adjourned till the Thirteen Instant to take into Consideration the Motion of the Complainants Attorneys whether the said George Lord Pigot should Join in Demurrer or not thereby Praying the Opinion of the Honble the Mayors Court on his the said George Lord Pigots own part

Thirdly

Thirdly Because it appears that an Objection was made by your Petitioners Attorneys to the taking into Consideration the Merits of the Demurrer and that your Petitioner might be allowed a Copy of the said Attornies special Motion and to be granted sometime to Consider of such Prayer which Prayer of your Petitioners Attornies was conformable to what had been done in other special Matters in the said Honble the Mayor's Court notwithstanding which your Petitioner was denied that Indulgence though it had been granted to the said George Lord Pigot the Tenth Instant

Fourthly Because the said Honble the Mayors Court did notwithstanding the Prayer and Objection made by your Petitioners Attorni proceed without the Consent of your Petitioner to take into Consideratio the Prayer of the said George Lord Pigot and did of their own accor proceed to enter into the Merits of the Demurrer of your Petitione and decreed the said Demurrer insufficient to Bar the said George Lord Pigot of his Action against your Petitioner although the Demurrer was to the Imperfections and Defects contained in the said George Lord Pigots Bill of Complaint and not to his Actio whereby your Petitioners Demurrer was very irregularly thrown out contrary to the Established Rules and Practise of the said Honble the Mayors Court and to the great Detriment of you Petitioner who is ordered by this means to answer a Bill of Complaint unprecedented in the said Honble the Mayors Court and contrary to the usual forms of drawing out and Exhibiting Bill of Complaint in the said Honble the Ma Court for any Plaint, Debt or Demand

Fifthly and lastly Because the entring upon the special Mo of the Demurrer was not the Consideration then before the Court as to the Objections made by your Petitioner to the said Bill of Complaint of the said George Lord Pigot for the Motion was whether the said George Lord Pigot should Join in Demurrer or not the Objections Setforth in the Demurrer to the Bill of Complaint had the Court been of Opinion that the said George Lord Pigot should Join in Demurrer would have been at Issue and proper to be determined by the said Honble the Mayors Court, but as the Court were of Opinion that there was no necessity to Join in Demurrer the Objections started by the Demurrer were admitted and the same taken Pro Confesso and the Court should have awarded Judgment accordingly by directing the Party to have amended his Bill of Complaint The Demurrer your Petitioner observes was not Set down to be argued and therefore the Honble the Mayors Court at the Instance of the Attornies of the said George Lord Pigot did bring on the Demurrer immediately to be argued by the said George Lord Pigots Attornies without the assent of your Petitioners Attornies which is contrary to the regular mode of Proceedings for if your Petitioner Demurs and Prays the Bill of Complaint may be dismissed with Costs and no Answer by a Joinder in Demurrer the Purport of such Demurrer is admitted and a Decree accordingly without entring into the Merits of the Demurrer. Your Petitioner further Observes that by the Prayer of the said George Lord Pigots Attornies for the Opinion of the said Honble the Mayors Court whether they shall Join in Demur or not was no more than meaning to take a Double Advantage of your Petitioner for the Motion was begging the Question of the Court

whether

whether there was or not any Error or Imperfection in their said Bill of Complaint which they might amend or abide by their said Bill the Court being of Opinion that the said George Lord Pigot ought not to Join in Demurrer was allowing of the Objections incerted in your Petitioners Demurrer and the Bill of Complaint dismissed with Costs. But your Petitioner further Observes that the said Honble the Mayors Court being of Opinio no Joinder should be delivered in ought not to give the said Honb the Mayors Court the Power of entring into the Merits of the Demurrer as the said Demurrer was admitted of by the not joining in Demurrer.

For all which Reasons and which are corroborate by the Dissent of some of the Members of the said Honble the Mayors Court then setting your Petitioner does most humbly Appeal to this Honble Court of Appeals against the Order Sentence or Decree of the said Honble the Mayors Court under date the Thirteenth December in the present Year One Thousand Seven hundred and Seventy Six a Copy of which Order Sentence or Decree (marked O N3 is hereto annext and Prays that the same may be over ruled and that all and every the Proceedings and proceeding had on the said Bill of Complaint of the said George Lord Pigot may be stopped and that an Injunction to the said Honble the Mayors Court may be granted to stay all the Proceedin in the said Cause of the said George Lord Pigot against your Petitioner untill the Determination of this your Petitioners Appeal now before this Honb Court of Appeals and that the said George Lord Pigot may be obliged to Answer this Petition of Appeal and Pay all Costs both in this Honble Court of Appeals and in the said Honble the Mayors Court

And Your Petitioner as in Duty Bound Shall Ever Pray

Chas. Bromley
Jno. Sykes } Attys. Appellant

A N1.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 26.th Day of November Anno Domini 1776

Present

John Turing Esq.^{r} Mayor
George Smith George Savage
Andrew Majendie James Call
George Proctor Eyles Irwin and
Edward John Holland Aldermen

George Lord Pigot
vers
Arthur Lysaght

The Attornies for the Complainant pray leave to file a Bill of Complaint and an affidavit Sworn to before M^{r}. Aldermen Irwin and pray that a Summons returnable Immediately and a Warrant of Arrest may Iſsue against the Defendants Body upon the said Affidavit— Ordered Accordingly— M^{r}. Aldermen Holland begs leave to enter his Diſsent to the iſsuing of the Warrant of Arrest The Defendant appear by his Attornies Meſs.^{rs} Charles Bromley and John Sykes who Submit to the Consideration of the Court whether the Defendant shall be obliged to give any and what special Bail but previous thereto— M^{r}. Charles Bromley one of the Defendants attornies on account of his Client begs leave to Submit to the Consideration of the Court whether Meſs.^{rs} Aldermen Savage, Proctor, and Irwin are not interested in the event of the present Suit by their having signed their Names to a Letter which he begs leave to deliver into Court the Event of this Suit resting upon the Event of that Letter and further because the Defendant must in his Defence Justify his Proceedings
complaind
complained of in the Bill of Complaint to which Proceedings they the said Meſs.^{rs} Savage Proctor and Irwin have entered their Diſsent by the said Letter— Letter Read—

To George Stratton Esquire, Sir Robert Fletcher, Henry Brooke Charles Floyer, Archdale Palmer Francis Jourdan and George Mackay Esquires

Gentlemen

We the underwritten Servants of the Hon^{ble} East India Company having taken into our most Serious Consideration the late Revolution in the Government of this Place and fearing lest it should be represented to our Honorable Masters that this Measure has been effected with the Concurrence of the Civil Servants a Doctrine which we understand has been industriously propogated in this Settlement Do hold it our indispensible Duty thus publickly to Protest against an Action which appears directly contrary to the Commiſsions granted by the Court of Directors to the Right Hon^{ble} Lord Pigot and totally subversive of the Constitution of this Government upon this self Evident Principle therefore that where authority does not exist Obedience cannot be expected We think it incumbent on us lest our Silence be construed into an aſsent to measures so totally repugnant to our feelings as Men and our Duty as Companys Servants thus formally to acquaint you that we cannot acknowledge any other but the Right Hon^{ble} Lord Pigot as Governor of Fort S^{t}. George and President of the Council as Members of a Civil Government We cannot but consider an Appeal to Military Force as a matter of the most Dangerous Tendency and could we poſsibly
admit

admit the Expediency of the late Change We absolutely deny the Legality of the Measure but as from the Conduct of the Military on that occasion there scarce remains a Doubt but that the Management of the Honble Company's Affairs must remain in the Hands of you Gentlemen untill Judgement is passed on your Conduct in Europe, We hesitate not a moment to offer our voluntary Services in our Respective Stations for conducting the Business of our Honorable Masters whose Interest is our first Object and to whose Candour and Superior Judgement We submit our Conduct

The only favor we have to Request of you Gentlemen is the directing your Secretary to make this Letter a Number of the Packet by the Ship Greenville now under Dispatch for Europe

We Remain

Gentlemen

Your very Obedient Servants

(Signed)
J. Kenworthey
Geo: St. Hoissard
Geo: Savage
Wm. Ross
Wm. Turing
J. Dutton
Geo Proctor
W. Jackson
Willm. Oram
Theod: J. Tanner

J. Kingscote
Thos. Ogelvie
David Haleburton
Arthur Wm. Gregory
Ed. Monckton
Js. Lind
Hew A. Craig
R. D. Munro
Hugh Vaughan
Gideon Firth
Hugh Maxwell
William Michelle
J. Des Champs
Geo: Wynch

Eyles Irwin
G. Ram
Wm. Sedgley
Kenelm Digby
John Wood
Geo: Hoar
A. Hammond
Thomas Welch
Wm. Webb
M. Tudor
Wm. Hamilton
George Foster
Joseph Revell

A true Copy
Chas. Oakeley
Secry

Exd

complaint

Messrs. Aldermen Savage Proctor and Irwin beg leave to enter the following Minute

An Objection to our sitting on this Bench on the matter before it has been made by the Attorney of Capt Lysaght as this Objection is of a Nature which we could the least expect would be offered against our acting in a Judicial Capacity we are the less prepared to Reply to it The Oath we have taken faithfully and disinterestedly to administer Justice in all Cases would we had flattered ourselves have Protected us against the Imputation of being interested in the Event of the Present Suit — For such we think were the Attornies Words We deem it incumbent on us to declare that we are not directly or indirectly concerned in the Suit between the Right Honble Lord Pigot and Capt Lysaght Our Brethren on the Bench have the Objection before them and they can the best decide on what Ground it is made, the Consequence of such an Objection being admitted on any occasion must we Presume Evidently appear to this Honble Court to be a daring Infringement of its Rights and a Particular Injury to our own Characters.

Geo: Savage
Eyles Irwin
George Proctor

Mr. Charles Bromley the Attorney for the Defendant begs leave to withdraw so much of the aforesaid Motion made on behalf of his Client as relates to Messrs. Savage Proctor and Irwin and to Apologize to the Court for the trouble he has given them arising from an Opinion that his Client had conceived that the aforementioned Gentlemen were interested in the Event of the Present Suit by having signed the aforegoing Letter — The Court having taken the same into Consideration it is Ordered that he be permitted to withdraw the sam

The Court then proceed to Determine whether the Defendant shall be obliged to give any and what Special Bail and having had Consideration thereon do Order that the Defendant do give Bail for the Sum of £10,000 — and that the same be marked on the Back of the Writ

Meſs.rs Majendie, Call and Holland beg leave to enter their Diſsent Because they are of Opinion that the Bail is exceſsive

Ordered with the Consent of the Complainants Attorneys that the Defendant do put in Bail by 12 o'Clock tomorrow or in Default thereof a Warrant of Arrest do Iſsue

The Attorneys for the Defendant Pray till next Court day to plead or Demur to which the Attorneys for the Complainant object as a Demurrer ought not to be received after an Attachment is granted — The Attorneys for the Defendant observe to the Court that no Attachment has iſsued as the Bill of Complaint was only filed this Day and of Course the Defendant could not be in Contempt as he appeared immediately on the filing of the Bill — The Court having taken the same into Consideration ordered that the Defendant be allowed till next Court day to Plead or Demur

Meſs.rs Aldermen Smith and Irwin beg leave to Diſsent

A True Extract
James Taylor
Reg.r

A true Copy
Chas. Bromley
Jno. Sykes
Atty.s for the Appellant

Extract

B. No. 2

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 10th Day of December Anno Domini 1776

Present
John Turing Esq.r Mayor
Andrew Majendie and James Call
Aldermen

George Lord Pigot
vers
Arthur Lysaght

The Attorneys for the Complainant pray leave to move the Court that as the Demurrer filed by the Defendant in this Cause contains no Colourable Cause of Demurrer but appears to be introduced merely with a Design to impede the Justice of this Hon.ble Court they therefore pray a Judgement of the Court whether the Complainant ought to Join in Demurrer — The Attorneys for the Defendant object to the above Motion and pray that the Complainant may either be obliged to put in a Joinder to their Demurrer or that the Demurrer may be held good and the Bill diſmiſsed with Costs

Deferred taking the same into Consideration till Friday next at 8 o'Clock in the Morning when a full Court is ordered to be summoned when all the Members are to be particularly desired to attend

A true Extract
James Taylor
Reg.r

A true Copy
Chas. Bromley
Jno. Sykes
Atty.s Appellant

Extract

C No. 3

Extract from the Minutes of a Court Held at the Town Hall on Friday the 13th Day of December Anno Domini 1776

Present

John Turing Esquire Mayor
George Smith Andw. Majendie
James Call George Proctor
Eyles Irwin and Edw. Jno. Holland
Aldermen

George Lord Pigot
versus
Arthur Lysaght

In Consequence of the Resolution of Last Court day The Court proceed to take into Consideration the Motion then made in this Cause by the Attorneys for the Complainant as also the Objection and Prayer made on behalf of the Defendant on reading the Complainants Bill of Complaint and affidavit – The Defendants Demurrer. The motion made last Court day On hearing the pleadings made use of by the Attornies on both Sides on the motion whether the Complainant shall be obliged to Deliver in a Joinder to the Defendants Demurrer or not The Attorneys for the Defendant Objecting to the Merits of the Demurrer being taken into Consideration without a Joinder being first delivered in and on due Consideration had thereon The Court are of Opinion that the Complainant ought not to be obliged to put in a Joinder to the Defendants Demurrer – The Attorneys for the Complainant pray that the Demurrer may be Dismissed with Costs and the Defendant put upon his Answer to which the Attorneys for the Defendant Object and pray that they may be furnished with a Copy of the said Prayer and be allowed till next Court Day to answer the same

The

The Court having taken the said Prayer into Consideration and it appearing to them that the Pleas made use of by the Defendant in his Demurrer are insufficient to Bar the Complainants Action This Court doth therefore think fit to order and doth accordingly Order that the Defendants Demurr be thrown out with Costs and the Defendant put upon his Answer

Messrs. Aldermen Majendie, Call and Holland beg leave to enter their Dissent to the aforegoing Resolutions

Dissent

Messrs. Majendie, Call and Holland dissent to the resolutions of the Court on the Motions made in the Causes of George Lord Pigot against Sir Robert Fletcher and Capt. Arthur Lysaght because such Resolutions are contrary to the established and invariable Practise of this Court the Rules of which should be preserved for the Guidance of the Attornies because they do not consider the Subject of the Demurrer without a Joinder as really at Issue and therefore not determinable by this Court

And because they tend to bring the Demurrer to a double hearing for if the Decree of the Court had been against the Complainant he would have been ordered to Join in Demurror which would have been brought on a second hearing

A true Extract
James Taylor
Regr.

A true Copy
Chas. Bromley } Attys for the Appellants
Jno. Sykes }

D No. 4

Extract from the Rules relating to the Practise of the Court

Forasmuch as divers Persons being Prosecuted in this Court for Debts and other Matters Cognizable here have for delay and to Prevent as much as in them lay the due and Speedy administration of Justice put into the Bills preferred against them Pleas and Demurrers The Court taking the Premises into consideration do for the Prevention of such Evil Practise in future Order that no Plea or Demurrer be at any time hereafter received or admitted to any Bill to be exhibited unless such Plea or Demurrer be put in on the very Day assigned for the appearance of the Defendant in such Suits — provided the Summons is served upon him four Days before the time limitted for appearance and it is further ordered that in future it be a standing Rule of Practise of this Court that when ever a Demurrer and Joinder are thrown into Court they shall come on to be argued the next Court day after such Joinder is delivered in which shall be done as soon as Possible after the Demurrer is filed which shall not exceed the time limitted for delivering in an Answer

A true Extract

James Taylor
Reg.r

A true Copy
Chas. Bromley
Jno. Sykes
Attes for the Appellant

Court of Appeals
at
Madraspatnam } Tuesday the 24th December 1776

The Attorneys of Capt Arthur Lysaght who is Defendant in an action commenced before the Honorable the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Friday the 13th Day of December Anno Domini 1776 which they pray leave to file

As it appears to this Court that the Suit instituted in the

Mayors

Mayors Court by the said George Lord Pigot against the said Arthur Lysaght is founded on an action for assault and false Imprisonment the Members of this Court think it their duty to declare that in their Capacity of Members of this Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said Arthur Lysaght was one of their body at the time This appearing to be the Ground of the Present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of the Suit — This Court doth therefore think fit to order that the said Petition be filed but that no further Process be had thereon in this Court and they do further Order that the Attorneys of the Appellant be furnished with a Copy of this Minute

P Cur

To the Kings most Excellent Majesty in Council

Between George Lord Pigot Complainant
and Arthur Lysaght Esquire Captain of Infant.
in the Service of the Honble The United Company
of Merchants of England Trading to the East
Indies on the Coast of Coromandel

The Humble Petition and Appeal of the said Arthur Lysag

Humbly Sheweth

Filed in my Office
2d Janry 1777
Chas. Oakeley
Clk of Appl.

That George Lord Pigot Baron of Patshull in the Kingdom of Ireland &c did on the Twenty Sixth day of November last in the present Year of our Lord One Thousand Seven hundred and Seventy Six File a Bill of Complaint in the Honble the Mayors Court at Madras-patnam against your Petitioner for an Assault and Battery and false Imprisonment and layed his Damages at Fifty Thousand Pounds That upon reading of the said Bill of Complaint and of an affidavit made by the said George Lord Pigot a Summons returnable Immediately and a Warrant of Arrest being Prayed for and Granted your Petitioner was under the Necessity of appearing to the said Suit to hinder the Arrest of his Person he did on the said day that the said Prayer was Granted Appear by means of his Attorneys and upon such appearance the Attorneys for the said George Lord Pigot Prayed that your Petitioner might give Bail which the said Court taking into Consideration they ordered your Petitioner to give Bail in the Sum of Ten Thousand Pounds which your Petitioner complied with Notwithstanding its being excessive against which Order of Court some of the Members then Sitting did Dissent as appears by a Copy Marked A N1. of the Extract or Order of Court hereto annexed for the Inspection of your most Excellent Majesty in Council Your Petitioner further Sheweth that at the time of his Appearance he moved for leave to Plead or Demur which was granted him According to the usual Practise of this Honble the Mayors Court Your Petitioner further Sheweth that on the Perusal of the Copy of the said Bill of Complaint of the said George Lord Pigot against your Petitioner Your Petitioner found divers Defects and Imperfections in the said Bill of Complaint and without the Removing of the same it was impossible for your Petitioner to answer your Petitioner did therefore Demur as by Law he had a Right to do And accordingly did file his Demurrer in the said Honble the Mayors Court Your Petitioner further Sheweth that the said Attornies of this said George Lord Pigot did on the Tenth day of last December make a Special Motion a true Copy whereof Marked B N2 is hereto annexed

whether

whether the said George Lord Pigot ought to Join in Demurrer when the said Honble the Mayors Court were pleased to Adjourn the Motion till Friday the Thirteenth following in the said Month of December when the Same came on to be Determined and was Determined in the manner Setforth in a Copy Marked C N3 of the Extract or Order of the said Honorable the Mayors Court hereto annexed for the Inspection of Your most Excellent Majesty in Council from which Order Sentence or Decree of the said Honble the Mayors Court your Petitioner did appeal to the Honble Court of Appeals at Madraspatnam for the following Reasons Vizt

First Because it has been the Determinate Rule and Practise of the said Honble the Mayors Court for the Party to Join in Demurrer where One is to a Bill of Complaint thrown in and that the same should come on to be argued the next Court Day or soon after the filing of the said Joinder as appears by a Copy (Marked D N4) of the Extract of the Rules Relating to the Practise of the said Honble the Mayors Court hereto annext for the Inspection of Your most Excellent Majesty in Council.

Secondly Because the Prayer of the said George Lord Pigot so made by his said Attorneys for the Demurrer to be Dismissed and your Petitioner put upon his Answer was too Sudden and not agreeable and Conformable to the Special Motion made on the Tenth day of the said Month of Decem the Motion of that day being Adjourned till the Thirteenth day of December to take into Consideration the Motion of the Complainants Attornies whether the said George Lord Pigot should Join in Demurrer or not thereby Praying the Opinion of the said Honble the Mayors Court on his the said George Lord Pigot own part

Thirdly Because it appears that an Objection was made by your Petitioners Attornies to the taking into Consideration the Merits of the Demurrer and that your Petitioner might be allowed a Copy of the said Attornies Special Motion and to be granted Sometime to consider of such Prayer which Prayer of your Petitioners Attornies was Conformable to what had been done in other Special matters in the said Honble the Mayors Court Notwithstanding which your Petitioner was denied that Indulgence though it had been granted to the said George Lord Pigot the Tenth Day of December Last

Fourthly Because the said Honble the Mayors Court did Notwithstanding the Prayer and Objections made by your Petitioners Attorneys proceed without the Consent of your Petitioner to take into consideration the Prayer of the said George Lord Pigot and did of their own accord proceed to enter into the Merits of the Demurrer of your Petitioner and Decreed the said Demurrer insufficient to Bar the said George Lord Pigot of his Action against your Petitioner although the Demurrer was to the Imperfections and Defects mentioned in the said George Lord Pigots Bill of Complaint and not to his Action whereby your Petitioners Demurrer was very irregularly thrown out Contrary to the Established Rules and Practise of the said Honble the Mayors Court and to the great Detriment of your Petitioner who is Ordered by this Means to Answer a Bill of Complaint Unprecedented in the said Honble the Mayors Court and contrary to the Usual forms of Drawing out and Exhibiting Bills of Complaint in the said Honble the Mayors Court for any Plaint Debt or Demand

Fifthly and Lastly Because the Entring upon the Special Matter of the Demurrer was not the Consideration then before the Court as to the Objections made by your Petitioner to the said Bill of Complaint of the said George Lord Pigot for the Motion was whether the said George Lord Pigot should Join in Demurrer or not the Objection Setforth in the Demurrer to the Bill of Complaint had the Court been of Opinion that the said George Lord Pigot should

Join

Join in Demurrer would have been at Issue and proper to be Determined by the said Honble the Mayors Court but as the Court were of Opinion that there was no Necessity to Join in Demurrer the Objections Started by the Demurrer were admitted and the same taken pro confesso and the Court should have awarded Judgement accordingly by Directing the Party to have amended his Bill of Complaint The Demurrer your Petitioner observes was not Setdown to be argued and therefore the Honble the Mayors Court at the instance of the Attornies of the said George Lord Pigot did bring on the Demurrer immediately to be argued by the said George Lord Pigots Attornies without the assent of your Petitioners Attornies which is contrary to the Regular Mode of Proceedings for if your Petitioner Demurs and prays the Bill of Complaint may be Dismissed with Costs and no answer by a Joinder in Demurrer the purport of such Demurrer is admitted and a Decree Accordingly without entering into the Merits of the Demurrer Your Petitioner further observes that by the Prayer of the said George Lord Pigots Attornies for the Opinion of the said Honble the Mayors Court whether they should Join in Demurr or not was no more then meaning to take a Double Advantage of your Petitioner for the motion was begging the Question of the Court whether there was or not any Error or Imperfection in their said Bill of Complaint to which they might amend or abide by their said Bill the Court being of Opinion that the said George Lord Pigot ought not to Join in Demurrer was allowing of the Objections incerted in your Petitioners Demurrer and the Bill of Complaint Dismissed with Costs But your Petitioner further Observes that the said Honble the Mayors Court being of Opinion no Joinder should be Delivered in ought not to give the said Honorable the Mayors Court the Power of entring into the Merits of the Demurrer as the said Demurrer was Admitted by

not

by not Joining in Demurrer

Forall which Reasons and which is corroborated by the Dissent of some of the Members of the said Honble the Mayors Court then Setting your Petitioner did most humbly appeal to the said Honble the Mayors Court and Prayed that the same might be Over ruled and that all and every the Proceeding and Proceedings had on the said Bill of Complaint of the said George Lord Pigot might be Stopped and that an Injunction to the said Honble the Mayors Court might be granted to stay all the Proceedings in the said Cause of the said George Lord Pigot against your Petitioner there untill the Determination of your Petitioners said Appeal and that the said George Lord Pigot might Pay all Costs both in the said Honble Court of Appeals and in the said Honble the Mayors Court

Your Petitioner further Sheweth that he did appeal by Petition to the Honble George Stratton Esqr President and Governor of Fort St George &ca Council then Sitting and presiding as the Government of Fort St George &ca Districts on the Coast of Coromandel which Petition of Appeal of your Petitioner was taken into Consideration by them who were pleased to make the following Order Vizt

Court of Appeals
at
Madraspatnam } Tuesday the 24th December 1776

The Attornies of Captain Arthur Lysaght who is Defendant in an action Commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court, passed in this Cause on Friday the 13th day of December Anno Domini 1776 which they pray leave to file

As it appears to this Court that the Suit Instituted in the Mayors Court by the said George Lord Pigot against the said Capt Arthur Lysag is founded on an Action for Assault and false Imprisonment the Members of this Court think it their duty to Declare that in their Capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and the said Captain Arthur Lysaght was Acting in Execution of their Orders so given This appearing to be the Ground of the Present Action The Member of the Court conceive from the Petition of Appeal now Delivered in that they may be Interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

Extr

Chas. Oakeley
Clerk of Appl.

Your Petitioner doth therefore think proper to Appeal To your most Excellent Majesty in Council from the said Order of the said Mayors Court for the reasons beforementioned and which he your Petitioner assigned for Appealing to the said Court of Appeals and most humbly Prays that the said Order of the said Mayors Court may be Reversed and Set aside that the said Demurrer of your Petitioner be held good and the said Bill of Complaint Dismissed with Costs or that Your most Excellent Majesty in Council may be Pleased to make such other Order relative to the said Matters as to your most Excellent Majesty in Council may appear Legal Just and Equitable and your Petitioner doth Lastly Pray such further and other General Relief in all and Singular the Premises as to your most Excellent Majesty in Council may Seem Meet

Chas. Bromley }
Jno. Sykes } Attys. Appellant

A No.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 26th Day of November Anno Domini 1776

Present

John Turing Esquire Mayor
George Smith George Savage
Andrew Majendie James Call
George Proctor Eyles Irwin and
Edward John Holland Aldermen

George Lord Pigot
vers
Arthur Lysaght

The Attornies for the Complainant Pray leave to file a Bill of complaint and an Affidavit Sworn to before Mr. Alderman Irwin and Pray that a summons returnable Immediately and warrant of Arrest may issue against the Defendants Body upon the said Affidavit — Ordered accordingly — Mr. Alderman Holland begs leave to enter his Dissent to the issuing of the Warrant of Arrest The Defendant appears by his Attornies Messrs. Charles Bromley & John Sykes who Submit to the Consideration of the Court whether the Defendant shall be obliged to give any and what Special Bail but Previous thereto — Mr. Charles Bromley one of the Defendants Attornies on account of his Client begs leave to Submit to the Consideration of the Court whether Messrs. Aldermen Savage Proctor and Irwin are not Interested in the Event of the Present Suit by their having Signed their Names to a Letter which he begs Leave to deliver into Cour the Event of this Suit Resting upon the Event of that Letter and further because the Defendant must in his Defence Justify his Proceedings Complain of in the Bill of Complaint to which Proceedings they the said Messrs. Sav Proctor and Irwin have entered their Dissent by the said Letter — Letter Read —

To George Stratton Esqr. Sir Robert Fletcher Henry Brooke
Charles Floyer Archdale Palmer Francis Jourdan and
George Mackay Esquires

Gentlemen

We the underwritten Servants of the Honble East India Company having taken into our most Serious Consideration the late Revolution in the Government of this Place and fearing lest it should be Represented to our Honorable Masters that this Measure has been effected with the Concurrence of the Civil Servants a Doctrine which We understand has been Industriously Propagated in this Settlement Do hold it our Indispensible Duty thus Publickly to Protest against an Action which appears Directly Contrary to the Commissions granted by the Court of Directors to the Right Honble Lord Pigot and Totally subversive of the Constitution of this Government Upon this self evident Principle therefore that "Where Authority Does not exist Obedience cannot be expected" We think it incumbent on Us lest our Silence be Construed into an assent to measures so totally Repugnant to our Feelings as Men and Our Duty as Companys Servants thus formally to acquain you that We cannot Acknowledge any other but the Right Honble Lord Pigot as Governor of Fort St. George and President of the Council As Members of a Civil Government We cannot but consider an Appeal to Military Force as a matter of the most dangerous Tendency and could We Possibly admit the

Expediency of the late Change We absolutely deny the Legality of the measure but as from the Conduct of the Military on that Occasion there Scarce Remains a Doubt but that the Management of the Honble Companys Affairs must Remain in the hands of you Gentlemen until Judgment is Passed on your Conduct in Europe We hesitate not a Moment to offer our Voluntary Services in our Respective Stations for Conducting the Businyss of Our Honble Masters whose Interest is our first Object and to whose candor and Superior Judgment We Submit Our Conduct

The only favor We have to Request of you Gentlemen is the Directing your Secretary to make this Letter a Number of the Packet by the Ship Greenville now under Dispatch for Europe

We Remain

Gentlemen

Your very Obedient Servants

Wm. Turing
J. Dutton
George Proctor
Wm. Jackson
Wm. Oram
Theod. J. Taner

David Haliburton
Arthur Wm. Gregory
Ed. Monckton
Frs. Lind
Hew. A Craig
R. D. Munro
Hugh Vaughan
Gedeon Firth
Hugh Maxwell
Wm. Michelle
J. Dischamps
Geo: Wynch
J. Kenworthy
Geo. Jo. Hoissard
Geo. Savage
Wm. Ross

Eyles Irwin
G A Ram
Wm. Sedgley
Kenelm Digby
John Wood
Geo: Hoar
A Hammond
Thos. Welch
Wm. Webb
M. Tuder
Wm. Hamilton
Geo: Forster
Joseph Revell
T. Kingscote
Thomas Ogilvie

A true Copy
Chas. Oakeley
Secry.

Exd

Messrs. Aldermen Savage Proctor and Irwin beg leave to enter the following Minute

An Objection to our Sitting on this Bench on the matter before us has been made by the Attorney of Capt Lysaght as this Objection is of a Nature which we could the least expect would be offered against our acting in a Judicial Capacity We are the less prepared to Reply to it The Oath we have taken faithfully and Disinterestedly to Administer Justice in all Cases would We had flattered Ourselves have Protected us against the Imputation of being Interested in the Event of the Present Suit = For such we think were the Attarnies words We deem it incumbent on Us to declare that We are not Directly or Indirectly Concerned in the Suit between the Right Honble Lord Pigot and Capt. Lysaght Our Brethern on the Bench have the Objection before them and they can the best decide on what Grounds it is made the Consequence of such an Objection being Admitted on any Occasion must We Presume evidently Appear to this Honble Court to be a daring Infringement of its Rights and a Particular Injury to our own Characters

Geo. Savage
Eyles Irwin
George Proctor

Mr. Charles Bromley the Attorney for the Defendant begs leave to with draw so much of the aforesaid motion made on behalf of his Client as Relates to Messrs. Savage Proctor and Irwin and to Apologize to the Court for the Trouble he has given them arising from an Opinion that his Client had Conceived that the aforementioned Gentlemen were interested in the Event of the Present Suit by having signed the aforegoing Letter

The Court having taken the same into Consideration it is Ordered that he be

Permitted to with draw the same —

The Court then Proceed to Determine whether the Defendant shall be obliged to give any and what Special Bail, and having had Consideration thereon do order that the Defendant do give Bail for the Sum of £10,000 and that the same be marked on the back of the Writ Mess.rs Majendie Call and Holland beg leave to enter their Dissent Because they are of Opinion that the Bail is Excessive —

Ordered with the Consent of the Complainants Attorneys that the Defendant do put in Bail by 12 Clock tomorrow or in Default thereof a Warrant of Arrest do Issue —

The Attorneys for the Defendant Pray till next Court day to plead or Demurr to which the Attorneys for the Complainant Object as a Demurrer ought not to be Received after an Attachment is granted The Attorneys for the Defendant observe to the Court that no Attachment has Issued as the Bill of Complaint was only filed this day and of Course the Defendant could not be in Contempt as he appeared Immediately on the filing of the Bill — The Court having taken the same into Consideration Ordered that the Defendant be allowed till next Court day to plead or Demurr —

Mess.rs Aldermen Smith and Irwin beg leave to Dissent

A true Extract

James Taylor
Reg.r

Extract

B No. 2.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 10th Day of December Anno Domini 1776

Present
John Turing Esquire Mayor
Andrew Majendie and James Call
Aldermen

George Lord Pigot
-vers-
Arthur Lysaght

The Attorneys for the Complainant Pray leave to move the Court that as the Demurrer filed by the Defendant in this Cause contains no Colourable Cause of Demurrer but appears to be introduced merely with a Design to impede the Justice of this Hon.ble Court they therefore Pray Judgment of the Court whether the Complainant ought to Join in Demurrer — The Attorneys for the Defendant object to the above Motion and Pray that the Complainant may either be Obliged to put in a Joinder to their Demurrer or that the Demurrer may be held good and the Bill Dismissed with Costs — Deferred taking the same into Consideration till Friday next at 8 Clock in the Morning when a full Court is Ordered to be Summoned when all the Members are to be Particularly Desired to attend —

A true Extract

James Taylor
Reg.r

Extract

C N3

Extract from the Minutes of a Court Held at the Town Hall on Friday the 13th Day of December . Anno Domini 1776

Present

John Turing Esquire . Mayor
George Smith . Andrew . Majendie
James Call George Proctor
Eyles Irwin and Edward John Holland
Aldermen

George Lord Pigot
vers
Arthur Lysaght

In Consequence of the Resolution of last Court Day The Court proceed to take into Consideration the Motion then made in this Cause by the Attornies for the Complainant as also the Objection and Prayer made on behalf of the Defendant in reading the Complainants Bill of Complaint and affidavit — The Defendants Demurrer The motion made last Court day On Hearing the Pleadings made use of by the Attornies on both Sides on the motion whether the Complainant shall be obliged to Deliver in a Joinder to the Defendants Demurrer or not The Attorneys for the Defendant Objecting to the Merits of the Demurrer being taken into Consideration without a Joinder being first delivered in and on due Consideration had thereon The Court are of Opinion that the Complainant ought not to be obliged to put in a Joinder to the Defendants Demurrer The Attorneys for the Complainant pray that the Demurrer may be Dismissed with Costs and the Defendant put upon his Answer to which the Attorneys for the Defendant Object and pray that they may be furnished with a Copy of the said Prayer and be allowed till next Court Day to answer the same — The Court having taken the said

Prayer

Prayer into Consideration and it appearing to them that the Pleas made use of by the Defendant in his Demurrer are insufficient to Bar the Complainants action This Court doth therefore think fit to order and doth accordingly Order that the Defendants Demurrer be thrown out with Costs and the Defendant put upon his Answer —

Messrs. Aldermen Majendie, Call and Holland beg leave to enter their Dissent to the aforegoing Resolutions

Dissent

Messrs. Majendie Call and Holland dissent to the Resolutions of the Court on the Motions made in this Causes of George Lord Pigot against Sir Robert Fletcher and Capt Arthur Lysaght because such Resolutions are contrary to the established and invariable Practice of this Court the Rules of which should be Preserved for the Guidance of the Attornies because they do not consider the Subject of the Demurrer without a Joinder as really at Issue and therefore not determinable by this Court and because they tend to bring the Demurrer to a Double hearing for if the Decree of the Court had been against the Complainant he would have been ordered to Join in Demurrer which would have brought on a second hearing —

A true Extract
James Taylor
Regr.

D No4.

Extract from the Rules Relating to the Practice of the Court

For as much as Divers Persons being Prosecuted in this Court, for Debts and other matters Cognizable here have for delay and prevent as much as in them lay the due and Speedy Administration of Justice put into the Bills

prefer'd

preferred against them Pleas and Demurrers The Court taking the Premises into Consideration do for the Prevention of such Evil Practise in future Order that no Plea or Demurrer be at any time hereafter Received or Admitted to any Bill to be exhibited unless such Plea or Demurrer be put in on the very day Assigned for the Appearance of the Defendant in such Suits Provided the Summons is Served upon him four Days before the time Limitted for Appearance and It is further Ordered that in future it be a standing Rule of Practise of this Court that whenever a Demurrer and Joinder are thrown into Court they shall come on to be argued the next Court day after such Joinder is delivered in which shall be done as soon as possible after the Demurrer is filed which shall not exceed the time Limitted for Delivering in an Answer

A True Extract
James Taylor
Regr.

Jno. Bromley
Jno. Sykes } Attorneys Appellant

In the Court of Appeals

Between George Lord Pigot and
James Eidingtoun Adjutant General

Sheweth

To the Honble George Stratton Esquire
President and Governor of Fort St. George
&ca Council

The Humble Petition of Appeal of James Eidingtoun Esquire Adjutant General in the Service of the Honble the United Company of Merchts of England Trading to the East Indies

Filed the 25th January
1777
Chas. Oakeley Clk

That Whereas the abovesaid George Lord Pigot did on the fourteenth day of January in the Present Year of our Lord One thousand Seven hundred and Seventy Seven file his Bill of Complaint in the Honble the Mayors Court against your Petitioner for the Sum of Fifty thousand Pounds as the Amount of Damages which he the said George Lord Pigot said he had Sustained by the means of your Petitioner, to which said Bill of Complaint and on the motion of the Attornies for the said George Lord Pigot for a Summons returnable immediately and a Warrant of Arrest Your Petitioner was under the Necessity of Appearing upon whose Appearance the said Attornies for the said George Lord Pigot did pray Bail which the Honble the Mayors Court directed should be given and Ordered your Petitioner to enter Bail for Ten Thousand Pounds Your Petitioner by his Attornies did object to the same as being excessive and moreover did offer to make his Affidavit that his Estate both real and personal did not Amount in any Shape to the Sum for which he was to give Bail and moreover your Petitioner did further offer to make an Affidavit that he was not about to Depart out of the Jurisdiction of the said Honble the Mayors Court nor had any intention so to do notwithstanding which the said Honble the Mayor's Court did Order that your Petitioner should file Bail to the Amount before Expressed as will more fully appear by the Order Sentence or Decree of the said Honble the Mayors Court a Copy of which is hereunto annexed from which said Order Your Petitioner appeals as being contrary to the express meaning of the Bill of Rights and oppressive to every Subject in the British Dominions

Your Petitioner therefore most humbly Prays this Honble Court of Appeals to Order and direct the said Order of the said Honble the Mayors Court to be over Ruled and that your Petitioner be at liberty to file common Bail to the said Action of the said George Lord Pigot and that the said Geo Ld Pigot may pay all costs of this Petition of Appeal and

The

preferred against them Pleas and Demurrers The Court taking the Premises into Consideration do for the Prevention of such Evil Practise in future Order that no Plea or Demurrer be at any time hereafter Received or Admitted to any Bill to be exhibited unleſs such Plea or Demurrer be put in on the very day Aſsigned for the Appearance of the Defendant in such Suits Provided the Summons is Served upon him four Days before the time Limitted for Appearance and It is further Ordered that in future it be a standing Rule of Practise of this Court that whenever a Demurrer and Joinder are thrown into Court they shall come on to be argued the next Court day after such Joinder is delivered in which shall be done as soon as poſsible after the Demurrer is filed which shall not exceed the time Limitted for Delivering in an Answer

A True Extract
James Taylor.
Regr.

Chas. Bromley
Jno. Sykes } Attorneys Appellant

In the Court of Appeals

Between George Lord Pigot and
James Edingtoun Adjutant General

Sheweth

To the Honble George Stratton Esquire
President and Governor of Fort St. George
&ca Council

The Humble Petition of Appeal of James Edingtoun Esquire Adjutant General in the Service of the Honble the United Company of Merchts of England Trading to the East Indies

Filed the 25th January
1777 Chas. Oakeley
Clk

That Whereas the abovesaid George Lord Pigot di on the fourteenth day of January in the Present Year of our Lord One thou Seven hundred and Seventy Seven file his Bill of Complaint in the Honble the Mayors Court against your Petitioner for the Sum of Fifty thousand Pounds as the Amount of Damages which he the said George Lord Pigot sai he had Sustained by the means of your Petitioner, to which said Bill of Complaint and on the motion of the Attornies for the said George Lord Pigot for a Summons returnable immediately and a Warrant of Arrest Your Petitioner was under the Neceſsity of Appearing upon whose Appearance the said Attornies for the said George Lord Pigot did pray Bail which the Honble the Mayors Court directed should be given and Ordered your Petiti to enter Bail for Ten Thousand Pounds Your Petitioner by his Attornies did object to the same as being exceſsive and moreover did offer to make his Affidavit that his Estate both real and personal did not Amount in any Shape to the Sum for which he was to give Bail and moreover your Petitioner did further offer to make an Affidavit that he was not about to Depart out of the Jurisdiction of the said Honble the Mayors Court nor had any intention so to do notwithstanding which the said Honble the Mayor's Court did Order that your Petitioner should file Bail to the Amount before Expreſsed as will more fully appear by the Order Sentence or Decree of the said Honble the Mayors Court a Copy of which is hereunto annexed from which said Order Your Petitioner appeals as being contrary to the expreſs meaning of the Bill of Rights and oppreſsive to every Subject in the British Dominions

Your Petitioner therefore most humbly Prays this Honble Court of Appeals to Order and direct the said Order of the said Honble the Mayors Court to be over Ruled and that your Petitioner be at liberty to file common Bail to the said Action of the said George Lord Pigot and that the said Geo Ld Pigot may pay all costs of this Petition of Appeal and

the

and the Costs in the Court to the Mayors Court

And your Petitioners as in Duty Bound
Shall Ever Pray
Chas. Bromley
Jno. Sykes } Attys Appellt

Extract from the Minutes of a Court Held at the Town Hall
on Tuesday the 14th day of January Anno Domini 1777
Present

Andrew Majendie Esquire Mayor
George Smith George Savage
John Turing James Call
George Proctor Eyles Irwin
Alexr. Brodie and Benjn. Roebuck
Aldermen

George Lord Pigot
vers
James Eidingtoun Adjutant General

The Attorneys for the Complainant pray Leave to file a Bill of Complaint and an affidavit Sworn to before Mr. Alderman Proctor and pray that a Summons Returnable Immediately and a Warrant of Arrest may issue against the Defendants Body upon the said Affidavit — The Defendant appears by his Attornies Messrs. John Sykes and Charles Bromley The Attorneys for the Complainant pray that the Defendant may give Bail. The Attys for the Defts Submit it to the consideration of the Court whether their Client shall be obliged to give any and what Special Bail — The Court having taken the same into Consideration do Order that the Defendant do give Bail for the Sum of £10,000 — and that the same be marked on the Back of the Writ — Mr. Alderman Roebuck begs leave to enter his Dissent because he is of opinion that the Bail is excessive — The Attorneys for the Defendant Acquaint the Court that their Client is not going out of their Jurisdiction between this and next Court day to the Truth of which their Client is now Ready to make Oath and as the Court have so thought proper to Order Bail to be put in for £10,000 which is more than the Real and Personal Estate of the Defendant will amount to to the Truth of which the Defendant is also ready to make Oath and as the Defendant will find great Difficulty in procuring Bail for so large a Sum they therefore pray that they may be allowed till next Court day to put in Special Bail to which the Attornies for the Complainant object and move the Court that the Defendant may be obliged to put in Bail by 6 o'Clock this Even or in default thereof that a Warrant of Arrest may issue The Court having taken the same into Consideration it is ordered that the Defendant be allowed till 1 o'Clock Tomorrow afternoon To file Bail or in default thereof that a Warrant of Arrest do issue — Mr. Alderman Smith begs leave to Dissent because it is contrary to the Established Practice of the Court The Attorneys for the Complainant not Consenting thereto The Attorneys for the Defendant pray that they may be allowed till next Court day to plead or Demur Ordered Accordingly —

The Attorneys for the Defendant move the Court for their Opinion whether in case the complainant should require the Bail to Justify that they are each of them worth double that Sum as is the usual Practice The Court having taken the same into Consideration are of Opinion that in case the Complainant should require the Bail to Justify themselves that they must each of them Swear that they are worth the Sum for which the Defendant is ordered to be put in Bail — Messrs. Aldermen Smith Turing Irwin and Brodie begs beg leave to Dissent because it is contrary to the Established Practice of the Court

A True Extract
James Taylor
Regr.

A true Copy

Chas. Bromley }
Jno. Sykes } Attys. Appells

Court of Appeals at Madraspatnam } Saturday the 25th January 1777

The Attornies of James Eidingtoun Esqr. who is Defendant in an action commenced before the Honble the Mayors Court by George Lord Pigot delivers in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 14th day of January Anno Domini 1777 which they pray leave to file—

As it appears to this Court that the said instituted in the Mayors Court by the said George Lord Pigot against the said James Eidingtoun Esqr. is founded on an action for assault and false Imprisonment the Members of this Court thinks it their duty to declare that in their Capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Eidingtoun was acting in Execution of their Orders so given This Appearing to be the Ground of the Present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of the Suit

This Court doth therefore thinks fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute.

Ffewo

Between George Lord Pigot and
James Eidingtoun Adjutant General

To the Kings Most Excellent Majesty in Council

The Humble Petition of Appeal of James Eidingtoun Esquire Adjutant General in the Service of the Honble the United Company of Merchants of England Trading to the East Indies

Sheweth

Filed in my Office
the 1st February 1777
Chas. Oakeley
Clk

That Whereas the abovesaid George Lord Pigot did on the fourteenth day of January in the Present Year of our Lord One thousand Seven hundred and Seventy Seven file his Bill of Complaint in the Honble the Mayors Court of Madraspatnam against your Appellant for the Sum of Fifty thousand Pounds as the amount of Damages which he the said George Lord Pigot set forth that he had sustained by the means of your Appellant Your Appellant further Sheweth that at the time of filing the said his Bill of Complaint the said George Lord Pigot did file an Affidavit and therein did make Oath that your Appellant was about to depart out of the Jurisdiction of the said Honble the Mayors Court Your Appellant further Sheweth that after the said Bill of Complaint and the said affidavit were Read the Attornies of the

said

beg leave to Dissent because it is contrary to the Established Practice of the Court

A True Extract

James Taylor
Regr.

A true Copy

Chas. Bromley }
Jno. Sykes } Attys. Appells

Court of Appeals at Madraspatnam } Saturday the 25th January 1777

The Attornies of James Eidingtoun Esqr. who is Defendant in an action commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 14th day of January Anno Domini 1777 which they pray leave to file.

As it appears to this Court that the said instituted in the Mayors Court by the said George Lord Pigot against the said James Eidingtoun Esqr. is founded on an action for assault and false Imprisonment the Members of this Court thinks it their Duty to declare that in their Capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Eidingtoun was acting in Execution of their Orders so given This Appearing to be the Ground of the Present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

J Hwo

Between George Lord Pigot and
James Eidingtoun Adjutant General

To the Kings Most Excellent Majesty in Council

The Humble Petition of Appeal of James Eidingtoun Esquire Adjutant General in the Service of the Honble the United Company of Merchants of England Trading to the East Indies

Sheweth

Filed in my Office
the 1st February 1777
Chas. Oakeley
Clk

That Whereas the abovesaid George Lord Pigot did on the fourteenth day of January in the Present Year of our Lord One thousand Seven hundred and Seventy Seven file his Bill of Complaint in the Honble the Mayors Court of Madraspatnam against your Appellant for the Sum of Fifty thousand Pounds as the amount of Damages which he the said George Lord Pigot set forth that he had sustained by the means of your Appellant Your Appellant further Sheweth that at the time of filing the said his Bill of Complaint the said George Lord Pigot did file an Affidavit and therein did make Oath that your Appellant was about to depart out of the Jurisdiction of the said Honble the Mayors Court Your Appellant further Sheweth that after the said Bill of Complaint and the said affidavit were Read the Attornies of the said George Lord Pigot did pray a Summons Returnable immediately and a Warrant of Arrest should issue whereupon your Appellant was Reduced to the Necessity of Appearing by his Attornies immediately in Court upon which Appearance the said George Lord Pigot by his Attornies did move the said Honble the Mayors Court that your Appellant might give Bail to which your Appellant Objected because your Appellant was not going to depart out of the Jurisdiction of the said Honble the Mayors Court but as your Appellt Sheweth the said Honble the Mayors Court were pleased to Overrule this motion and directed your Appellant to give Bail your Appellant then moved the said Honble the Mayors Court for their direction as to the Sum of Money your Appellant was to give Bail for and they determined that your Appellant should find Bail in the Sum of Ten Thousand Pounds to which your Appellant was not worth the Sum for which he was to give Bail and further did offer to make an Affidavit that he was not going out of the Jurisdiction of the said Honble the Mayors Court but your Appellant Sheweth that notwithstanding his Readiness to make the aforementioned Affidavit Yet the said Honble the Mayors Court were pleased to Order your Appellant to give Bail to the Amount of Ten Thousand Pounds as will more fully Appear by Reference to the Extract of Minutes of the said Honble the Mayors Court a true Copy whereof is hereunto annexed for the inspection of your most Excellent Majesty in Council, from which said Order Sentence or Decree of the said Honble the Mayors Court Your Appellant does Appeal to your Most Excellent Majesty in Council

First Because Your Appellant having filed his Petition of Appeal to the Honble George Stratton Esquire President and Governor of Fort St. George &c Council they were of Opinion that as they appeared interested in the Event of the Cause between this George Lord Pigot and your Appellant they declined giving any Determination as to the Merits of the Appeal as will more fully

Appear

Appear by a Copy of such Minute hereunto annexed for the Inspection of your most Excellent Majesty in Council

Secondly Because Your Appellant having appeared to the Suit of the said George Lord Pigot at the time of the filing of his Bill of Complaint he was in no Contempt of the said Honble the Mayors Court Your Appellant ought not to have been held to Bail

Thirdly Because Your Appellant being Ready to Swear that he was not about to depart out of the Jurisdiction of the said Honble the Mayors Court the same ought to have been Admitted and your Appellant permitted to file common Bail as his Appearance to the Suit

Fourthly Because the Amount of the Sum to which your Appellant is held to Bail Appearing so Excessive and Exorbitant by being more than the real & Personal Estate of your Appellant that your Appellant is humbly of Opinion is contrary to the Bill of Rights by which the Person and Property of your Majestys Subjects are Secured and Protected

Your Appellant for these and many other reasons doth Appeal to your Most Excellent Majesty in Council and prays that the said Order Sentence or Decree of the said Honble the Mayors Court may be Overruled and that your Appellant be at liberty to file common Bail and the said Honble the Mayors Court be obliged to Admit and receive the same and further that the said George Lord Pigot may pay all Costs of this your Appellants Appeal as all and every Costs Charges and Expences that your Appellant has been at in the said Honble the Mayors Court and such other Relief in the Premises as to your Most Excellent Majesty in Council shall seem Meet

And your Appellant as in Duty Bound
Shall ever pray

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 14th Day of January Anno Domini 1777

Present

Andrew Majendie Esquire Mayor
George Smith George Savage
John Turing James Call
George Proctor Eyles Irwin
Alex.r Brodie and Benj.m Roebuck
Aldermen

George Lord Pigot
—vers—
James Eidingtoun Adjutant General

The Attorneys for the Complainant pray leave to file a Bill of Complaint and an Affidavit Sworn to before M.r Alderman Proctor and pray that a Summons returnable Immediately and a Warrant of Arrest may iſsue against the Defendant's Body upon the said Affidavit The Defendant appears by his Attornies Meſs.rs John Sykes and Charles Bromley The Attornies for the Complainant Pray that the Defendant may give Bail. The Attornies for the Defendant Submit it to the Consideration of the Court whether their Client shall be obliged to give any and what Special Bail — The Court having taken the same into Consideration do order that the Defendant do give Bail for the Sum of L.10,000 and that the same be Marked on the Back of the Writ — M.r Alderman Roebuck begs leave to enter his Diſsent because he is of Opinion that the Bail is exceſsive — The Attornies for the Defendant acquaint the Court that their Client is not going out of their Jurisdiction between this and Next Court day to the Truth of which their Client is now Ready to make Oath and as the Court have thought proper to order Bail to be put in for L.10,000 which is more

than

than the real and Personal Estate of the Defendant will Amount to to the Truth of which the Defendant is also Ready to make Oath and as the Defendant will find great Difficulty in Procuring Bail for so large a Sum they therefore Pray that they may be allowed till next Court day to put in Special Bail to which the Attornies for the Complainant object and move the Court That the Defendant may be obliged to put in Bail by 6 o'Clock this Evening or in Default thereof that a Warrant of Arrest may iſsue — The Court having taken the same into Consideration it is Ordered that the Defendant be allowed till 1 o'Clock Tomorrow afternoon To file Bail or in Default thereof that a Warrant of Arrest do iſsue — M.r Alderman Smith begs leave to Diſsent because it is Contrary to the Established Practice of the Court — The Attornies for the Complainant not Consenting thereto — The Attornies for the Defendant pray that they may be allowed till next Court day to plead or Demur — Ordered Accordingly —

The Attornies for the Defendant move the Court for their Opinion whether in case the Complainant should require the Bail to Justify themselves they must Swear that they are each of them worth double that Sum as is the usual Practice The Court having taken the same into Consideration are of Opinion that in case the Complainant should require the Bail to Justify themselves that they must each of them Swear they are worth the Sum for which the Defendant is ordered to put in Bail Meſs.rs Aldermen Smith Turing Irwin and Brodie beg leave to Diſsent because it is Contrary to the Established Practice of the Court

A true Extract
James Taylor
Reg.r

Court of Appeals at Madraspatnam } ss Saturday the 25 January 1777

The Attorneys of James Eidingtoun Esq.r who is Defendant in an Action commenced before the Hon.ble the Mayors Court by George

Lord Pigot delivers in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 14th Day of January Anno Domini 1777 which they pray leave to file

As it Appears to this Court that the Suit instituted in the Mayors Court by the said George Lord Pigot against the said James Edington Esqr is founded on an Action for Assault and false Imprisonment the Members of this Court thinks it their duty to declare that in their Capacity of Members of the Government for Reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Order by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Edington was acting in Execution of their Orders so given This appearing to be the Ground of the present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be Interested in the Event of the Suit

This Court doth therefore think fit to order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

A Cwo

Chas. Oakeley
Clk of Apps

In the Court of Appeals

Between George Lord Pigot and
Col. James Stuart

To the Honorable George Stratton Esqr
President and Governor of Fort St. George &c & Council

Filed the 25 Jany 1777
Chas Oakeley Clk

The Humble Petition and Appeal of James Stuart Esqr
Colonel and Second in Command of the Troops in the Service
of the Honble [illegible]

Sheweth

That the abovenamed George Lord Pigot did on the fourtee Day of January in the Present Year of Our Lord One Thousand Seven hundred and Seventy Seven file a Bill of Complaint in the Honorable the Mayors Court at Madraspatnam against your Petitioner for the Sum of Two hundred Thousand Pounds as the Amount of Damages which he Setforth he had Sustained by the means of your Petitioner Altho Your Petitioner was only Acting Agreeable to the Orders of his Superiors — Your Petitioner further Sheweth that the said George Lord Pigot having so filed his Bill of Complaint and praying at the same time for a Summons and Warrant of Arrest upon his Affidavit which he also filed that your Petitioner was about to Depart from the Jurisdiction of the said Honble the Mayors Court, they the said Honble the Mayors Court thought proper to Comply with the Prayer of the said George Lord Pigot Whereupon your Petitioner was under the immediate and Indispensible Necessity of Appearing by his Attorneys in the said Court in Order to Save his Person from being arrested and to prevent other Consequences Arising which might have been detrimental to the Publick Welfare and upon such Appearance The Attorneys for the said George Lord Pigot prayed Bail which was left to the Consideration and Determination of the said Honble the Mayors Court when the Majority of the said Court were pleased to Order that your Petitioner should give two Bail for the Sum of Fifteen Thousand Pounds each your Petitioners Attornies thereupon Prayed till next Court day being the Twenty first of this Instant January to put in Bail which was Denied and the said Court allowed only till One of the Clock the next Court day of the Filing the said Bill of Complaint to File Bail or in Default thereof a Warrant of Arrest do Issue to Arrest your Petitioners Person which your Petr was Obliged to Comply with by giving Bail within the time prescribed to prevent the Disagreeable Consequence of being arrested And your Petitioner being thus under the Disagreeable Necessity of Conforming to such Order Sentence or Decree of the said Hon^ble the Mayors Court Your Petitioner doth appeal therefrom to this Hon^ble Court. Because it Appears that the said Order Sentence or Decree of the said Hon^ble the Mayors Court was irregular in holding Your Orator to Special Bail and Particularly to such Bail as beforementioned which your Petitioner Conceives at any Rate to be Excessive when it appears by the said Affidavit as to the matters of Fact as also the Particulars Setforth in the said Bill of Complaint that your Petitioner Acted as under the Orders of his Superiors and the Cause of the Seizure of the said George Lord Pigot was for the Safety of the Public Peace and for the Public Welfare— Your Petitioner therefore Prays that as it appears the said George Lord Pigot has no Cause of Action wherein he can hold your Petitioner to Special Bail that the said Order Sentence or Decree of the said Hon^ble the Mayors Court a Copy whereof is hereunto annexed for the Inspection of this Hon^ble Court of Appeals may be Over ruled and that your Petitioner may be allowed to file Common Bail to the said Action only and that the said George Lord Pigot may pay all Costs— And your Petitioner as in Duty bound

Shall Ever Pray &c^a

Cha^s Bromley
Jn^o Sykes } Atty^s Appell^t

Extract

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 14^th Day of January Anno Domini 1777

Present

Andrew Majendie Esq^r Mayor
George Smith George Savage
John Turing James Call
George Proctor Eyles Irwin
Alex^r Brodie and Benja^n Roebuck
Aldermen

George Lord Pigot
vers
Col James Stuart

The Attornies for the Complainant Pray leave to file a Bill of Complaint and an Affidavit Sworn to before M^r Alderman Proctor and Pray that a Summons returnable immediately and Warrant of Arrest may issue against the Defendants Body upon the said Affidavit— The Defendant appears by his Attornies Mess^rs John Sykes and Charles Bromley The Attornies for the Complainant pray that the Defendant may give Bail The Attornies for the Defendant Submit it to the Consideration of the Court whether their Client shall be Obliged to give any and what Special Bail The Court having taken the same into Consideration do order that the Defendant shall find Bail for the Sum of £15,000 and that the same be marked on the back of the Writ— Mess^rs Aldermen Brodie and Roebuck beg leave to Dissent The Attornies for the Defendant Pray till next Court day to put in Bail to which the Opposite Attorneys Object The Court having taken the same into Consideration it is Ordered that the Defendant be allowed till 1 O'Clock Tomorrow afternoon to put in Bail or in Default thereof that a Warrant of Arrest do issue— M^r Alderman Smith begs leave to Dissent because it is Contrary to the established Practise of the Court The Attorneys for the Defendant Pray that they may be allowed till next Court day to Plead or Demur — Ordered accordingly

The Attorneys for the Defendant move the Court for their Opinion whether incase the Complainant should require the Bail to Justify themselves they must Swear that they are each of them worth the Sum of L 15,000 or if they must Swear that they are each of them worth double that Sum as is the usual Practise — The Court having taken the same into Consideration are of Opinion That incase the Complainant should require the Bail to Justify themselves that they must each of them Swear they are worth the Sum for which the Defendant is Ordered to put in Bail Messrs Aldermen Smith Turing Irwin and Brodie beg leave to Dissent because it is contrary to the Established Practise of the Court

A true Extract
James Taylor
Regr

Chas. Bromley
Jno. Sykes } Attys for the Appellant

Court of Appeals at Maddraspatnam } Saturday the 25th January 1777

The Attorneys of James Stuart Esqr. who is Defendant in an Action Commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 14th day of January Anno Domini 1777 which they pray leave to File

As it appears to this Court that the said Suit instituted in the Mayors Court by the said George Lord Pigot against the said James Stuart is founded on an Action for Assault and false Imprisonment the Members

Members of this Court think it their duty to declare that in their Capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Stuart was acting in Execution of their Orders so given This appearing to be the Ground of the present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be Interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attorneys of the Appellant be furnished with a Copy of this Minute

Here

Between George Lord Pigot
And Col James Stuart

To the Kings Most Excellent Majesty in Council

Fil'd in my Office
of February 1778
[illegible]

The Humble Petition of Appeal of James Stuart Esquire Col of Infantry and Second in Command of the Forces by Commission of the United English East India Company under Brigadier General Sir Robert Fletcher in the Service of the Honble United Company of Merchants of England Trading to the East Indies Employed under the Presidency of Fort St. George in the East Indies

Sheweth

Filed the 7 Feby
1777.
Chal. Oakeley
Clk of app

That the said George Lord Pigot having been suspended sometime in the Month of August in the Year of our Lord One thousand Seven hundred and Seventy Six from his Seat at the Council Board of the said place of Fort Saint George by a Majority of Council on account of his having endeavored to Subvert the Constitution of the Government by changing the Form thereof as your Appellant has been informed and verily believes the said George Lord Pigot being so suspended the said Majority did think it Expedient and Necessary for the Safety of the Public and the Important Concerns of the said Honble United Company to cause the said George Lord Pigot to be restrained in his Person by ordering and directing your Appellant to Arrest his Person as a Necessary Step for the Preservation of the Publick Peace and the Affairs of the said Honble United Company for which Purpose the said Majority having taking Charge of the said Fortress and Government of Fort Saint George as the Legal Representative of the said Honble United English East India Company did on the Twenty third of the aforesaid Month of August in the said Year of our Lord One thousand Seven hundred and Seventy Six by a Writing bearing date the same Day and Year and under their Hands Order and Direct your Appellant to Arrest the Person of the said George Lord Pigot as will more fully Appear by a true Copy marked A No. hereunto annexed of the said Original Order now in your Appellants Possession and ready to be produced whenever required Your Appellant further Sheweth that in Pursuance of such said Orders and during the Dangerous Indisposition of the said Sir Robert Fletcher the

Commander

Commander in Chief Your Appellant did arrest the Person of the said George Lord Pigot and the same ordered to be conveyed to the Head Quarters of the Artillery then and now under the Command of Major Mathew Horn at St. Thomas Mount which the said Majority the present Administration of Fort Saint George directed as the most Salutary Place on the Coast of Coromandell where the said George Lord Pigot was kept under the Charge of the said Major Mathew Horne whose Orders were for every attention to be paid his Lordship during the time his Lordship continued in Arrest Your Appellant further Sheweth that having so arrested the Person of the said George Lord Pigot the said Majority did approve of the same and have thought proper to continue the said George Lord Pigot under the Arrest untill the Pleasure of the Honble Court of Directors of the said United English East India Company shall be known the said George Lord Pigot having protested against his being sent to England untill the Orders of the said Court of Directors are published Your Appellant further Sheweth that the said George Lord Pigot did sometime in the Month of November in the Year of our Lord One Thousand Seven hundred and Seventy Six prefer a Bill of Complaint in the Honble the Mayors Court of Madraspatnam against Brigadier General Sir Robert Fletcher for Two hundred Thousand Pounds Damages which the said George Lord Pigot alledged he had Sustained by being dispossessed of his Government and illegally arrested and confined as will more fully appear by the Records of the said Court and the Minutes of the said Honble the Mayors Court then Sitting a Copy whereof is hereunto annexed marked B for the Inspection of your most Excellent Majesty in Council Your Appellant further Sheweth that the said Brigadier General Sir Robert Fletcher being advised by his Attornies in Court that the said George Lord Pigot intended to Arrest his Person by Surprize did direct two of the Attornies of the said Honble the Mayors Court to appear in his the said Brigadier General Sir Robert Fletchers Name to the said Suit who your Appellant Sheweth upon the said Bill of Complaint being filed and on the Prayer of the Attorney for the said George Lord Pigot for a Summons and Warrant of Arrest immediately to Issue against Brigadier General Sir Robert Fletcher should give any and what Bail the said Honble the Mayors Court were pleased to Order and Direct that the said Brigadier General Sir Robert Fletcher should give Bail for his Appearance and that such Bail should enter into a Recognizance of Ten Thousand Pounds which was accordingly done and by the said George Lord Pigot accepted

Your Appellant further Sheweth that the said George Lord Pigot did on the fifteenth day of January in the present Year of Our Lord One Thousand Seven hundred and Seventy Seven Prefer a Bill of Complaint in the Honble the Mayors Court against your Petitioner for the Sum of Two hundred Thousand Pounds as the Amount of Damages which he Setforth he had Sustained by the means of your Appellant so Acting and doing as aforementioned Your Appellant further Sheweth that the said George Lord Pigot having so filed his Bill of Complaint and praying at the same time for a Summons and Warrant of Arrest upon his Affidavit that your Appellant was about to depart out of the Jurisdiction of the said Honble the Mayors Court they the said Honble the Mayors Court thought proper to comply with the Prayer of such the said George Lord Pigot whereupon your Appellant was under the immediate and indispensable Necessity of Appearing by his Attornies in the said Court in Order to save his Person from being arrested and to prevent other consequences arising that might be Detrimental to the Public Welfare as also in due Submission to your most Excellent Majestys Authority Your Appellant further Sheweth that on such Your Appellants Appearance Bail was required by the said George Lord Pigots Attorneys for the Appearance of your Appellant to Answer to his Bill of Complaint which was left to the consideration of the said Honble the Mayors Court whether your Appellant should give any and what Bail when the Majority of the said Honble Court were pleased to Order and Direct that your Appellant should give Bail and that such Bail should be bound in the Sum of Fifteen Thousand Pounds each to Answer the Principal Sum of Fifteen Thousand Pounds in default of Non appearance to Answer to the Issue of the said Suit so commenced by the said George Lord Pigot which your Appellant Sheweth he was obliged to comply with from which said Order Sentence or Decree of the said Honble the Mayors Court a true Copy whereof is hereunto annexed Marked F Your Appellant doth think proper to Appeal for the following Reasons hereafter mentioned to your most Excellent Majesty in Council

First Because Your Appellant did on the 25th Day of this Instant January file his Petition of Appeal to the Honble George Stratton Esquire President and Governor of Fort Saint George and his Council as a Court of Appeals which Petition they did take into Consideration and come to the Determination that they are interested in the Event of the Cause as will more fully appear by a Copy Marked C N 3 of such Determination hereunto annexed for the inspection of your most Excellent Majesty in Council

Secondly Because it Evidently appears by the Exhibit under date the Twenty third of August One thousand Seven hundred and Seventy Six hereunto annexed that your Appellant Acted under the Orders and Directions of the said Persons whose names

are

intended to Arrest his Person by Surprize did direct two of the Attornies of the said Honble the Mayors Court to appear in his the said Brigadier General Sir Robert Fletchers Name to the said Suit who your Appellant Sheweth upon the said Bill of Complaint being filed and on the Prayer of the Attorney for the said George Lord Pigot for a Summons and Warrant of Arrest immediately to Issue against Brigadier General Sir Robert Fletcher should give any and what Bail the said Honble the Mayors Court were pleased to Order and Direct that the said Brigadier General Sir Robert Fletcher should give Bail for his Appearance and that such Bail should enter into a Recognizance of Ten Thousand Pounds which was accordingly done and by the said George Lord Pigot accepted

Your Appellant further Sheweth that the said George Lord Pigot did on the fifteenth day of January in the present Year of Our Lord One Thousand Seven hundred and Seventy Seven prefer a Bill of Complaint in the Honble the Mayors Court against your Petitioner for the Sum of Two hundred Thousand Pounds as the Amount of Damages which he Setforth he had Sustained by the means of your Appellant so Acting and doing as aforementioned Your Appellant further Sheweth that the said George Lord Pigot having so filed his Bill of Complaint and praying at the same time for a Summons and Warrant of Arrest upon his Affidavit that your Appellant was about to depart out of the Jurisdiction of the said Honble the Mayors Court they the said Honble the Mayors Court thought proper to comply with the Prayer of such the said George Lord Pigot whereupon your Appellant was under the immediate and indispensable Necessity of Appearing by his Attornies in the said Court in Order to save his Person from being arrested and to prevent other consequences arising that might be Detrimental to the Public Welfare as also in due Submission to your most Excellent Majestys Authority Your Appellant further Sheweth that on such Your Appellants Appearance Bail was required by the said George Lord Pigots Attorneys for the Appearance of your Appellant to Answer to his Bill of Complaint which was left to the consideration of the said Honble the Mayors Court whether your Appellant should give any and what Bail when the Majority of the said Honble Court were pleased to Order and Direct that your Appellant should give Bail and that such Bail should be bound in the Sum of Fifteen Thousand Pounds each to Answer the Principal Sum of Fifteen Thousand Pounds in default of Non appearance to Answer to the Issue of the said Suit so commenced by the said George Lord Pigot which your Appellant Sheweth he was obliged to comply with from which said Order Sentence or Decree of the said Honble the Mayors Court a true Copy whereof is hereunto annexed Marked F

Your Appellant doth think proper to Appeal for the following Reasons hereafter mentioned to your most Excellent Majesty in Council

First Because Your Appellant did on the 25th Day of this Instant January file his Petition of Appeal to the Honble George Stratton Esquire President and Governor of Fort Saint George and his Council as a Court of Appeals which Petition they did take into Consideration and come to the Determination that they are interested in the Event of the Cause as will more fully appear by a Copy Marked C N 3 of such Determination hereunto annexed for the inspection of your most Excellent Majesty in Council

Secondly Because it Evidently appears by the Exhibit under date the Twenty third of August One thousand Seven hundred and Seventy Six hereunto annexed that your Appellant Acted under the Orders and Directions of the said Persons whose names

are

said

are thereto Set and Subscribed as the Legal Representatives of the said Honble United English East India Company one of which said Persons was the said Brigadier General Sir Robert Fletcher whom the said Honble the Mayors Court had Decreed should give Bail for Ten Thousand Pounds only Notwithstanding it must appear Evident to them from the Proceedings before the said Honble the Mayors Court that the said Brigadier General Sir Robert Fletcher &a Majority of Council were the Principals when your Appellant without having a Vote in Council acted only under their Orders and Directions in Disobedience of which your Appellant must have undergone every Penalty which Martial Law inflicts upon Military Persons who Disobey the Orders of their Legal Superiors and would have Acted contrary to his Oath and Commission your Appellant further observes that by your Appellant being obliged to find Bail in the Penal Sum of £30,000 to the Payment of £15000 your Appellant is of Opinion that the said Honble the Mayors Court have predetermined the Matter respecting the Merits of the Cause by their insisting on such Bail as is so Disproportionate to that of Brigadier General Sir Robert Fletcher under whom your Appellant Acted thereby creating and Stamping a Prejudice in the Members of the said Honble the Mayors Court to the Detriment of your Appellant as if your Appellant was the Principal in the Government and not a Servant under the Orders and Directions of the said Honble the United Company or Subject to the Controul of the Legal Representatives of the said United Company

Thirdl.

Thirdly Because it ever has been agreed and Understood and likewise appears undeniable from the Resolutions of the Court of Directors a Copy of which is as follows That the Majority of Council are the Legal Representatives of the Company Vizt

Extract of the Companys General Letter Dated the 31st January 1776

Parh. 17 "It is our Express Command that no Meeting of our Council
"(the Members having been duly Summoned) shall be dissolved
"or Adjourned by the Authority of our Governor General or of any
"President for the time being without the Consent of a Majority
"of Members present at every such Meeting of our said Council
18 "And if it shall hereafter happen that the Governor General
"or any Member or Members of Council not being a Majority
"shall think proper to withdraw from the Council Board and
"leave a Majority of the whole Council Sitting and if such
"Majority shall be of Opinion that it may be Necessary and
"for the good of our Service to Proceede to the Dispatch of Publick
"Business we hereby Direct that they continue to Sit so long and
"to Adjourn from time to time) as they shall think it Requisite
"and for our Interest so to do and that their Minutes Resolutions
"and proceedings shall be recorded in the same Book and form
"as would have been the case if no Member had withdrawn
19 "It is our further Command that all Orders which shall be
"Issued by such Majority so Assembled in Council as aforesaid to
"any of our Servants in Bengall Civil or Military be implicitly
"obeyed in the same manner to all Intents and purposes as tho' such
"Orders had been Authorized and signed by all the Members of our

said Council

A true Extract
J. P. Aurrol
Secy

Fourthly Because it appears by the Unanimous Resolution mad and published by the Honble Warren Hastings Esquire Governor General &ca Supreme Council of Bengal &ca who by virtue of the Authority invested in them by your most Excellent Majesty in Parliament aſsembled and being so thereby Constituted the controlling Power in the East Indies for the Affairs of the said Honble the said United Company that they the said Governor General &ca Supreme Council did approve of the Proceedings of the said Majority of Council of Fort Saint George and allow them to be the legal Representatives of the said United Company a Copy of which Marked D. No4. is hereunto annexed for the Inspection of your most Excellent Majesty in Council and which was by them directed and made known to the Inhabitants of the Town of Fort Saint George &ca Districts and its dependancies as also to the Civil and Military in the Service of the said United Company then and there being and by the said Declaration the said Honble Warren Hastings &ca Supreme Council by such &c aforementioned Authority Did order Direct and Command that all Persons both Civil and Military should Subject themselves to the Persons whose names are Subjoined to this Exhibit under Date the Twenty third of August One Thousand Seven hundred and Seventy Six a Copy whereof marked E. No5. is hereunto

annexed

annexed as the Legal Representatives of the said United Company an of Consequence the Government of Fort Saint George &ca Districts Yo Appellant further Sheweth that by such Declaration of the said Honbl Warren Hastings &ca Supreme Council the said Majority of the Council of Fort Saint George became vested with all the Authority of Government as if vested by the Honble Court of Directors and tha to every Act and thing done by the Servants Civil and Military in the Service of the said United Company under the Presidency of Fort Saint George and under their Orders were in your Appellants Opinion as valid and as good as if done under the Orders and Directions of the said Honble Court of Directors and your Appell is firmly of Opinion the said Honble the Mayors Court ought to have known not only the above Recited Resolution of the Court of Directors but also the Unanimous Resolution of the said Honble Warren Hastings &ca Supreme Council and should have deemed the same as an Act of Government and considered this Resolution at the time that they the said Honble the Mayors Court pronounced their Determination for your Appella giving this Exceſsive and Exorbitant Bail that the Orders your Appellant Acted under had been confirmed by the said Honble the Supreme Council at Bengall and that your Appellant acted only in obedience thereto there being no other alternative left than either to Conform or disobey The Consequence of Disobedience to a Military Man is too well known to your Most Excellent Majesty for your Appellant to Comment on For which Reason and because your Appellant is of Opinion that he is noways Responsible for the Original Orders given by the said Majority of Council as your Appellant had no Vote in the said Council therefore the holding

of your Appellant to any Bail in your Appellants Situation who had no
Intention to return to Europe in any Short Space of Time but much more to
hold your Appellant in Exceſsive Bail is greatly Oppreſsive to your
Majestys Dutyfull Subjects of which your Appellant is in all humble
Obedience one and contrary to the Bill of Rights of King William
and Queen Mary. Your Appellant being haraſsed and perplexed
to find Bail and when found Your Appellant is Subject to the
Caprice of such Person and Persons as shall and may be bail from time to
time, And your Appellant being a Military Man and next in Command
under Brigadier General Sir Robert Fletcher and Subject to every Order of
Council of Fort St. George the giving Bail or the changing Bail as it may
happen may Subject to the Government to great Public Embaraſsment affecting
the Security of the Settlement For all which Reasons but more
particularly as the Positive Orders of the said Court of Directors publickly
known declared that a Majority of Council was the Legal Government
and that all Officers and Soldiers were to obey them the said Majority as
such under which Government so described Your Appellant Acted and
for as much as your Appellant is of opinion that the said Honble the
Mayors Court have predetermined the Majority of your Appellants Defence
by directing such exceſsive Bail and so Disproportionate to that of the
Commander in Chief who is the only Military Man responsible for the
Original Order whereby they the said Honble the Mayors Court have prejudged
Your Appellants Cause and established an Opinion prejudiciable to your
Appellants Intrest Your Appellant therefore Appeals to your Most
Excellent Majesty in Council from the Orders of the said Honble the
Mayors Court under Date the Fourteenth Day of January and Prays that
the said Order Decree or Sentence of the said Honble the Mayors Court should
be reversed and the Bail already given over ruled and for as much as your

Appellant thinks himself agrieved from the Order Decree and Sentence of the said
Honble the Mayors Court by their predetermining in such manner and without
Proofs the Question whereof in the first Instance they are to be the Judges in
holding your Appellant to any Bail much more by the holding of your
Appellant to exceſsive or Exorbitant Bail Your Appellant further begs leave
to Observe the inconsistency of the said Honble the Mayors Court by shewing
to your Majesty that they the said Honble the Mayors Court have by various
Publick Acts Acknowledged the Government of Fort Saint George to be in
the Persons of Meſs.rs Stratton, Brooke, Sir Robert Fletcher, Charles
Floyer, Archdale Palmer Francis Jourdan and George Mackay from
whom your Appellant received expreſs Orders (for the Execution of which
he is sued) as being the Legal and Acknowledged Government of the
Presidency of Fort Saint George &ca. Districts and of Course the Supreme
Court of Appeals from the Decree and Sentence of the said Honble the
Mayors Court which they the said Honble the Mayors Court have
admitted by their Accepting of Notices of Appeals from their Decrees
being lodged with the said Meſs.rs Stratton &ca. Council as holding
the Court of Appeals and also as the said Honble the Mayors Court have further
acknowledged the said Majority of Council to be the legal Government by
their accepting of Persons nominated by the said Majority of Council to be the
Mayor for the time being and also in the Accepting of Persons chosen to be
Aldermen in the said Honble the Mayors Court And Lastly as a further
Reason for the Appellant their Appealing to your Most Excellent Majesty
in Council that had your Appellant omitted to do himself the Justice that
is due to his Cause by Appealing he would have been liable to a Number
of Suits in the said Honble the Mayors Court and thereby bound or held to
Bail in very Considerable Sums of Money exceeding greatly Circumstan
of your Appellant and to the great Injury of the Publick Welfare and the
Affairs

Affairs of the said Honble Company Your Appellant for these Reasons and many others Submits it to the Consideration of your Most Excellent Majesty in Council whither the said Suit of the said George Lord Pigot ought not to be quashed in every Instance Your Appellant further begs leave to Setforth as another Instance why he should not be held to Bail is that it being Publickly known Your Appellant had taken his Seat at the Council Board to Sit and Determine in Matters both Civil and Military and having a Seat at such Council Board became vested with every Priviledge incident to the same particularly as a Judge of the Court of Appeals and free from Personal Arrests / Felony and Treason excepted / Your Appellant further Sheweth that notwithstanding the Assertions and Insinuations contained in the Bill of Complaint of the said George Lord Pigot which were meant to affect the Honor and Character of your Appell in the Opinion of the Publick as your Appell had engaged to carry thro Geo. L. Pigot Measures or had in any other Respect pledged himself whatsoever are equally false in fact as they are most unjust and injurious to his Character and tend to no other purpose but to mislead the said Honble the Mayors Court in their Judgement upon every Order Sentence and Decree to be given in your Appellants Cause and therefore to Shew to your Most Excellent Majesty in Council the falacy of the Bill of Complaint that tends so much to Injure your Appellants Character Your Appellant begs leave to insert the Contents of a Letter Addressed by your Appellant to the said George Lord Pigot the Morning of the Twenty fourth of August as also the Conversation which passed that evening in the Council Chamber as certified by Mr. Secretary Sulivan which will shew Plain enough the Temper and Disposition of your Appellant at that Period And Your Appellant is firmly of Opinion that it will redound to his Honor in the Opinion of every unprejudiced Person when it is known that the very Orders which the said George Lord Pigot and his Councellors endeavord

to

to kaze Your Appellant into a Compliance with an purpose to Ensnare Your Appellant to an Acknowledgement of the said George Lord Pigot &c. Councils Authority was the Publication of your Appellants Appointment to the Chief Command in the Army which he the said Appellant declined doing.

"To the Right Honble Lord Pigot &c.

"My Lord

"As I am very imperfectly informed of the Steps "which have led to the honor conferred upon me Yesterday and not thinking "myself intitled to a Seat in Council as Matters are at Present "circumstanced I hope it will be agreeable to your Lordship to allow "me this Day to peruse the Consultations or other Papers passed in "Council on Occasion of these unhappy differences I doubt not but "Your Lordship will find this Request reasonable because the practice "of this Service gives such Information to the Person commanding the Forces "from his Seat in Council I do not desire to put your Lordship to the trouble "of ordering Copys for my use – The Secretary Needonly to point out "to me what is proper for my Information so as to do my Duty to my "Honble Employers according to my Oath of fidelity for the publicks "Service and with Honor to myself I trust therefore your Lordships will "please to Agree to this Request before I am called upon to execute any "Publick Act by Authority I have the honor &c.

"Fort St. George (Signed) "James Stuart"
24th August 1776 7 oClock Morning

Extract of General Letter to the Honble Court of Directors Dated 24th September 1776

Pa 177. "Our Secretary Mr. Sulivan declares that in the whole Conversation which passed between Col Stuart and Lord Pigot and his Counsellors in the Council Room on the Evening of the 23 about his Accepting the Command that he never heard him come to a direct Acceptance of it on the contrary that the Conversation of Col. Stuart was so Exceedingly Vague as to cause him to remark the purport of it to Mr. Oakeley our Civil Secretary a few Minutes after Lord Pigot and Colonel Stuart had left the Council Chamber Mr. Sulivan in particular recollects that Col. Stuart laid great Streſs on these Words It is true I have been paſsively Commander in Chief by your Orders but I have yet executed no duty of the Commander in Chief

"A True Extract
"R. J. Sulivan"
"Secy."

Your Appellant further Sheweth in respect to the Mode and time taken to Arrest George Lord Pigot, It was Judged the best calculated to prevent any Danger arising to his Person or to others who might at this Instant be led to offer Resistance and Experience has Justified the Propriety of this Measure as no life has been lost. which might not have been the case if your Appellant had followed the only other alternatives left. Viz! that of Seizing him in the Fort or in the Garden House which certainly would have been done that Evening if the other plan had failed Your Appellant therefore most humbly prays your Most Excellent Majesty in Council to take the Premises into Consideration and grant your Appellant such Relief as your most Excellent Majesty in Council shall seem Meet and that the said George Lord Pigot may pay all Costs of this your Appellants Petition of Appeal as also all Costs in the Honble the Mayors Court

And your Appellant as in Duty bound
Shall Ever Pray

Chas. Bromley
Jno. Sykes
Attys for the Appellant

A No. 1

At a Consultation Present
George Stratton Esqr. Sir Robert Fletcher
Henry Brooke Esqr. Charles Floyer Esqr.
Archdale Palmer Esqr. Francis Jourdan Esqr.
George Mackay Esqr.

A Sense of the Publick Danger and a Regard for the Constitution of the Company have obliged us in this manner to form ourselves into a Council since the Letter Addreſsed by us this morning as entered in the Diary has had no Effect we purpose therefore regularly to Aſsemble to watch over the publick Safety and the Important concerns of the Honble Company entrusted to us as an undoubted Majority of the Company The first concern which comes under our Consideration is that the Fortreſs and Garrison of Fort Saint George be in our hands and under our Command as the Legal Representatives of the East India Company and as Lord Pigot from his late Conduct has dared to violate every Law which ought to bind a Servant who has Sworn fidelity to the Company uncertain as we are to what farther exceſs he may proceed— We think it our Duty if Neceſsary to Arrest his Person— For these Purposes We hereby Order Instruct and impower Colonel James Stuart on whom during the Unhappy Indisposition of Sir Robert Fletcher we confer the Command of the Army as well as of the Garrison of Fort Saint George during the Present Danger to take such Measures as to him shall appear proper to Place the Fort Garrison and Fort House under our Command so that publick Tranquillity may be restored and the Buſineſs of the Honble Company be carried on in the usual manner We farther Order and direct Colonel James Stuart if he see it neceſsary or that Resistance is made to these Orders to Arrest the Person of Lord Pigot or of any other Person who shall obstruct him in the Execution of these our Orders and for these Salutary purposes we hereby Order all

Companys Servants Civil or Military and all Persons who live under the Protection of this Government to give to the said Colonel James Stuart every Assistance and support in their Power for which this shall be his and their Warrant Given under our Hands Madras 23d. August 1776 at 3 o'Clock P. M.

(Signed) George Stratton
Robert Fletcher
Henry Brooke
Charles Floyer
Archdale Palmer
Francis Jourdan
George Mackay

B

Extract from the **Minutes** of a **Court Held** at the **Town Hall** on **Tuesday** the 26th Day of November Anno Domini 1776

Present
John Turing Esqr. Mayor
George Smith George Savage
Andrw. Majendie James Call
George Proctor Eyles Irwin
and Edward John Holland
Aldermen

George Lord Pigot
vers
Sir Robert Fletcher

The Attorneys for the Complainant Pray leave to file a Bill of Complaint and an Affidavit Sworn to before Mr. Alderman Irwin and Pray that a Summons returnable immediately and Warrant of Arrest may Issue against the Defendants Body upon the said Affidavit — Ordered Accordingly Mr. Alderman Holland begs leave to enter his Dissent to the issuing of the Warrant of Arrest — The Defendant Appears by his Attornies Messrs. Charles Bromley and John Sykes who Submit to the Consideration of the Court whether the Defendant shall be obliged to give any and what Special Bail. The Court then proceed to determine whether the Defendant shall be obliged to give any and what Special Bail and having had Consideration thereon do order that the Defendant do give Bail for the Sum of £10,000 — and that the same be marked on the back of the Writ, Messrs. Majendie, Call and Holland beg leave to enter their Dissent, Because they are of Opinion that the Bail is excessive —

Ordered with the Consent of the Complainants Attornies that the Defendant do put in Bail by 12 o'Clock tomorrow or in Default thereof a Warrant of Arrest do Issue

The Attornies for the Defendant pray till next Court day to plead or Demur to which the Attornies for the Complainant Object as a Demurrer ought not to be received after an Attachment is granted — The Attornies for the Defendant observe to the Court that no Attachment has issued as the Bill of Complaint was only filed this Day and of Course the Defendant could not be in Contempt as he Appeared immediately on the filing of the Bill The Court having taken the same into Consideration ordered that the Defendant be allowed till next Court Day to plead or Demur

Messrs. Aldermen Smith and Irwin beg leave to Dissent

A True Extract
James Taylor
Regr.

C. No. 3

Court of Appeals at Madraspatnam } Saturday the 25th January 1777

The Attornies of James Stuart Esqr. who is Defendant in an Action commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 14th Day of January Anno Domini 1777 which they pray leave to file

As it appears to this Court that the Suit instituted in the Mayors Court by the said George Lord Pigot against the said James Stuart is founded on an Action for Assault and false Imprisonment the Members of this Court thinks it their duty to declare that in their Capacity of Members of the Government for Reasons which appeared good and Sufficent to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Stuart was Acting in Execution of these Orders so given This appearing to be the Ground of the present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

℘ Cur.

Chas. Oakeley
Clk of Appl.

D No. 4

The Honble George Stratton Esqr. President
&ca Council at Fort St. George

Gentlemen

1st We have received your Letter of the 23d August by the Shrewsbury and we have also received a Letter from the Right Honble Lord Pigot dated 29th August by the Triton

2 Having maturely considered the Subject of these Letters we proceed immediately to Acquaint you with our Determination upon them

3 The Rights and Powers of the Governor and Council at Fort St. George being by the Original Constitution vested in the Majority of the Members who compose that Body and the intemperate Conduct of Lord Pigot your late President forcibly excluding two of your Members from their Seats at the Board having been the Cause of the unhappy Seperation of the Majority of your Board from the Minority in this alarming and Dangerous Situation of your Government We think it incumbent on us to declare that we Acknowledge the Title and Authority which we understand you have been thus compelled to Assume in consequence whereof we have resolved to Support you in the Government by all the means which you may require from us and we have it in our Power to grant in Virtue of our General Instructions to Afford our Aid and Protection to all the Presidencies of the Company in India

4 Although you have not yet notified to us that you have assumed the Administration of the Presidency of Fort St. George nor informed us of all the Circumstances which produced that Event Yet we are too well Apprized of the Series of Transactions which led to it

to entertain a Doubt with Respect to the Conduct we ought to pursue on this occasion and the Crisis is too Urgent and alarming to Admit of our waiting to enter into a More Minute investigation of all the Facts and Proceedings which have reduced the Government of Fort St. George to its present Situation and us to the Necessity of deciding upon it It is sufficient for us to know that in Supporting that part of a divided Administration which is formed by a Majority of its Members We Support the legal and Constitutional Government

8th. To remove every Possibility of a Doubt that the whole Powers of your Board rest in a Majority of its Members We transmit you an Extract of a General Letter which we have lately received from the Honble Court of Directors by the Lioness wherein you will find their Sentiments very clearly expressed

9. We have thought it proper to Acquaint Sir Edward Hughes with the Resolutions we have formed under the present Circumstances with respect to your Presidency and to request that he will Unite with us in the Support of your Authority and Government

We are
Gentlemen
Your Most Obedient
Humble Servants
Warren Hastings
Jo. Clavering
Richd. Barwell
P. Francis

Fort William
the 10 September 1776
Exd J. L. A.

E No 5

To
the Right Honble Lord Pigot President &ca Claud Russell
Alexander Dalrymple and John Maxwell Stone Esqrs. of Council
at Fort St. George

My Lord & Gentlemen

We whose Names are underwritten being of Council and constituting a Majority hereof taking into our most serious Consideration the Proceedings upon Record at the two last Meetings and more particularly the unexampled Outrage offered to the Constitution and Arbitrary behaviour towards two of our Members by an Illegal Attempt to suspend them in order by a trick to gain a Majority are of Opinion that the Publick safety is in Danger by the Conduct of Lord Pigot and you Gentlemen who have Supported and by every Person who shall continue to Support such Measures and we shall hold you therefore responsible for all the Consequences that may Ensue We the Majority of the Board do Consider ourselves as the only legal Representatives of the Honble Company under this Presidency and as such we have no doubt but all the Servants of the Company will regard us

For these Reasons and the Evident illegality of the Summons to Council for this Morning in which are omitted the Names of Mr. George Stratton and Mr. Henry Brooke, two legal Members of the Board We cannot consistently with the Duty we owe to our Honble Employers attend the said Summons

We are
My Lord & Gentlemen
Your Most Obedient
humble Servants

Madras
23 Augt. 1776

(Signed)
Chas. Floyer
Archd. Palmer
Francs. Jourdan
Geo. Mackay
Geo. Stratton
Robt. Fletcher
Henry Brooke

F

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 14th Day of January Anno Domini 1777

Present

Andrew Majendie Esqr. Mayor
George Smith George Savage
John Turing James Call
George Proctor Eyles Irwin
Alexr. Brodie and Benja. Roebuck
Aldermen

George Lord Pigot
~~vers~~
Colonel James Stuart

The Attornies for the Complainant pray leave to file a Bill of Complaint and an Affidavit Sworn to before Mr. Alderman Proctor and Pray that a Summons returnable Immediately and a Warrant of Arrest may Iſsue against the Defendants Body upon the said Affidavit — The Defendant Appears by his Attornies Meſsrs. John Sykes and Charles Bromley The Attorneys for the Complainant pray that the Defendant may give Bail The Attornies for the Defendant Submit it to the Consideration of the Court whether their Client shall be obliged to give any and what Special Bail — The Court having taken the same into Consideration do Order that the Defendant shall find Bail for the Sum of £15,000 and that the same be Marked on the Back of the Writ Meſsrs. Aldermen Brodie and Roebuck beg leave to Diſsent — The Attornies for the Defendant pray till next Court Day to put in Bail to which the Opposite Attornies object — The Court having taken the same into Consideration it is Ordered that the Defendant be allowed till 1 O'Clock Tomorrow Afternoon to put in Bail or in Default thereof that a Warrant of Arrest do Iſsue — Mr. Alderman Smith begs leave to Diſsent because it is contrary to the established Practice of the Court The Attornies for the Complainant not consenting thereto — The Attornies for the Defendant Pray that they may be allowed till next Court day to plead or Demur — Ordered Accordingly —

The Attorneys for the Defendant move the Court for their Opinion whether in case the Complainant should require the Bail to Justify themselves they must Swear that they are each of them worth the Sum of £.15,000... or if they must Swear that they are each of them worth double that Sum as is the usual Practice — The Court having taken the same into Consideration are of Opinion: That in case the Complainant should require the Bail to Justify themselves that they must each of them Swear they are worth the Sum for which the Defendt. is ordered to put in Bail Meſsrs. Aldermen Smith, Turing, Irwin and Brodie beg leave to Diſsent because it is contrary to the established Practice of the Court

A True Extract
James Taylor
Regr.

These Exhibits Attested to be true Copies by
Chas. Bromley
Jno. Sykes
Attes for the Appellant

210

In the Court of Appeals

Between George Lord Pigot and
Colonel James Stuart

To the Honble George Stratton Esqr
President & Governor &ca Council
of Fort St. George

The Petition of Appeal of James
Stuart Esqr Colonel and second in Command
of the Troops in the Service of the Honble
the United Company of Merchants of England
trading to the East Indies on the Coast of
Cormandell

Sheweth

Filed the 14th March
1777
Chas. Oakeley
Clk

That the abovesaid George Lord Pigot did on the Fourteenth day of January in the present Year of our Lord One Thousand Seven hundred and Seventy Seven, File a Bill of Complaint in the Honble the Mayors Court of Madraspatnam against your Petitioner for the Sum of Two hundred thousand Pounds as the Amount of Damages which he the said George Lord Pigot said he had Sustained by the means of your Petitioner aiding and assisting in his Imprisonment and Confinement and also of your Petitioners Intention to kidnap him and for other Causes assigned in the said Bill of Complaint although it appears from the said George Lord Pigots own shewing in his said Bill of Complaint Your Petitioner was acting under Orders of his Superiors Your Petitioner further Sheweth that the said George Lord Pigot having so filed his said Bill of Complaint and having obtained a Summons returnable immediately and a Warrant of Arrest upon his the said George Lord Pigots Affidavit setting forth that your Petitioner was about to Depart out of the Jurisdiction of the said Honble the Mayors Court whereupon your Petr Sheweth he was held to Bail in the Enormous Sum of Fifteen Thousand Pounds and on your Petitioners Appearance pursuant to a Motion made to the said Honble the Mayors Court Your Petitioner was allowed to Plead or Demur in one Week after such your Petitioners appearance Whereupon your Petitioner did on the Twentieth day of the aforementioned Month of January file his Demurrer to the said Bill of Complaint of the said George Lord Pigot assigning as a good Cause for Demurring that the said Bill of Complaint scandalously and impertinently accused your Petitioner of assaulting and with an Intention to Kidnappe him these Words are illeberal Expressions not being allowed to be incerted in a Bill of Complaint your Petitioner did Demur as aforementioned and prayed that the same might be expunged from out of the said Bill of Complaint Your Petitioner did also Demur to the said Bill of Complaint upon the Errors appearing in the said Bill which your Petitioners Attornies in the said Court intended shewing at the arguing of the said Demurrer Your Petitioner further Sheweth that the said George Lord Pigot did file his Joinder in Demurrer and the same set down for arguing but previous to the Determination thereon Your Petitioner finding himself aggrieved from the Sentence of the said Honble the Mayors Court respecting the excessive Bail he was obliged to give and enter into Your Petitioner did Appeal to this Honble Court of Appeals who adjudged themselves interested in the Event of the Cause and therefore declined entering upon the Merits of the Proceedings had before the Honble the Mayors Court whereupon your Petitioner did Appeal to his Most Excellent Majesty in Council from the Sentence or Decree of the said Honble the Mayors Court which said Petition of Appeal Your Petitioner sheweth he did file in this Honble Court of Appeals as regular and proper and the said Petition of Appeal has been forwarded under the Seal of this Honble Court of Appeals as also the Several Proceedings of the said Honble the Mayors Court attested under the Hand of the Register of the said

Honble the Mayors Court Your Petitioner further sheweth that the said George Lord Pigot did by means of his Attornies in the Honble the Mayors Court move the said Honble the Mayors Court that the said Petition of Appeal to his Most Excellent Majesty in Council should not be allowed as appears by a Copy of the Extract of Court under date the Fourth day of February last past hereto annext for the Inspection of this Honble Court of Appeals Your Petitioner further Sheweth that this Motion of the said George Lord Pigot was deferred from Day to Day untill the Twenty eighth day of the said Month of February when the same came on to be heard and determined in the manner setforth in a Copy of the Extract from the Minutes of the said Honble the Mayors Court hereto annext for the Inspection of this Honble Court Your Petitioner further Sheweth that the said Honble the Mayors Court deferred hearing the Demurrer and Joinder untill a future day when on Tuesday the Eleventh day of this Instant March the said Honble the Mayors Court proceeded to take into Consideration the Merits of the Demurrer and Joinder and on hearing the Pleadings made use of by the Attornies of the said George Lord Pigot Your Petitioners Attornies declining to say any thing about the Matter as concerning the Arguing of the Demurrer (as the Court allowed the Appeal to his Most Excellent Majesty in Council) to be highly improper untill the said Appeal was finally determined on your Petitioner Your Petitioner further Sheweth that the said Honble the Mayors Court did over rule the Demurrer of your Petitioner and order your Petitioner to Answer the said Bill of Complaint of the said George Lord Pigot within one Week after the said Over ruling of the said Demurrer, a Copy of which is hereto annext for the Inspection of this Honble Court of Appeals from which said Sentence Decree or Judgement of the said Honble the Mayors Court Your Petitioner does Appeal. Because your Petitioner is humbly of Opinion that the

of the said Honble the Mayors Court whereupon your said

said Honble the Mayors Court entering upon the Demurrer and Joinder after they had been apprized of an Appeal in this Cause to his Majesty in Council had been lodged and which they had admitted of by their over ruling the Motion of the said George Lord Pigots Attornies relative to the same was irregular — Because your Petitioner is humbly of Opinion that his Appeal to his Most Excellent Majesty in Council was in the nature of an Injunction to the carrying on of any Proceedings in the said Honble the Mayors Court untill the Subject matter appealed from was finally determined Your Petitioner thinking himself aggrieved by the said Honble the Mayors Court proceeding on the Demurrer and giving their Determination thereon notwithstanding the said Appeal of your Petitioner to his Most Excellent Majesty in Council Your Petitioner does therefore most humbly Appeal to this Honble Court of Appeals and Prays that such Order Sentence or Decree of the said Honble the Mayors Court may be reversed and that all and every the Proceeding in the said Honble the Mayors Court may lye Dormant untill the final Decision of his Most Excellent Majesty in Council be had on your Petitioners Appeal and that the said George Lord Pigot be decreed to pay all Costs in both the said Honble the Mayors Court and this Honble Court of Appeals —

And your Petitioner as in duty bound
Shall ever Pray

Chas. Bromley
Jno. Sykes } Attys. Appellt

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 4th Day of Febry Anno Domini 1777

Present

Andw Majendie Esqr Mayor
George Smith Alexr Brodie
and Benjan Roebuck Aldermen

George Lord Pigot
vers
James Stuart

Letter from the Clerks to the Court of Appeals Read setting forth that the Attorneys for the Defendant had delivered in a Petition of Appeal from an Order made in this Cause on the 14th Day of January last as also that they had on the 25th January in consequence of a Resolution made by the Court of Appeals in this Cause a Copy of which is enclosed lodged an Appeal to the Kings most Excellent Majesty in Council which Resolution is to the following Purport That the Members of the Court of Appeals think it their duty to declare that in their Capacity of Members of this Government for Reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents Issue the Orders by which the Complainants Person was arrested and put under Confinement and that the Defendant was acting in Execution of their Orders so given and as this appears to be the ground of the Present Action the Members conceive from the Petition of Appeal delivered in that they may be Interested in the Event of this Suit — The Attorneys for the Complainant object to any Appeal being lodged from the Order of this Court on the 14th Jany because it does not appear by the Charter to be a matter appealable and the Defendants having already complied with the said Order of Court by having filed Bail agreeable thereto as also by having filed a Demurrer to which the Complainant has Joined which being now at Issue is set down to be argued — The Attorneys for the Complainant therefore humbly conceive that the said Appeal is very irregular as the Defendant continues to Defend the Suit in this Honble Court to which the Attorneys for the Defendant object because they conceive the Appeal is regular notwithstanding the Demurrer and Joinder mentioned by the Attorneys for the Complainant as the Appeal is not on account of any Matter that can be Affected by the Demurrer and Joinder and the matter of giving Bail taken Notice of by the Attorneys for the Complainant was done to Prevent the Defendant from suffering a disagreeable Imprisonment which would have been a great hardship on the Defendant and by which he would have Suffered considerable Damages both in his Person and Affairs The Attorneys for the Defendant do also conceive that the Merits of the Appeal cannot be determined by this Court the said Attorneys therefore object to any Motion being made for the same being taken into Consideration

Deferred taking the same into Consideration till Saturday next at 9 oClock in the forenoon when a full Court is ordered to be summoned — Deferred taking into Consideration the Demurrer and Joinder till Saturday next

A True Extract
James Taylor
Regr

Extract from the Minutes of a Court Held at the Town Hall on Friday the 28th Day of February Anno Domini 1777

Present

Andw Majendie Esqr Mayor
George Smith George Savage
John Turing James Call
George Proctor Edwd John Holland
Alexr Brodie Benjn Roebuck
Aldermen

George Lord Pigot
Vers
James Stuart

The Court proceed to take into Consideration the Objections made by the Attornies for the Complainant as also the Replies made thereto by the Attornies for the Defendant on the 4th February last regarding the Appeals made to the Court of Appeals and his Majesty in Council on hearing the Attornies for the Complainant, the Attornies for the Defendant refusing pleading for the Reasons already assigned by them in the Minutes and the Court having had due Consideration thereon are of opinion that the Objections made in this Cause by the Attornies for the Complainant on the 4th Instant be over ruled with Costs, Messrs. Aldermen Smith, Savage, Turing and Proctor beg leave to enter their Dissents and that they may be indulged till Tuesday the 11th of March next to deliver them in — Ordered Accordingly — The Attorneys for the Complainant pray that the Demurrer and Joinder may now come on to be argued which is opposed by the Attornies for the Defendant for the following Reasons — because an Appeal on the Order for Bail was made to the King in Council as ℘ Notice given in this Court and therefore the Attornies are humbly of Opinion that their Client if the Appeal is allowed and the Order as to the Bail is Over-ruled is no longer before the Court as there is no appearance but where special or common Bail is filed — The Court having duly considered the same are of Opinion that as the Merits of the Demurrer and Joinder cannot be effected by the Appeals made from the Order of this Court of the 14th of January last that the same ought to be argued and it is therefore ordered that they do come on to be heard on Tuesday next when a full Court is ordered to be summoned —

A true Extract
James Taylor
Regr

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th day of March Anno Domini 1777 —

Present
Andrew Majendie Esquire Mayor
John Turing and James Call
Aldermen

George Lord Pigot
vers
Colonel James Stuart

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

The Demurrer and Joinder coming on to be argued and determined this Day in the Presence of the Attornies on both Sides on Reading the Complainants Bill with an Affidavit annexed The Demurrer The Joinder on hearing the Pleadings made use of by the Attornies for the Complainant the Attornies for the Defendant declining pleading for the Reasons already assigned on the Minutes and the Court having had due Consideration thereon are of Opinion that the Pleas made use of by the Defendant in his Demurrer are insufficient to Bar the present Action This Court doth therefore think fit to Order and doth Accordingly Order that the Demurrer be thrown out with Costs and that the Defendant be put upon his Answer —

Day is given the Defendant till the 18th Instant to Answer the Complts Bill in default of which Judgment will be given for the Complainant —

Attested to be true Copies
A true Extract
James Taylor
Regr

Chas. Bromley
Jno. Sykes
Attys Appellt

Court of Appeals
at
Madraspatnam } ss Friday the 14th March 1777

The Attorneys of James Stuart Esqr whose Defendt in an Action commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 11th day of March Anno Domini 1777 which they pray leave to file

As it appears to this Court that the said Suit instituted in the Mayors Court by the said George Lord Pigot against the said James Stuart is founded on an Action for Assault and false Imprisonment the Members of this Court thinks it their duty to declare that in their Capacity of Member of the Government, for Reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Stuart was acting in Execution of their Orders so given. This appearing to be the Ground of the Present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of this Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further Process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

G Cur

Between George Lord Pigot
and Colonel James Stuart

To the Kings Most Excellent Majesty in Council

The Humble Petition of Appeal of James Stuart Esquire Colonel of Infantry and Second in Command of the Forces by Commission of the United English East India Company under Brigadier General Sir Robert Fletcher in the Service of the Honble the United Company of Merchants of England trading to the East Indies employed under the Presidency of Fort St George in the East Indies

Sheweth

Filed the 17th March
1777
Chas Oakeley
Clk

That the abovesaid George Lord Pigot did on the Fourteenth day of January last in the present Year of our Lord One Thousand Seven hundred and Seventy Seven File a Bill of Complaint against your Petitioner in the Honble the Mayors Court of Madraspatnam for the Sum of Two hundred Thousand Pounds being the Amount of or Damages which he the said George Lord Pigot said he had Sustained by means of your Appellant the said Bill of Complaint being so filed the said George Lord Pigot did by means of his Attornies in the said Honble Court move for a Summons returnable immediately and a Warrant of Arrest against your Appellant which were granted and your Appellant immediately appeared by his Attornies in the said Honble the Mayors Court upon whose Appearance the said Honble Court directed your Appellant to be held to Bail in the Sum of Fifteen Thousand Pounds to Answer the Issue of the Suit so commenced by the said George Lord Pigot Your Appellant Sheweth that he found

Bail pursuant to that Order of the said Honble Court being under the Necessity of complying therewith to save his Person from Confinement and to prevent Confusion among the Troops Your Appellant being then at that time of his Appearance Commander in Chief of the Forces on the Coast of Coromandell in the Absence of Brigadier General Sir Robert Fletcher then at Sea for the Recovery of his Health Your Appellant further Sheweth that upon reconsidering the Order respecting his being held to Bail and comparing the Sum he was held to Bail in being Fifteen thousand Pounds and the Sum of Ten Thousand Pounds which the said Brigadier General Sir Robert Fletcher was also held to Bail in the Suit commenced against him by the said George Lord Pigot for the same Cause as commenced against your Appellant Your Appellant was of opinion that he was greatly injured by such Order being so pointed as to your Appellant Your Appellant being only acting under Orders and the said Brigadier General Sir Robert Fletcher the Principal who gave such Orders from the Council Board from this Order of the said Honble the Mayors Court Your Appellant was under the Necessity of appealing to your Most Excellent Majesty in Council in Order to have the said Order reversed and that your Appellant Might with more safety to his Cause make the necessary Defence that the Merits of his Cause directed which Defence your Appellant was of Opinion he could not make untill the Prejudices were removed that appeared upon the face of the Proceedings before the said Honble the Mayors Court. Your Appellt Sheweth that on the First day of February in the Present Year One Thousand Seven hundred and Seventy Seven he filed his Petition of Appeal to your Most Excellent Majesty in Council with the Clerks of the Court of Appeals & where the same has been forwarded under the Seal of the said Court of Appeals as also the several Proceedings had in the said Honble the Mayors Court to your Most Excellent Majesty in Council Your Appellt further Sheweth that such Petition of Appeal to your Most Excellent Majesty in Council was filed within the time limitted by your Most Excellent Majestys Charter under which the said Honble the Mayors Court sits as a Court of Judicature Your Appellant further Sheweth that the said Clerk of the Court of Appeals did give Notice to the said Honble the Mayors Court of your Appellants said Appeal being so lodged with him to which the Attorneys of the said George Lord Pigot moved the said Honble the Mayors Court by objecting to any Appeal being brought from the said Order to hold your Appellant to Bail and insisted on your Appellants answering the Bill of Complaint of the said George Lord Pigot this Motion of the said George Lord Pigots Attornies Your Appellant by his Attornies replied to and insisted on the Right Your Appellant had to Appeal and that such your Appellants Appeal was regular this Motion your Appellant Sheweth was deferred from Court day to Court day till the Twenty eighth of February in the Present Year One Thousand Seven hundred and Seventy Seven when the said Honble the Mayors Court took into Consideration the Objections the said Attornies of the said George Lord Pigot had made to Your Appellants Appeal being lodged and determined in favor of the Appeal as will morefully Appear by a Copy hereto annext of the Extracts of the Minutes of the said Honble the Mayors Court Your Appellant further sheweth that at the time of his Appearance to the said Suit of the said George Lord Pigot Your Appellant had leave of the said Honble the Mayors Court to Demur to the Bill of Complaint so filed by the said George Lord Pigot if your Appellant found it Necessary so to do in Consequence whereof your Appellant did upon reading of the said Bill of Complaint find it Expedient to Demur to the said Bill on account of the Scandalous defamatory and Illiberal Expressions inserted in the same against your Appellant to this Demurrer a Joinder was put in and the same set down to be argued but previous to such arguing Your Appellant did Appeal and the Court determined on the Competency thereof as Appears from the Copy of the said Extracts hereto annext Your Appellant further Sheweth that the said Honble the Mayors Court ordered that the Demurrer and Joinder should come on to be argued the which your Appellant objected to as the Appeal to your Most Excellent Majesty by your Appellant was undetermined by your Most Excellent Majesty in Council and therefore your Appellants Attornies declined entering into the Merits of the Demurrer and Joinder from an Opinion that they were with held from Proceeding in the said Honble the Mayors Court by your Appellant Appealing which appeared to them Your Appellants Attornies as an Injunction to stay any further Proceedings in the Suit before the said Honble the Mayor's Court— Your Appellant further sheweth Notwithstanding your Appellants Attornies declined any further Proceeding on the said Demurrer and Joinder yet the said Honble the Mayors Court were pleased to Order the said Demurrer and Joinder to be Argued on Tuesday the Eleventh day of this Instant March on which day the same was brought on the part of the said George Lord Pigot and determined in the manner expressed and Setforth in the Order of the said Honble the Mayors Court under date the said Eleventh day of March a Copy of which is hereto annext for the Inspection of your Most Excellent Majesty in Council to which your Appellant Prays your most Excellent Majesty's Reference— Your Appellant further Sheweth that the said Honble the Mayors Court having so overruled your Appellants Demurrer from an Opinion that your Appellants Demurrer was not Bar to the Action the said Honble the Mayors Court were pleased at the instance of the said George Lord Pigots Attornies to Order your Appellant to Answer the said Bill of Complaint of the said George Lord Pigot which by the Rules and Practise of the said Honble the Mayors Court is One Week from the Pronouncing of the said Sentence Order and

Decree

Decree on the Demurrer For all which Reasons Your Appellant does Appeal to your Most Excellent Majesty in Council from the several Orders Sentences or Decrees of the said Honble the Mayors Court Copies whereof are hereunto annext respecting both the Demurrers and the Order Sentence or Decree of your Appellant to Answer Because your Appellant conceives that having appealed to your Majesty in Council from an Order Sentence or Decree of the said Honble the Mayors Court and which they the said Honble the Mayors Court do Acknowledge and did Confirm that the said Honble Court ought not nor could without being amenable to your most Excellent Majesty proceed any further or take into Consideration any Application of the said George Lord Pigots Attornies for Rules and Orders in this Cause instituted by the said George Lord Pigot against your Appellant But that the cause ought to have lain Dormant untill the final Determination of your Most Excellent Majesty in Council was known and published

Your Appellant further begs leave of your Most Excellent Majesty in Council to Setforth as another Reason why the said Honble the Mayors Court ought not to have proceeded in the said Cause at the Instance of the said George Lord Pigots Attornies and which has farther induced your Appellant to Appeal to your Most Excellent Majesty in Council Your Appellant sheweth that by the Prayer of the Appeal from your Appellant under date the First February in the present Year One thousand Seven hundred and Seventy seven to your Most Excellent Majesty in Council Your Appellant Setforth his Apprehensions of the Injury he had Sustained by the said Honble the Mayors Court holding him to so Disproportionate Bail than that to the Commander in Chief that your Appellant could not without manifold Injustice to his Cause make any Answer to the said George Lord Pigots Bill of Complaint untill the Prejudices were removed that were occasioned by your Appellants being so held to Bail to make any Answer, pursuant to the Order of the said Honble the Mayors Court under date the Eleventh of this Instant March would be in your Appellants humble Opinion render his Petition of Appeal under date the First day of February to your most Excellent Majesty in Council superflous and inconsistent and therefore the said Honble the Mayors Court proceeding notwithstanding such said Appeal is irregular and tends greatly to the Injury of your Appellant

Your Appellant further sheweth that he having on the Fourteenth day of this Instant March appealed to the Honble the President and Council of Fort St. George as the Court of Appeals from the Order, Sentences, and Decrees of the said Honble the Mayors Court passed in the said Suit of the said George Lord Pigot but the said Honble the President and Council of Fort St. George deeming themselves interested in the Event of the said Cause did decline entering on the Merits of your Appellants Appeal and made their Resolution a Minute of their Court of Appeals (a Copy of which is hereunto annext for the Inspection of your most Excellent Majesty in Council) Your Appellant further sheweth that having thus obtained the Resolution of the said Honble the President and Council Your Appellant pursuant to your Most gracious Majesties Charter granted to the said Honble the English East India Company Appeals to your Most Excellent Majesty in Council from the said Order Decrees and Sentences of the said Honble the Mayors Court under the respective Dates set forth in the Copies hereto annext & prays that the same may be reversed not only for an Error in Judgment but for the irregularity in pronouncing such Sentences Orders or Decrees by the said Honble the Mayors Court with Costs to be Paid by the said George Lord Pigot and such other Relief on the Premises as to your Most Excellent Majesty in Council shall seem Meet

And your Petitioner as in Dutybound Shall Ever Pray

Chas. Bromley, Atty Appellt

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 4th Day of Febry Anno Domini 1777

Present

Andw Majendie Esqr Mayor
George Smith Alexr Brodie
and Benjan Roebuck Aldermen

George Lord Pigot
-vers-
James Stuart

Letter from the Clerk to the Court of Appeals Read setting forth that the Attornies for the Defendant had delivered in a Petition of Appeal from an Order made in this Cause on the 14th of day of January last as also that they had on the 25th January in Consequence of a Resolution made by the Court of Appeals in this Cause a Copy of which is enclosed lodged an Appeal to the Kings most Excellent Majesty in Council which Resolution is to the following Purport—That the Members of the Court of Appeals think it their Duty to declare that in their Capacity of Members of this Government for Reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents Issue the Orders by which the Complainants Person was arrested and put under Confinement and that the Defendant was acting in Execution of their Orders so given and as this appears to be the ground of the Present Action the Members conceive from the Petition of Appeal delivered in that they may be interested in the Event of this Suit—The Attornies for the Complainant object to any appeal being lodged from the Order of this Court on the 14th January because it does not appear by the Charter to be a Matter appealable and the Defendants having already complied with the said

Order of Court by having filed Bail agreeable thereto as also by having filed a Demurrer to which the Complainant has Joined which being now at Issue is sett down to be Argued — The Attorneys for the Complainant therefore humbly Conceive that the said Appeal is very irregular as the Defendant continues to Defend the Suit in this Hon^ble Court to which the Attorneys for the Defendant object because they conceive the Appeal is regular Notwithstanding the Demurrer and Joinder mentioned by the Attornies for the Complainant as the Appeal is not on account of any matter that can be affected by the Demurrer and Joinder and the matter of giving Bail taken Notice of by the Attornies for the Complainant was done to Prevent the Defendant from Suffering a disagreeable Imprisonment which would have been a great Hardship on the Defendant and by which he would have suffered considerable Damages both in his Person and Affairs — The Attornies for the Defendant do also conceive that the Merits of the Appeal cannot be determined by this Court the said Attornies therefore Object to any Motion being made for the same being taken into Consideration —

Deferred taking the same into Consideration till Saturday next at 9 oClock in the forenoon when a full Court is ordered to be summoned Deferred taking into Consideration the Demurrer and Joinder till Saturday next —

A True Extract
James Taylor
Reg.^r

Extract from the Minutes of Court Held at the Town Hall on Tuesday the 25^th day of February Anno Domini 1777

Present

Andrew Majendie Esq.^r Mayor
George Smith George Proctor &
Benj.^n Roebuck Aldermen

George Lord Pigot
vers
James Stuart

The Attornies for the Complainant pray that the Court will be pleased to fix a Day for taking into Consideration the Objections made to the Appeal lodged in this Cause as also to fix a Day for arguing the Demurrer and Joinder — Ordered that a full Court be summoned on Fryday next at 9 oClock in the forenoon when all the Members are particularly desired to attend —

A True Extract
James Taylor
Reg.^r

Extract

Extract from the Minutes of a Court Held at the Town Hall on Friday the 25th day of February Anno Domini 1777

Present

Andw. Majendie Esqr. Mayor
George Smith George Savage
John Turing James Call
George Proctor Edwd. John Holland
Alexr. Brodie Benjn. Roebuck
Aldermen

George Lord Pigot
vers
James Stuart

The Court proceed to take into Consideration the Objections made by the Attornies for the Complainant as also the Replies made thereto by the Attornies for the Defendant on the 4th February last regarding the appeals made to the Court of Appeals and his Majesty in Council on hearing the Attornies for the Complainant the Attornies for the Defendant refusing Pleading for the Reasons already assigned by them on the Minutes and the Court having had due Consideration thereon are of opinion that the objections made in this Cause by the Attornies for the Complainant on the 4th Instant be over-ruled with Costs — Messrs. Aldermen Smith Savage Turing and Proctor beg leave to enter their Dissent and that they may be indulged till Tuesday the 11th of March next to deliver them in Ordered accordingly — The Attornies for the Complainant Pray that the Demurrer and Joinder may now come on to be Argued which is opposed by the Attornies for the Defendant for the following Reasons because an Appeal on the Order for Bail was made to the King in Council as ℘ Notice given in this Court and therefore the Attornies are humbly of opinion that their Client if the Appeal is allowed and the Order as to the Bail is over ruled is no longer before the Court as there is no appearance but where special or common Bail is filed The Court having duly considered the same are of Opinion that as the Merits of the Demurrer and Joinder cannot be effected by the Appeals made from the Order of this Court of the 14th of January last that the same ought to be argued and it is therefore ordered that they do come on to be heard on Tuesday next when a full Court is ordered to be Summoned —

A True Extract
James Taylor
Regr.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th Day of March Anno Domini 1777

Present

Andrew Majendie Esquire Mayor
John Turing and James Call
Aldermen

George Lord Pigot
vers
Colonel James Stuart

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

The Demurrer and Joinder coming on to be argued and determined this Day in the Presence of the Attornies on both sides on reading the Complainants Bill with an Affidavit annexed The Demurrer

The Judges on hearing the Pleadings made use of by the Attornies for the Complainant the Attornies for the Defendant declining pleading for the Reasons already aſsigned on the Minutes and the Court having had due Consideration thereon are of Opinion that the Pleas made use of by the Defendant in his Demurrer are insufficient to Bar the present Action This Court doth therefore think fit to Order and doth Accordingly Order that the Demurrer be thrown out with Costs and that the Defendant be put upon his Answer

Day is given the Defendant till the 18th. Instant to Answer the Complainants Bill in default of which Judgment will be given for the Complainant

A true Extract
James Taylor
Regr.

Court of Appeals at Madraspatnam } ſs

Friday the 14th. March 1777

The Attorneys of James Stuart Esqr. who is Defendant in an Action commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court paſsed in this Cause on Tuesday the 11th day of March Anno Domini 1777 which they pray leave to file

As it Appears to this Court that the Suit instituted in the Mayors Court by the said George Lord Pigot against the said James Stuart is founded on an Action for Aſsault and false Imprisonment the Member of this Court think it their Duty to declare that in their Capacity of Members of the Government for Reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents give the Orders by which the said George Lord Pigots Person was arrested and

put under Confinement and that the said James Stuart was acting in Execution of their Orders so given This appearing to be the ground of the Present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of this Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further Proceſs be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

A true
Chas. Oakeley
Clerk

Attested to be true Copies from the Original Extracts & Minutes of Court

Chas. Bromley }
Jno. Sykes } Attys. Appellt

In the Court of Appeals

Between George Lord Pigot and
James Stuart Adjutant General

To the Honble George Stratton Esqr.
President & Governor of Fort Saint George
&c.a Council

The Humble Petition of Appeal of James Stuart Esquire Adjutant General in the Service of the Honble the United Company of Merchants of England trading to the East Indies

Sheweth

That the abovesaid George Lord Pigot did on the Fourteenth
Filed 14th March day of January in the present year of our Lord One thousand seven
1777 hundred and Seventy Seven File a Bill of Complaint in the Honble
Chas. Oakeley the Mayors Court of Madraspatnam against your Petitioner for the Sum of
Clk Fifty thousand Pounds as the amount of Damages which he the said George Lord Pigot said he had Sustained by the means of your Petitioners assaulting him and seizing him by force of Arms and otherways ill treating him. Your Petitioner further sheweth that the said George Lord Pigot having so filed his said Bill of Complaint and having obtained a Summons returnable immediately and a Warrant of Arrest upon his the said George Lord Pigots Affidavit setting forth that Your Petitioner was immediately about to depart from the Jurisdiction of the said Honble the Mayors Court Your Petitioner Sheweth he was held to Bail in the Sum of Ten Thousand Pounds for his Personal Appearance to the said Suit notwithstanding your Petitioner offered to make Affidavit that he was not about to depart out of the Jurisdiction of the said Honble the Mayors Court and that he was not worth the Sum he was ordered to be held to Bail for from which said Order of Court your Petitioner

did Appeal to his Most Excellent Majesty in Council, as the Honble Court of Appeals did give it as their Opinion that they were interested in the Event of the Cause, of which Appeal Notice was given to the said Honble the Mayors Court by the Clerk of the Court of Appeals as Appears by an Extract of their Minutes of Court under date the fourth day of February last a Copy of which is hereto annext for the Inspection of this Honble Court Your Petitioner further sheweth that by the said Extract of Minutes of the said Honble the Mayors Court it appears that the Attornies for the said George Lord Pigot did object to any Appeal being lodged from the Order of the said Honble the Mayors Court of the Fourteenth day of January last which Objection of the said George Lord Pigots Attornies was deferred to be taken into Consideration till some future day your Petitioner further sheweth that your Petitioner did on the Twentieth day of January as aforementioned file his Demurrer to the Bill of Complaint of the said George Lord Pigot for divers Imperfections and uncertainties contained in the said Bill of Complaint and also for scandalously and impertinently introducing in the said Bill of Complaint that your Petitioner meant to Abduct and Kidnap the said George Lord Pigot to which said Demurrer of your Petitioner the said George Lord Pigot did file his Joinder and the same was set down to be argued and afterwards deferred from time to time Your Petitioner further Sheweth that on the Twenty Eighth day of February last past the said Honble the Mayors Court did proceed to take into consideration the Objections made by the Attornies for the Complainant on the Fourth day of the said Month of February as regarding the Appeal of your Petitioner when they pleased to Over-rule the said Objections and decreed the said George Lord Pigot to pay Costs and further the said Honble the Mayors Court were pleased to Determine that the Demurrer and Joinder should come on to be argued the next Court day as will more fully appear by a Copy of the Extracts of the

Minutes of the said Honble the Mayors Court hereto annext for the
Inspection of this Honble Court of Appeals Your Petitioner further
sheweth that your Petitioners Attornies objected to the arguing of the said
Appeals because of the Petition of Appeal your Petitioner had made to
his Most Excellent Majesty in Council which was over-ruled Your
Petitioner further Sheweth that on Tuesday the Eleventh of this Instant
March the said Demurrer and Joinder came on to be Argued when your
Petitioners Attornies declined entering into any part of the Merits of the said
Demurrer and Joinder because they apprehended by their appealing to
the King and Council the Proceedings in the said Honble the Mayors
were stopt and could not be proceeded untill the final Determinatio
on the said Appeal was published and made known to the said Hon
the Mayors Court Your Petitioner further sheweth that the said Honble
the Mayors Court were pleased to Over-rule the Demurrer of your
Petitioner and ordered your Petitioner to Answer the said Bill of Comp
of the said George Lord Pigot from which Order Sentence and Decr
of the said Honble the Mayors Court (a Copy of which is hereunto
annext for the Inspection of this Honble Court) Your Petitioner
does most humbly Appeal to this Honble Court Because your Petitio
is advised and humbly insists that in the first Instance the entering into an
discussion of the Proceedings by the Honble the Mayors Court was irregu
whilst the appeal to his Most Excellent Majesty in Council was in
being and undetermined and the making any Sentence Order or Decre
therein equally as Irregular as also the ordering your Petitioner to mak
an Answer before the said Appeal is determined which is greatly detrimen
and injurious to the Cause of your Appellant as your Petitioner cannot
with safety to his Cause make any Answer to the said Bill of Complaint
till the Decision on the said Appeal is known as it is probable the

Proceedings

Proceedings of the said Complainant may be quashed for its irregularity Your
Petitioner is further humbly of opinion that should he make any Answer to the
said Bill of Complaint he thereby waives his right to the said appeal and ~
whatever Determination there may be in your Petitioners favor the same is
irrecoverably gone for which Reasons your Petitioner does appeal from the
said Order Sentence or Decree of the said Honble the Mayors Court and
prays that the same may be reversed and that this Honble Court would lay
an Injunction on and stay any further Proceedings in the said Honble the
Mayors Court untill the Determination of his Most Excellent Majesty
in Council on the Appeal so made to him as aforementioned is known and
that the said George Lord Pigot may pay all Costs both into this Honble
Court of Appeals and in the said Honble the Mayors Court

And Your Petitioner as in Duty bound
Shall ever Pray

Chas. Bromley } attys.
Jno. Sykes } Appellt

Extract from the Minutes of a Court Held at the Town Hall
on Tuesday the 11th. day of Febry. Anno Domini 1777

Present

Andw. Majendie Esqr. Mayor
George Smith Alexr. Brodie
and Benjamn. Roebuck Aldermen

George Lord Pigot
—vers
James Edingtoun

Letter from the Clerk to the Court of Appeals Read
setting forth

setting forth that the Attorneys for the Defendant had delivered in a Petition of Appeal from an Order made in this Cause on the 14th day of January last as also that they had on the 25th day of January in Consequence of a Resolution made by the Court of Appeals in this Cause a Copy of which is enclosed lodged an Appeal to the Kings most Excellent Majesty in Council which Resolution is to the following Purport That the Members of the Court of Appeals think it their Duty to declare that in their Capacity of Members of this Government for Reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents Iſsue the Orders by which the Complainants Person was arrested and put under Confinement and that the Defendant was acting in Execution of their Orders so given and as this Appears to be the Ground of the present Action The Members conceive from the Petition of Appeal delivered in that they may be interested in the Event of this Suit The Attorneys for the Complaint object to any appeal being lodged from the Order of this Court on the 14th January because it does not appear by the Charter to be a matter appealable and the Defendant having already complyed with the said Order of Court by having filed Bail agreeable thereto as also by having filed a Demurrer to which the Complainant has joined which being now at Iſsue is sett down to be argued — The Attorneys for the Complainant therefore humbly conceive that the said Appeal is very irregular as the Defendant continues to Defend the Suit in this Honble Court to which the Attorneys for the Defendant object because they conceive the Appeal is regular notwith=standing the Demurrer and Joinder mentioned by the Attorneys for the Complainant as the Appeal is not on account of any matter that can be affected by the Demurrer and Joinder and the matter of giving Bail taken Notice of by the Attorneys for the Complainant was done to Prevent the Defendant from suffering a disagreeable Imprisonment which would have been a great hardship on the Defendant and by which he would have suffered considerable Damages both in his Person and Affairs — The Attorneys for the Defendant do also conceive that the Merits of the Appeal cannot be determined by this Court the said Attorneys therefore object to any Motion being made for the same being taken into Consideration —

Deferred taking the same into Consideration till Saturday next at 9 o'Clock in the forenoon when a full Court is ordered to be summoned

Deferred taking into Consideration the Demurrer and Joinder till Saturday next

A True Extract
James Taylor
Regr.

Extract from the Minutes of a Court Held at the Town Hall on Friday the 28th Day of February Anno Domini 1777

Present

Andw. Majendie Esqr. Mayor
George Smith George Savage
John Turing James Call
George Procktor Edwd. John Hollond
Alexr. Brodie and Benjn. Roebuck
Aldermen

George Lord Pigot
vers
James Edingtoun

The Court proceed to take into Consideration the Objections made by the Attornies for the Complainant as also the replies made thereto by the Attorneys for the Defendant on the 4th February last regarding the Appeals made to the Court of Appeals and his Majesty in Council on hearing the Attornies for the Complainant the Attornies for the Defendant refusing Pleading for the reasons already assigned by them on the Minutes and the Court having had due Consideration thereon are of opinion that the Objections made in this Cause by the Attornies for the Complainant on the 4th Instant be over-ruled with Costs Mess.rs Aldermen Smith, Savage, Turing, and Proctor beg leave to enter their Dissents and that they may be indulged till Tuesday the 11th of March next to Deliver them in — Ordered accordingly — The Attorneys for the Complainant pray that the Demurrer and Joinder may now come on to be argued which is opposed by the Attornies for the Defendant for the following Reasons because an Appeal on the Order for Bail was made to the King in Council as ℘ Notice given in this Court and therefore the Attornies are humbly of Opinion that their Client if the Appeal is allowed and the Order as to the Bail is over ruled is no longer before the Court as there is no appearance but where special or common Bail is filed — The Court having duly considered the same are of Opinion that as the Merits of the Demurrer and Joinder cannot be effected by the Appeals made from the Order of this Court of the 14th of January last that the same ought to be argued and it is therefore ordered that they do come on to be heard on Tuesday next when a full Court is ordered to be summoned —

A True Extract
James Taylor
Reg.r

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th day of March Anno Domini 1777 —

Present
Andrew Majendie Esq.r Mayor
John Turing and James Call
Aldermen

George Lord Pigot
vers
James Edingtoun

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

The Demurrer and Joinder coming on to be argued and determined this Day in the presence of the Attornies on both sides on Reading the Complainants Bill with an Affidavit annexed, The Demurrer The Joinder on hearing the Pleadings made use of by the Attornies for the Complainant the Attorneys for the Defendant declining pleading for the Reasons already assigned on the Minutes and the Court having had due Consideration thereon are of Opinion that the Pleas made use of by the Defendant in his Demurrer are insufficient to Bar the present Action This Court doth therefore think fit to Order and doth accordingly Order that the Demurrer be thrown out with Costs and that the Defendant be put upon his Answer

Day is given the Defendant till the 18th Instant to Answer the Complainants Bill in default of which Judgement will be given for the Complainant

A true Extract
James Taylor
Reg.r

Attested to be true Copies
Chas. Bromley }
Jno. Sykes } Atty.s Appell.t

Court of Appeals at Madraspatnam } Ft. Friday the 14th March 1777 —

The Attorneys of James Edingtoun Esq.r who is Defendant in an Action Commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory order of the said Court passed in this Cause on Tuesday the 11th Day of March Anno Domini 1777. which they pray leave to file

As it Appears to this Court that the Suit instituted in the Mayors Court by the said George Lord Pigot against the said James Eidingtoun is founded on an Action for Assault and false Imprisonment the Members of this Court think it their duty to declare that in their Capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Eidingtoun was acting in Execution of their Orders so given This Appearing to be the Ground of the present Action the Members of the Court conceive from the Petition of Appeal now delivered in that they may be Interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further Process be had thereon in this Court and they do further Order that the Attorneys of the Appellants be furnished with a Copy of this Minute

J Cuvo

Between George Lord Pigot
and James Eidingtoun Adjutant General

To the King's most Excellent Majesty in Council

The Humble Petition of Appeal of James Eidingtoun Esquire Adjutant General of the Forces employed in the Service of the United Company of Merchants of England Trading to the East Indies on the Coast of Cormandell

Sheweth

Filed 17th March
1777
Chas. Oakeley
Clk of Appls.

That the said George Lord Pigot did on the fourteenth day of January last past in the present Year of our Lord One thousand Seven hundred and Seventy Seven file his Bill of Complaint in the Honble the Mayors Court at Madraspatnam against your Appellant for an Assault and false Imprisonment and layed his Damages to the amount of Fifty thousand Pounds That on the same Day the said Bill of Complaint was preferred an Affidavit of the said George Lord Pigot was filed Setting forth some particulars relative to the arresting of the Person of the said George Lord Pigot and further Setting forth that your Appellant was about then immediately to depart out of the Jurisdiction of the said Honble the Mayors Court whereupon the Attornies for the said George Lord Pigot did move the said Honble the Mayors Court that a Summons returnable immediately and a Warrant of Arrest might issue against your Appellants person which was granted but previous thereto Your Appellant by his Attornies did immediately appear in order to save his person being Arrested and was ready and did offer to make an Affidavit that he was not about to depart out of the Jurisdiction of the said Honble the Mayors Court nor had your Appellant the least intention of so doing Your Appellant then and has ever since resided in Fort St. George Your Appellant Sheweth that notwithstanding his readiness to Appear and make his Affidavit the said Honble the Mayors Court directed that your Appellant should give Bail whereupon your Appellants Attornies moved to have the direction of the said Honble the Mayors Court respecting the Sum that your Appellant was to be held to Bail for and the said Honble the Mayors Court Ordered your Appellant to give Bail for the Sum of Ten Thousand Pounds which your Appellant deemed excessive as being greatly more than his Real and Personal Estate Amounted to of which your Appellant offered to make Affidavit but overruled by the said Honble the Mayors Court Your Appellant Sheweth that he was at much Pain and trouble in procuring two persons to be Bail in Ten Thousand Pounds each as directed by the said Honble the Mayors Court Your Appellant further Sheweth that deeming himself excessively injured by being thus obliged to give this excessive Bail as it appeared to your Appellant the holding him to such Bail went to the Merits of the Cause and as if your Appellant was really culpable Your Appellant did on the first day of February last past in the present Year Appeal from the Order Sentence and Decree of the said Honble the Mayors Court respecting the said Bail to your most Excellent Majesty in Council / the Honble the President and Council deeming themselves interested in the Event of the Cause refusing to proceed on the Merits of the Appeal made to them by your Appellant / Your Appellant Sheweth that the Clerk of the Court of Appeals did as Usual give Notice to the Honble the Mayors Court of your Appellants Appeal to your Most Excellent Majesty in Council being lodged upon reading this Notice the Attornies for the said George Lord Pigot did object to any Appeal being lodged

from the Order of the said Honble the Mayors Court on the fourteenth Day of January aforementioned this motion of the said George Lord Pigots Attornies was deferred taken into Consideration till some future Day as will more fully Appear by Referrence to the Order of that Day a Copy of which is hereunto annexed for the inspection of your Most Excellent Majesty in Council Your Appellant further Sheweth that this Motion of the said George Lord Pigots Attornies was deferred from Day to Day till after the Dispatch of the first Ship being the Lioness for Europe Your Appellant further Sheweth that the said Honble the Mayors Court did after sometime appoint Friday the Twenty Eighth Day of February last past to take the aforementioned motion into Consideration on which Day the said Honble the Mayors Court proceeded on the same and came on to the determination as Setforth in a Copy hereunto annexed of the Original Extract of their Minutes for the Inspection of your Most Excellent Majesty in Council to which your Appellant humbly prays Referrence Your Appellant further sheweth that having Demurred to the said Bill of Complaint of the said George Lord Pigot for charging your Appellant with abduction and Kidnapping and for divers other Causes contained in the said Bill of Complaint the said George Lord Pigot joined in Demurrer and the same was sett down to be Argued but previous to the taking the same into Consideration by the said Honble the Mayors Court Your Appellant had appealed to your Most Excellent Majesty in Council and transmitted the same under Seal of Office by the Ship Lioness then under Dispatch for Europe the Over Ruling of the Objections made by the said George Lord Pigots Attornies was also previous to the Demurrer being Argued Your Appellant therefore opposed the taking the Demurrer into Consideration whilst the Appeal to your most Excellent Majesty in Council was undetermined Your Appellant being of opinion that no further Proceedings could be had in the Cause before the said Honble the Mayors Court whilst such said Appeal was in being Your Appellant

declined

diclined entring into the Merits of the Demurrer notwithstanding which the said Honble the Mayors Court did on Tuesday the Eleventh day of this Instant March proceed to take into Consideration the Demurrer of your Appellant and Over ruled the same because the said Honble the Mayors Court were of Opinion it was sufficient to Bar the Action of the said George Lord Pigot as will more fully appear by a Copy of such Order hereunto annexed for the inspection of your Most Excellent Majesty in Council to which your Appellant most humbly prays Reference Your Appellant further Sheweth that the said Honble the Mayors Court had mistook the Merits of your Appellants Demurrer for it never was meant or understood by your Appellant that the Demurrer went as a Bar to the Complainants Action but to the Scandal and illiberal reflections made use of by the said George Lord Pigot in his Bill of Complaint against your Appellant under this Error of Judgment the said Honble the Mayors Court over ruled Your appellants Demurrer and Ordered your Appellant to Answer in Seven Days after this Order was pronounced in default thereof Judgment would be given for the said George Lord Pigot as appears by the said Copy of the Order hereunto annexed, Your Appellant upon considering the Merits of this Order and the Error of Judgment and also having considered how far the Parties might be Justified in any further Proceedings before the said Honble the Mayors Court whilst there was an Appeal to Your Most Excellent Majesty in Council Your Appellant did find upon due Consideration himself aggrieved not only from the Apparent irregularity of the Proceedings before the said Honble the Mayors Court and also from the Error in Judgment but also that your Appellant should be under the Necessity of giving an Answer to the said Bill of Complaint of the said George Lord Pigot Your Appellant being firmly of Opinion that in Justice to himself he ought to Appeal to your Most Excellent Majesty

Council for Relief against the Order of the said Honble the Mayors Court passed the aforementioned Eleventh day of March in the Present Year of our Lord One Thousand Seven hundred and Seventy Seven which your Appellant now Appeals from to your Most Excellent Majesty in Council Because your Appellant is of Opinion that no Motion Sentence Order or Decree in the Cause of the said George Lord Pigot against your Appellant ought to have been made before the said Honble the Mayors Court after an Appeal had been lodged to your Most Excellent Majesty in Council from any Order Sentence or Decree made in this Cause and that an Obedience to any such Order Sentence or Decree by your Appellant would have been the Reversal of your Appellants Appeal under date the first day of February One Thousand Seven hundred and Seventy Seven Your Appellant being also of Opinion that the proceedings in this Cause should have Stop and laid dormant untill your most Excellent Majestys determination in Council was known as this Appeal of the said First day of February Appeared to your Appellant in the Nature of an Injunction to stay any further proceedings in the Cause before the said Honble the Mayors Court and for another Reason why your Appellant should Appeal from the said Order of the said Honble the Mayors Court under date the Eleventh of this instant March it Appears from the said Order Sentence or Decree that the said Honble the Mayors Court have been Erroneous in their Judgement by Supposing Your Appellant meant to Demur as a Bar to the Action but only Demurred to Sundry Errors and Defects contained in the said Bill of Complaint of the said George Lord Pigot and as another cause for appealing Your Appellant Shews that being ordered to give in his Answer to the said Bill of Complaint by the Eighteenth of this instant March, that such Order Your Appellant is humbly of Opinion cannot hold good because of the Defect in the Error of Judgment which your Appellant now

Appeals from to your Most Excellent Majesty in Council and because of the Irregularity in the proceeding to make any motion Order Sentence or Decree before the said Honble the Mayors Court whilst an Appeal to your most Excellent Majesty in Council is depending for these and many other Reasons and because your Appellant is injured from such said Order Sentence or Decree of the said Honble the Mayors Court under date as aforementioned Your Appellant does Appeal to your most Excellent Majesty in Council and more particularly so as your Appellant has under date the fourteenth of this instant March Appealed from such said Order Sentence or Decree to the Honble the President and Council now Sitting as the Government of Fort Saint George and its Districts who have thought proper to decline giving their determination on the Merits of your Appellants Appeal to them as deeming themselves interested in the Event of the Cause as will more fully appear by a Copy of such their Resolutions hereunto annexed for the inspection of your Most Excellent Majesty in Council to which your Appellant humbly prays your Most Excellent Majesty in Council to Refer

May it please Your Most Excellent Majesty

that as your Appellant is in his opinion greatly injured from the said Order Sentence or Decree of the said Honble the Mayors Court under date the aforementioned Eleventh Day of this instant March for the reasons herein Assigned and for many other reasons Appearing to your Most Excellent Majesty in Council Your Appellant humbly prays that the said Sentence Order or Decree of the said Honble the Mayors Court may be reversed and Set a Side and that all and every the Proceedings had made and done may be Stopped and Over ruled untill your most Excellent Majestys opinion in Council is known upon the Appeal of your Appellant under date the said First day of February last past

and that the said George Lord Pigot may pay all Costs and that your Appellant may have such other and further Relief in the Premises as to your Most Excellent Majesty in Council shall seem Meet

And Your Appellant as in duty
bound Shall Ever Pray

Chas. Bromley } Attys. Appellt
Jno. Sykes }

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 4th Day of Febry. Anno Domini 1777

Present

Andw. Majendie Esqr. Mayor
George Smith Alexr. Brodie
and Benjan. Roebuck Aldermen

George Lord Pigot
vers
James Edingtoun

Letter from the Clerk to the Court of Appeals Read Setting forth that the Attornies for the Defendant had delivered in a Petition of Appeal from an Order made in this Cause on the Fourteenth day of January last as also that they had on the 25th day of January in Consequence of a Resolution made by the Court of Appeals in this Cause a Copy of which is inclosed lodged an Appeal to the Kings most Excellent Majesty in Council which Resolution is to the following Purport That the Members of the Court of Appeals think it their Duty to declare that in their Capacity of Members of this Government for Reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents issue the Orders by which the Complainants Person was Arrested and put under Confinement and that the

Defendant

the Defendant for the following Reasons because an Appeal on the Order for Bail was made to the King in Council as ℘ Notice given in this Court and therefore the Attornies are humbly of Opinion that their Client if the Appeal is allowed and the Order as to the Bail is over ruled is no longer before the Court as there is no Appearance but where Special or Common Bail is filed The Court having duly considered the same are of opinion as the Merits of the Demurrer and Joinder cannot be effected by the Appeals made from the Order of this Court of the 14th of January last, that the same ought to be Argued and it is therefore Ordered that they do come on to be heard on Tuesday next when a full Court is ordered to be Summoned

A true Extract
James Taylor
Regr.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th Day of March Anno Domini 1777

Present

Andw. Majendie Esqr. Mayor
John Turing and James Call
Aldermen

George Lord Pigot
vers
James Edingtoun

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

The Demurrer and Joinder coming on to be Argued and Determined this Day in the Presence of the Attornies on both sides on Reading the Complainants Bill with an Affidavit annexed The Demurrer the Joinder on Hearing the Pleadings made use of by the Attornies for the Complainant the Attornies for the Defendant declining pleading for the reasons already Assigned on the Minutes and the Court having had due Consideration thereon are of opinion that the Pleas made use of by the Defendant in his Demurrer are insufficient to Bar the present Action This Court doth therefore think fit to order and doth accordingly Order that the Demurrer be thrown out with Costs and that the Defendant be put upon his Answer.

Day is given the Defendant till the 18th Instant to Answer the Complainants Bill in default of which Judgment will be given for the Complainant

A true Extract
James Taylor
Regr.

Court of Appeals at Madraspatnam } Friday the 14th March 1777

The Attorneys of James Edingtoun Esqr. who is Defendant in an Action Commenced before the Honble the Mayors Court by George Lord Pigot deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 11th Day of March Anno Domini 1777 which they pray leave to file

As it appears to this Court that the Suit instituted in the Mayors Court by the said George Lord Pigot against the said James Edingtoun is founded on an action for Assault and false Imprisonment the Members of this Court think it their duty to declare that in their Capacity of Members of the Government for reasons which appeared good and Sufficient to them they did on behalf of the East India Company their Constituents iſsue the Orders by which the said George Lord Pigots Person was arrested and put under Confinement and that the said James Edingtoun was Acting in Execution of their Orders so given This Appearing to be the Ground of the Present Action The Members of the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further proceſs be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

P Curo
Chas. Oakeley Clk

(Attested to be true Copies from the Extracts of Minutes of the Courts

Chas. Bromley
Jno. Sykes
Attys. Appellant

Between

In the Court of Appeals

Between Claud Ruſsell Esqr
and Colonel James Stuart

To the Honorable George Stratton Esqr
President and Governor of Fort St. George &ca Council

The Humble Petition of Appeal
of James Stuart Esqr. Colonel &
Second in Command of the Troops
in the Service of the Honorable the
United English East India Company
on the Coast of Cormandell

Sheweth

Fd the 25 Jany 1777 Chas Oakeley Clk

That the abovesaid Claud Ruſsell did on the Fourteenth January in the present Year of our Lord One Thousand Seven hundred and Seventy Seven file a Bill of Complaint in the Honorable the Mayors Court of Madraspatnam against your Petitioner for the Sum of Forty thousand Pounds for Damages which he said he had Sustained by the means of your Petitioner Your Petitioner further Sheweth that the said Claud Ruſsell did at the same time make and file an Affidavit Setting forth some particulars and also that he had been Informed and verily believed that your Petitioner was immediately about to Depart from the Jurisdiction of the said Honorable the Mayors Court whereby he would be injured and Sustained great Damages your Petitioner further Sheweth that upon this Poſsitive Affidavit of the immediate Departure of your Petitioner and on the Prayer of the said Claud Ruſsells Attorneys for a Summons returnable immediately and Warrant of Arrest Your Petitioner was under the Neceſsity of Appearing upon whose Appearance the said Claud Ruſsells Attorneys Prayed Bail which was left to the Determination of the said Honorable the Mayors Court who Ordered your Petitioner to file Bail for the Sum of Four Thousand Pounds your Petitioners Attorney thereupon Prayed till the next Court Day being the Twenty first of this Instant January to put in Bail which was Denied an the Court allowed only till One of the Clock on the next Day of the filing of the Bill of Complaint to file Bail or in Default thereof that a Warrant of Arrest do iſsue — the which your Petitioner was obliged to Comply with by giving Bail within the time prescribed Your Petitioner being then under the Neceſsity of Conforming to such Order Sentence or Decree of the said Honorable the Mayors Court was irregular in holding your Petitioner to Special Bail when from the Appearance of the Affidavit as to the matter of Fact as also the Particulars Setforth in the Bill of Complaint that your Petitioner Acted as under Orders of his Superiors and the Cause of Restraining the said Claud Ruſsell was for the Safety of the Publick Peace and for the preservation of the Lives of his Majestys Subjects Your Petitioner therefore Prays that as it Appears the said Claud Ruſsell has no Cause of Action wherein he can hold your Petitioner to Special Bail that the said Order Decree and Sentence of the said Honorable the Mayr. Court a Copy whereof is hereto annexed for the Inspection of this Honble Court of Appeals may be Overruled and that your Petitioner may be allowed to file common Bail to the Action only — and that the said Claud Ruſsell may Pay all Costs — And Your Petitioner as in Duty bound

Shall Ever Pray
Chas. Bromley } Attys for the
Jno. Sykes } Appellt

Extract from the Minutes of a Court Held at the Town Ha
on Tuesday the 14th day of January Anno Domini 1777

Present
Andrew Majendie Esquire Mayor
George Smith George Savage
John Turing James Call
George Proctor Eyles Irwin
Alexr. Brodie and Benjan. Roebuck
Aldermen

Claud Ruſsell
vers
James Stuart

The Attorneys for the Complainant pray lea to file a Bill of Complaint and an Affidavit sworn to in Court and Pray that a Summons Returnable Immediately and warrant of Arre may iſsue against the Defendants Body upon the said Affidavit — The Defendant appears by his Attorneys John Sykes and Charles Bromley — T Attorneys for the Complainant pray that the Defendant may give Bail — Th Attorneys for the Defendant Submit it to the Consideration of the Court whether their Client shall be obliged to give any and what Special Bail The Court having taken the same into Consideration do Order that the Defendant do give Bail for the Sum of £4000 — and that the same be marked on the Back of the Writ — The Attorneys for the Defenda Pray that they may be allowed till next Court day to put in Bail to which the Opposite Attorneys Object The Court having taken the same into Consideration it is Ordered that the Defendant be allowed till 1 oClock Tomorrow afternoon to file Bail or in Default thereof that a Warrant of Arrest do Iſsue Mr. Alderman Smith begs leave to Diſsent because it is contrary to the Established Practise of the Court the Attorneys for the Complainant not Consenting thereto The Attorneys for the Defendant pray till next Court day to plead or Demur — Ordered Accordingly

The Attorneys for the Defendant move the Court for their Opinion whether in Case the Complainant should Require to Bail to Justify themselves they must Swear that they are each of them worth the Sum of £4000 or if they must Swear that they are each of them worth double that Sum as is the Usual Practise The Court having taken the same into Consideration are of Opinion that in case the Complainant should Require the Bail to Justify themselves that they must each of them Swear they are worth the Sum for which the Defendant is Ordered to put in Bail Messrs. Alderman Smith Tunno and Brodie beg leave to Dissent. because it is Contrary to the Established Practise of the Court

A True Extract
James Taylor
Regr.

Chas. Bromley } Attys for the
Jno. Sykes } Appellt

Court of Appeals
at
Madraspatnam &c.

Saturday the 25th. January 1777

The Attorneys of James Stuart Esqr. who is Defendant in an Action commenced before the Honble the Mayors Court by Claude Russell deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the fourteenth Day of January Anno Domini 1777 which they pray leave to file

As it appears to this Court that the Suit instituted in the Mayors Court by the said Claud Russell against the said James

Sanction and Authority of the Members of this Court in their Capacity of Members of the Government the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

ꝑ Cur

Between Claud Russell Esquire
and Colonel James Stuart

To the Kings most Excellent Majesty in Council

The Humble Petition of Appeal of James Stuart Esquire Colonel and by Commission of the United English East India Company Second in Command of the Troops in the Service of the said Honble the United English East India Company on the Coast of Coromandell in the East Indies

Sheweth

Filed in My Office
the 1 Febry 1777
Chas. Oakeley
Clk

That the abovesaid Claud Russell did on the fourteenth day of this Instant January in the Year of our Lord One Thousand Seven hundred and Seventy Seven File a Bill of Complaint in the Hon the Mayors Court of Madraspatnam against your Appellant for the of Forty Thousand Pounds for Damages which he alledged he hath Sustained by the Means of your Appellant Your Appellant further sheweth that at the time of the filing of the said Bill of Complaint the said Claud Ruſsells did also make and file an Affidavit and after setting forth a Number of Particulars which he the said Clad Ruſsell alledged to be facts He the said Claud Ruſsell did Swear that he had been informed and verily believed that your Appellant was immediately about to Depart from the Jurisdiction of the said Honble the Mayors Court Your Petitioner further sheweth that upon the Affidavit of the immediate departure of your Petitioner and on the of the said Claud Ruſsells Attornies for a Summons returnable immediately and a Warrant of Arrest your Appellant was under the Neceſsity of Appearing upon whose Appearance the Attornies Court for the said Claud Ruſsell prayed Bail Your Appellants attornies objected and the same was left to the determination of the said Honble the Mayors Court who adjudged that your Appellant should give Bail in the Sum of Four Thousand Pounds Your Appellant not being apprized of the Intentions of the said Claud Ruſsell and consequently could not procure Bail in a short Space of Time Your Appellants Attornies did pray till the next Court day being the Twenty first of the Instant January in the same Month that the Bill of Complaint was filed in the Honble the Mayors Court / to put in Bail which your Appel sheweth was Overruled and Your Appellant ordered to give Bail in the Sum of Four Thousand Pounds till one Clock the Next day following being the Fifteenth of this Instant January which Order Decree and Sentence of a true Copy whereof is hereunto annexed marked A of the said Honble the Mayors Court Your Appellant was under the Neceſsity of obeying and accordingly did on the fifteenth Day of January

aforementioned enter into a Recognizance of Four Thousand Pounds which Your Appellant sheweth was exceſsive and Oppreſsive, because in the first Instance it appears both from the said Claud Ruſsells Bill of Complaint and his Affidavit that your Appellant was not the Chief in Command or that he acted as from himself but on the contrary it evidently appears from the said Claud Ruſsells own shewing that your Appellant acted under Orders and that by his conducting the said Claud Ruſsell to the Council Chamber where the Government were then presiding and Setting that there was a Superior Power from whence the Appellant derived his Authority in whose Presence every thing Paſsed as warranted in the Extracts of Minutes of Council hereunto annexed marked B an obedience thereto being indispensably Neceſsary and Expedient in your Appellant as an Officer &ca Soldier & Consistent with the Tenor of his Oath and the Nature of his Commiſsion and therefore certainly unjust in the said Claud Ruſsell to bring his Action in so exceſsive a Sum as also oppreſsive in the said Honble the Mayors Court to oblige your Appellant to find Bail for so large a Sum as Four Thousand Pounds when the Bill of Complaint specially recites in some parts that your Appellant acted only from Authority and that it does appear from the said Claud Ruſsells own shewing that he was creating a Disturbance among the Military upon the Public Parade exciting Mutiny and therefore neceſsary to Prevent bad Consequences to the Public Peace that the said Claud Ruſsell should be desired to desist and return to his place of abode which was done by his own shewing in the Bill of Complaint but his the said Claud Ruſsell persisting to Excite disturbances on the Parade and refusing to go away it became the Duty of the Appellant to carry the said Claud Ruſsell before the Honble George Strattan &ca Council then setting and presiding as the legal Representatives of the said United English East India Company for to account for the Outrage he the said Claud Ruſsell had committed under frivolous Pretences all of which the said Honble the Mayors Court appear to have omitted to take into Consideration and did as soon as the Bill was read which was done immediately on the filing to grant the Prayer of the said Claud Ruſsell without any Day being aſsigned for your Appellant to shew Cause why Bail should not be filed which plainly points out Your Appellant to be the Person (who only acted under Orders) who should Suffer and in another instance it appears how greatly injured your Appellant is by the said Honble the Mayors Court holding him to Bail in so exceſsive a Sum as Four Thousand Pounds upon a Suppositious Allegation of the said Claud Ruſsell whose Cause can only be Supported by Opinion

Your Appellant further Sheweth that the said Honble the Mayors Court ought at the time of your Appellants appearance to have carried in their Mind the Declarations of Supreme Council of Calcutta and controlling Power in India it being the Buſineſs of the said Honble the Mayors Court in your Appellants Opinion to have paid that attention to the publick Declaration of that Superior Authority that has avowed the Act and Deed of the Majority of the Council of Fort St. George and ye Suspension of the said Claud Ruſsell from his Seat at the Board as will more fully appear by a Copy of such Declaration hereunto annexed marked C, such Declaration of the controlling Power in India being the Honble Warren Hastings Esquire &ca Supreme Council in India and which is part of the Law under which the British Subjects of your Most Excellent Majesty in the East Indies is to be governed the said Declaration of the said Governor General &ca Supreme Council of Calcutta should have been Considered by the said Honble the Mayors Court and instigated their Opinions by leaving your Appellant to answer the said Bill of Complaint upon his filing Common Bail at his Appearance for all which Reasons Your Appellant appeals to your Most Excellent Majesty in Council from the Order Sentence or Decree of the said Honble the Mayors Court made and paſsed the said Fourteenth Day of January in this present Year of Our Lord One Thousand Seven hundred and Seventy Seven for the following Reasons —

First. Because Your Appellant did on the Twenty fifth day of this Instant January File his Petition of Appeal to the Honble George Stratton Esqr. &ca Council as a Court of Appeal which Petition they did take into Consideration and came to the Determination hereunto annexed (marked **D**) your Appell having thus set forth to your Most Excellent Majesty the Reas of the said Honble George Stratton Esquire &ca Council for not determining on the Merits of your Appellants Appea to them Your Appellant pursuant to the Charactor granted by your Most Excellent Majesty to the Honble United English East India Company does appeal from the said Order Sentence or Decree of the said Honble the Mayors Court as aforementioned.—

Secondly Because it Appears by an Extract of a General Letter from the Honble the Court of Directors to the Supreme Council at Calcutta (a Copy of which is hereunto annexed Marked **E**) that a Majority of Council shall be the Government of their Affairs and that to such Orders as they the said Majority shall Issue the same are directed to be implicitly obeyed by every Servant Civil and Military" Evidently pointing the legal Representat of the said United Company and further it appearing from what has been beforementioned by exhibiting the Declaration of the said Warren Hastings Esquire and Supreme Council that your Appellant stands justified in his obedience to the Orders of the Majority of Council in his Conduct towards the said Claud Ruſsell though unjustly by him set forth in his

Bill of Complaint and which your Appellant will make appear in due time which approval of the said Honble Warren Hastings Esquire and Supreme Council ought to have been the line for the Judgment of the said Honble the Mayors Court in your Appellants humble Opinion.

Thirdly Because it must appear Evident to the said Honble the Mayors Court that your Appellant did Act under Order at the time the said Claud Russell says he was seized on which appears to have been done only for the Preservation of the Publick Welfare and that at the time the said Honble the Mayors Court did Sitt to determine the Quantum of the Board they knew or ought to have known such Order of the aforementioned Majority of Council had been approved by the said Honble Warren Hastings Esquire &ca Supreme Council the controlling Power in India constituted and Appointed by your Majesty in Parliament assembled and by the Honble George Stratton Esquire and his Council openly and publickly notified and declared to be an Act of Government which ought to have been taken into Consideration and if taken into Consideration Your Appellant is humbly of Opinion that there was no part of the said Bill of Complaint of the said Claud Russell that contained any colourable ground to hold your Appellant to special Bail and therefore the said Honble the Mayors Court ought to have admitted Your Appellant to have appeared on his filing common Bail to the Action of the said Claud Russell the holding of your Appellant to special Bail and the same being so excessive that your Appellant for the many reasons before Setforth is extremely injured nor can be able to make any Defence untill the said Order Sentence or Decree of the said Honble the Mayors Court is over ruled and your Appellant permitted to File his appearance upon Common Bail

Your Appellant being of Opinion that as he now is and was at the time of the filing of the said Bill of Complaint a Member of the Council Board of Fort St. George sitting and presiding there in all Civil and Military Matters that concern the Affairs of the said United Company at Fort St. George and its Districts and having So a Seat at the Council Board Your Appellant is vested by the Charter of your Most Excellent Majesty granted to the said Honble the United English East India Company with the Power and Authority as one of the Judges of Appeal from the Orders Sentences and Decrees of the said Honble the Mayors Court and thereby priviledged from any Arrest (Treason and Felony excepted) which your Appellant Pleads and which the said Honble the Mayors Court ought to noticed they having by many Acts and Deeds Acknowledge the said Majority of Council as a Court of Appeals particularly in the instance of receiving a Mayor and two Aldermen accepting of Notices that appeals were lodged and Submitting to Original Papers being transmitted to the said Majority as the Court of Appeals —

Your Appellant therefore prays Your Most Excellent Majesty in Council to reverse and set aside the said Order Sentence or Decree of the said Honble the Mayors Court and that your Appellant be at liberty to File his Appearance upon Common Bail and such other relief in the Premises as to your Most Excellent Majesty in Council shall seem Meet and that the said Claud Russell may pay all Costs of this Application to your Most Excellent Majesty in Council as also the Costs of Appeal to the Hon'ble George Stratton Esquire and Council and the Costs concerned in the Hon'ble the Mayor's Court at Madraspatnam

And Your Appellant as in duty bound
Shall ever Pray
Chas. Bramley } Att.ys for
Jno. Sykes } the Appellant

A

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 14th day of January Anno Domini 1771

Present

Andrew Majendie Esquire Mayor
George Smith George Savage
John Turing James Call
George Proctor Eyles Irwin
Alexr. Brodie and Benjan. Roebuck
Aldermen

Claud Russell
vers
James Stuart

The Attornies for the Complainant pray leave

to file a Bill of Complaint and an Affidavit Sworn to in Court and pray that a Summons returnable immediately and Warrant of Arrest may issue against the Defendants Body upon the said Affidavit The Defendant appears by his Attornies John Sykes and Charles Bramley The Attornies for the Complainant pray that the Defendant may give Bail. The Attornies for the Defendant Submit it to the Consideration of the Court whether their Client shall be obliged to give any and what Special Bail. The Court having taken the same into Consideration do Order that the Defendant do give Bail for the Sum of £4000... and that the same be marked on the back of the Writ. The Attorneys for the Defendant pray that they may be allowed till next Court day to put in Bail to which the said Opposite Attornies object– The Court having taken the same into Consideration it is ordered that the Defendant be allowed till 1 o'Clock Tomorrow afternoon to file Bail or in default thereof that a Warrant of Arrest do issue. Mr. Alderman Smith begs leave to dissent because it is contrary to the established Practise of the Court– The Attornies for the Complainant not consenting thereto The Attornies for the Defendant pray till next Court day to plead or Demur ordered accordingly

The Attornies for the Defendant move the Court for their Opinion whether incase the Complainant should require the Bail to Justify themselves they must Swear that they are each of them Worth the Sum of £4000 or if they must Swear that they are each of them worth double that Sum as is the usual Practise, The Court having taken the same into Consideration are of Opinion that incase the Compt. should require the Bail to Justify themselves that they must each of them Swear they are worth the Sum for which the Defendant is ordered to put in Bail– Messrs. Aldermen Smith Turing Irwin and Brodie beg leave to Dissent because it is contrary to the established Practise of the Court

A True Extract
James Taylor

(B)

Extract of Minutes of Consultation

24th August 1776.

Colonel Stuart represents to the Board that when he went down from the Council Chamber he found Mr. Claud Ruſsell at the Main Guard then under Arms and inciting the Troops and others to make resistance to Government that attempts were made to bring him by fair means before the Council who he thought were his proper Judges that being apprehensive of the Consequences he the Colonel used his Endeavours to bring him before the Council which Mr. Ruſsell did his utmost to prevent — Colonel Stuart further represents that he was so much exhausted with fatigue on this occasion that it was not in his Power to state so much as he has said without a Considerable pause and as he wished to say all that he had to say before Mr. Ruſsell he has taken the Opportunity of doing it in his Presence — The Colonel Adds that he has a Sincere Esteem for Mr. Ruſsell personally but that a Sense of his Duty must supersede every other Consideration —

Mr. Ruſsell then addreſses the Board saying he knows not by what Authority he is brought here nor by what Authority We Act To which the Board Reply that it is here convened by the Majority of the Council constituting the only legal Government for Affairs of the East India Company on this Coast and put the following Question to him through the President Mr. Ruſsell Do you Acknowledge the Authority of the Board here convened at this present time.? —

Answer I do not

The President then informed Mr. Ruſsell that he had a Letter to read to him but his refusing to hear it the President by desire of the P

Service untill the Pleasure of the Company shall be known —

Mr. Ruſsell then asked if he was a Prisoner and being answered in the Negative he withdrew —

A true Extract

R. J. Sulivan

Secry.

(C)

The Honble George Stratton Esqr. President & ca. Council at Fort St. George

Gentlemen

1. We have received your Letter of the 23d August by the Shrewsbury and we have also received a Letter from the Right Honble Lord Pigot dated 29th August by the Triton

2. Having maturely considered the Subject of these Letters we proceed immediately to acquaint you with our Determination upon them —

3. The Rights and Powers of the Governor and Council at Fort St. George being by the Original Constitution vested in the Majority of the Members who compose that Body and the intemperate Conduct of Lord Pigot your late President in forcibly excluding two of your Members from their Seats at the Board having been the cause of the unhappy Separation of the Majority of your Board from the Minority in this alarming and Dangerous Situation of your

Government we think it incumbent on us to declare that we acknowledge the Title and Authority which we understand you have been thus compelled to assume in consequence whereof we have resolved to support you in the Government by all the means which you may require from us and we have it in our Power to Grant in Virtue of our General Instructions to afford our Aid and Protection to all the Presidencies of the Company in India —

4 (Although you have not yet notified to us that you have assumed the Administration of the Presidency of Fort St. George nor informed us of all the Circumstances which produced that Event Yet we are too well apprized of the series of Transactions which led to it to Entertain a Doubt with respect to the Conduct we ought to Pursue on this occasion and the Crisis is too Urgent and alarming to admit of our waiting to enter into a More Minute investigation of all the Facts and proceedings which have reduced the Government of Fort St. George to its present Situation and us to the necessity of deciding upon it It is Sufficient for us to know that in Supporting that part of a divided Administration which is formed by a Majority of its Member We Support the legal and Constitutional Government

(Signed)

Fort William
the 10th Sept. 1776
Ex. J. L. A.

Warren Hastings
J. Clavering
Richd Barwell
P. Francis

Court of

/D/

Court of Appeals
at
Madraspatnam } ss Saturday the 25th January 1777

The Attornies of James Stuart Esqr. who is Defendant in an Action commenced before the Honble the Mayors Court by Claud Russell deliver in a Petition of Appeal from an interlocutory order of the said Court passed in this Cause on Tuesday the fourteenth day of January Anno Domini 1777 which they pray leave to file —

As it appears to this Court that the Suit instituted in the Mayors Court by the said Claud Russell against the said James Stuart is founded on an Action in which the said James Stuart had the Sanction and Authority of the Members of this Court in their Capacity of Members of the Government the Court conceive from the Petition of Appeal now delivered in that they may be interested in the Event of the Suit.

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

Exd

Chas. Oakeley Clk. of App.

General

{E}

General Letter ꝑ Lioneſs Febry 2d 1776 from the Court of Directors

The Importance of the Question whether the Governor General is legally empowered to diſsolve the Council at Pleasure contrary to the declared Sense of the Majority is so great that we have Judged it proper to state the case to some of the most eminent Lawyers in the Kingdom and to have their Opinion before we finally decide thereon which opinion we have not yet been able to obtain but how=ever the Question may be determined respecting the Legality of the Power We are clearly of Opinion that such a Power which may be attended with the most fatal Consequence should not be exercised by our Governor General or by any President of our Council and therefore to prevent further Inconveniences and totally to ſuppreſs all Claims of this kind in future it is our expreſs Command that no Meeting of our Council (the Members having been duly summo=ned) shall be diſsolved or Adjourned by the Authority of our Governor General or any President for the time being without the Consent of a Majority of the Members present at every such Meeting of our said Council.

And if it shall hereafter happen that the Governor General or any Member or Members of Council shall think proper to withdraw from the Council Board and leave a Majority of the Council sitting and if such Majority shall be of Opinion that it may be neceſsary for the good of our Service to proceed to the Dispatch of Publick Buſineſs — We hereby direct that they continue to set so long (and to Adjourn from time to time) as they shall think

Resolutions and proceedings shall be recorded in the same Book and form as could have been the case if no Member had withdrawn

It is our further Command that all Orders which shall be iſsued by such Majority so aſsembled in Council as aforesaid to any of our Servants in Bengal Civil or Military be implicitly obeyed in the same manner to all Intents and purposes as tho' such Orders had been Authorized and signed by all the Members of our said Council

Chas. Bromley } Attys for the
Jno. Sykes } Appellant

In the Court of Appeals

To the Honorable George Stratton Esqr.
President and Governor of Fort St. George &ca. Council

Between Claud Ruſsell Esqr. Complainant
and James Eidingtoun Esqr. Adjutant General
of the Troops of the United Company of
Merchants of England Trading to the
East Indies on the Coast of Cormandell
Defendant

The Humble Petition and Appeal of the said James Eidingtoun

Sheweth

That the abovenamed Claud Ruſsell did on the
Filed the 14th March 1777 Chas. Oakeley Clk Twenty first day of January in the Present Year of our Lord One Thousand Seven hundred and Seventy Seven File his Bill of Complaint in the Honorable the Mayors Court at Madraspatnam for the Sum of

Ten Thousand Pounds As the Amount of Damages which he the said Claud Russell Unjustly alledged he had Sustained by the means of your Petitioner To which said Bill of Complaint and on the motion of the Attornies for the said Claud Russell for a Summons returnable Immediately and a Warrant of Arrest Your Petitioner was under the Necessity of appearing upon whose Appearance The said Attornies for the said Claud Russell did pray Bail which the said Honble the Mayors Court Directed should be given and ordered your Petitioner to enter Bail for One Thousand Pounds altho there was no Affidavit made of your Petitioner being about to Depart from the Jurisdiction of the said Mayors Court and altho your Petitioner did by his Attornies Object thereto which Bail your Petitioner was obliged to give to Avoid being Arrested and Imprisoned Your Petitioner further Sheweth that finding himself so Unjustly Prosecuted and held to Bail he did Demur to the said Bill of Complaint as the said Bill in case the Allegations therein contained were true which your Petitioner did in no Sort Admit contains not any matter of Equity whereon the said Court could Ground a Decree or give the said Claud Russell any relief or Assistance as against your Petitioner wherefore and for Divers other Errors and Imperfections in the said Bill appearing your Petitioner did Demur in Law thereunto and did humbly Demand the Judgment of the said Honble Court whether he should be Compelled to make any further or other Answer to the said Bill and humbly prayed to be thence Dismissed with his reasonable Costs in this behalf most Wrongfully Sustained To which said Demurrer and Joinder were Set down to be Argued and Coming to be Argued by and before the said Mayors Court on Tuesday the Eleventh day of March in the present Year of our Lord One Thousand Seven hundred and Seventy Seven The said Court were pleased to Over rule the said Demurrer with Costs and Order your

Petitioner to put in an Answer to the said Bill of Complaint in One Week Alledging that the Pleas made use of in the said Demurrer were Insufficient to Bar the said Action Whereas Your Petitioner Demurred on the Equity of the Case and the Errors and Imperfections of the said Bill a Copy of which said Order Sentence or Decree is hereunto annexed for the Inspection of this Honorable Court and which your Petitioner prays may be admitted as part of this his Petition and Appeal

From which said Order Sentence or Decree your Petitioner doth Appeal to this Honorable Court as he conceives himself aggrieved thereby for the Reasons Set forth in his said Demurrer nor could your Petitioner at any Rate put in a proper Answer to the said Bill of Complaint in the time prescribed by the said Honble Court in the said Order Sentence or Decree

Your Petitioner therefore most humbly Prays this Honorable Court of Appeals to Order and direct the said Order of the said Honorable the Mayors Court to be Over ruled and the said Bill of Complaint to be Dismissed with Costs both in the said Mayors Court and also in this Honorable Court of Appeals and Your Petitioner doth Lastly Pray such further and other General Relief in all and Singular the Premises as to this Honble Court shall seem Meet

And Your Petitioner as in Duty bound
Shall Ever Pray &c

Chas. Bromley Attus for the
Jno. Sykes } Appellant

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th day of March Anno Domini 1777

Present

Andrew Majendie Esqr Mayor
John Turing and James Call
Aldermen

Claud Russell
vers
James Eidingtoun

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

The Demurrer and Joinder Coming on to be Argued and Determined this Day in the Presence of Attornies on both Sides on Reading the Complainants Bill and the Affidavit annexed The Demurrer, The Joinder on Hearing the Pleadings made use of by the Attornies and mature Consideration had thereon The Court are of Opinion that the Reasons made use of by the Defendant in his Demurrer are Insufficient to Bar the present Action This Court doth therefore think fit to Order and doth accordingly Order that the Demurrer be thrown out with Costs and that the Defendant be put upon his Answer

Day is given the Defendant till the 18th Instant to Answer the Complainants Bill in default of which Judgment will be given for Complainant

Attested to be true copy
Chas. Bromley
Jno. Sykes
Attys for the Appellt.

A true Extract
James Taylor
Regr

Court of Appeals at Madraspatnam } ss Friday the 14th March 1777

The Attorneys of James Eidingtoun Esqr who is Defendant in an Action Commenced before The Honorable the Mayors Court by Claud Russell Esqr deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 11th Day of March Anno Domini 1777 which they pray leave to file —

As it appears to this Court that the Suit intituled in the Mayors Court by the said Claud Russell against the said James Eidingtoun is founded on an action in which the said James Eidingtoun had the Sanction and Authority of the Members of this Court in their Capacity of Members of the Government — The Court conceive from the Petition of Appeal now Delivered in that they may be interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

Per Cur

To

Between Claud Ruſsell Esquire
and James Eidingtoun Esquire Adjutant General

To the Kings most Excellent Majesty in Council

The Humble Petition and Appeal
James Eidingtoun Esq.rs Adjutant General of
The Troops of the United Company of
Merchants of England trading to the
East Indies Employed under the Presidency
of Fort St. George in the East Indies

Sheweth

Filed 17th March
1777
Chas. Oakeley

That the abovenamed Claud Ruſsell did on the Twenty first day of January in the Present Year of Our Lord One Thousand Seven Hundred and Seventy Seven Exhibit a Bill of Complaint in the Honorable the Mayors Court at Madraspatnam against your Appellant for the Sum of Ten Thousand Pounds as the Amount of Damages which he Setforth he had Sustained by the means of your Appellant The said Claud Ruſsell did also file an Affidavit of some Circumstances on which he pretends he has cause of Action But doth not Swear that your Appellant was about to Depart from the Jurisdiction of the said Honble the Mayors Court Neverthleſs the Attornies of the said Claud Ruſsell did upon the said Bill and Affidavit being Filed Pray a Summons returnable Immediately and a Warrant of Arrest And Notwithstanding it did not appear that your Appellant was about to Depart from the Jurisdiction of the said Mayors Court Yet the said Mayors Court thought

Attornies Whereupon your Appellant was under the Immediate and Indispensible Neceſsity of Appearing to the said Suit by his Attornies in the said Court in Order to Save his Person from being Arrested and to Prevent other Consequences Arising that might be Detrimental to the Publick Welfare as also in due Submiſsion to Your most Excellent Majestys Authority Your Appellant further Sheweth that on his your Appellants Appearance by his said Attornies Bail was required to the said Action by the said Claude Ruſsells Attorneys To which your Appellants Attornies objected on Account of the Nature and Uncertainty of the said Action and also as it did not appear that your Appellant was about to Depart from the Jurisdiction of the said Mayors Court Notwithstanding which the said Mayors Court Ordered that your Appellant should be held to Special Bail and that each of your Appellants said Bail should be bound in the Sum of One Thousand Pounds to Answer One Thousand Pounds Bail so ordered by the said Court and indefault of Non Appearance to Answer One Thousand Pounds Bail so Ordered by the said Court and indefault of Non Appearance to answer to the Issue of the said Suit as will more fully and at large Appear by an Extract from the Minutes of the said Honble The Mayors Court hereunto annexed for the Inspection of Your Most Excellent Majesty in Council and which your Appellant humbly Prays may be Admitted as part of this his Petition and Appeal Your Appellant further Sheweth that the said Mayors Court having so as aforesaid Ordered him your Appellant to give Bail he was under the Neceſsity of Doing so to prevent his Person being Arrested as beforementioned Your Petitioner further Sheweth that finding himself so unjustly Prosecuted and held to Bail he did Demur to the said Bill of Complaint as the said Bill (in case the Allegations therein contained were true which your Appellant did in no Sort Admit) contains not any matter of Equity wherein the said Mayors Court could ground a Decree or give the said Claud Ruſsell any Relief or Aſsistance as against your Appellant wherefore and for divers other Errors and Imperfections in the said Bill Appearing your Appellant did Demu in Law thereunto and did humbly Demand the Judgment of the sai Mayors Court whether he should be compelled to make any further other Answer to the said Bill and humbly Prayed to be thence Dismiſsed with his Reasonable Costs in this behalf most wrongfully Sustained To which said Demurrer the said Claud Ruſsell did put a Joinder and the said Demurrer and Joinder were Set down to be Argued and Coming on to be Argued by and before the said May Court on Tuesday the Eleventh day of March in the present Year Our Lord One Thousand Seven hundred and Seventy Seven The said Court were pleased to Over rule the said Demurrer with Cost and Order your Appellant to put in an Answer to the said Bill Complaint in One Week Alledging that the Pleas made use of in the said Demurrer were Insufficient to Bar the said Action Whe Your Appellant Demurred on the Equity of the Case and the Erro and Imperfections of the said Bill a Copy of which said Order Sente or Decree is hereunto annexed for the Inspection of your most Excelle Majesty in Council and which your Appellant most humbly Prays ma be Admitted as part of this his Petition and Appeal

From which said Order Sentence or Decree the said Honorable the Mayors Court Your Appellant did Appeal to the President and Council of Fort St. George as a Court of Appeals who having Declared they considered themselves as Interested in the Event of the present Suit for the reasons contained in their Resolution thereon a Copy of which is also hereunto annexed for the Inspection of Your most Excelle Ma

Admitted as a further part of this his Petition and Appeal Your Appellant doth think proper to Appeal and doth accordingly Appeal To your most Excellent Majesty in Council

First..... Because the said Bill of Complaint so Exhibited by the said Claud Ruſsell against your Appellant is not agreeable to the form of Bills of Complaint Exhibited in the said Honorable the Mayors Court nor agreeable to the Nature and Constitution of the said Court as in every such Bill there should be a prayer for the Defendant or the Person Prosecuted to Answer on Oath which Answer so to be made on Oath is as good the Testimony of One Witneſs So that by your Appellant not being Called upon to Answer upon Oath he would was he to Answer the said Bill be deprived of part of his Evidence which is Contrary to the Rules of Your most Excellent Majestys High Court of Chancery as well as of the said Mayors Court

Secondly Because if the matters and things alledged in the said Bill of Complaint were true which your Appellant does not Admit it clearly appears by the said Claude Ruſsells own Shewing in his said Bill of Complaint that your Appellant was not the principal in the said Affair or the matters alledged in the said Bill of Complaint but that he was acting in his Station of an Officer who is obliged to Obey the Orders of his Superiors Your Appellant doth therefore humbly Conceive that no Action whatever can lay against him and that the said Claude Ruſsell cannot nor ought to maintain his said Action the same being Altogether Injurious and Oppreſsive to your Appellant

Wherefore and for divers other reasons as well as the Errors and Imperfections in the said Bill of Complaint Your Appellant doth appeal to your most Excellent Majesty in Council from the said Order Sentence or Decree of the said Mayors Court upon the

said

upon the said Demurrer and Joinder for the reason before assigned and also the Error of Judgment of the said Mayors Court and most humbly Pray that the said Order Sentence or Decree may be Over-ruled and the said Bill of Complaint Dismissed with Costs both in the said Mayors Court The said Court of Appeals and of this your Appellants Appeal To Your most Excellent Majesty in Council And Your Appellant doth Lastly pray such further and other General Relief in all and Singular the Premises as to Your most Excellent Majesty in Council may Seem Meet

And your Appellant as in Duty bound
Shall Ever Pray &c.
Chas. Bromley
Jno. Sykes } Attys. for the Appellt.

Filed 17
1777
Chal. C

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 21st Day of January Anno Domini 1777
Present
Andrew Majendie Esquire Mayor
John Turing and James Call
Aldermen

Claud Russell
-vsn-
James Eddingtoun

The Attorneys for the Complainant Pray leave to file a Bill of Complaint and an Affidavit Sworn to in Court and Pray that a Summons returnable Immediately and Warrant of Arrest may Issue against the Defendants Body upon the said Affidavit The Defendant appears by his Attorneys John Sykes and Charles Bromley The Attorneys for the Complainant Pray that the Defendant may give Bail to which the Attorneys for the Defendant Object as they are of Opinion that the matters contained in the Affidavit are not Sufficient to hold the Defendant to Special Bail The Court having taken the same into Consideration do Order that the Defendant do put in Bail for £1000.. and that the same be marked on the Back of the Writ

The Attorneys for the Defendant Pray till next Court Day to put in Bail to which the Opposite Attorneys Object The Court having taken the same into Consideration it is Ordered that the Defendant be allowed till Tuesday next to put in Bail or in default thereof that a Warrant of Arrest do Issue The Attorneys for the Defendant Pray that they may be allowed till next Court Day to plead or Demur Ordered Accordingly

A true Extract
James Taylor
Regr.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th day of March Anno Domini 1777
Present
Andrew Majendie Esquire Mayor
John Turing and James Call
Aldermen

Claude Russell
-vsn-
James Eddingtoun

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

The Demurrer and Joinder Coming on to be Argued and Determined this Day in the presence of the Attorneys on both Sides on reading the Complainants Bill with an Affidavit annexed The Demurrer The Joinder on hearing the Pleadings made use of by the Attornies and on due Consideration had thereon The Court are of opinion that the Pleas made use of by the Defendant in his Demurrer are Insufficient to Bar the present Action This Court doth therefore think fit to Order and doth accordingly Order that the Demurrer be thrown out with Costs and that the Defendant be put upon his Answer

Day is given the Defendant till the 18th Instant to Answer the Complainants Bill in default of which Judgment will be given for the Complainant

A true Extract

James Taylor

Regr.

Filed

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Chal

Court of Appeals
at
Madraspatnam } ss

Friday the 14th March 1777

The Attorneys of James Eidingtoun Esqr. who is Defendant in an Action Commenced before the Honble the Mayors Court by Claud Russell Esqr. deliver in a Petition of Appeal from an interlocutory Order of the said Court passed in this Cause on Tuesday the 11th day of March Anno Domini 1777 which they pray leave to file

As it appears to this Court that the Suit instituted in the Mayors Court by the said Claud Russell against the said James Eidingtoun is founded on an Action in which the said James Eidingtoun had the Sanction and Authority of the Members of this Court in their Capacity of Members of the Government The Court Conceive from the Petition of

This Court doth therefore think fit to Order that the said Petition be filed but that no further Process be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

Per

Chas. Oakeley Clerk

Attested to be true Copies

Chas. Bromley }
Jno. Sykes } Attys. Appellant

In the Court of Appeals

To the Honorable George Stratton Esqr.
President and Governor of Fort St. George &ca. Council

Between Claud Russell Esqr.
Complainant and Patrick Barclay Captain
in the Service of the United Company of
Merchants of England Trading to the
East Indies on the Coast of Commandel
Defendant

The Humble Petition and Appeal of the said Patrick Barclay

Sheweth

Filed the 14th March
1777
Chas. Oakeley
Clerk

That the abovenamed Claud Russell did on the Twenty first day of January in the present Year of our Lord One Thousand Seven hundred and Seventy Seven File his Bill of Complaint in the Honorable the Mayors Court at Madraspatnam for the Sum of Two Thousand Pounds as the Amount of Damages which he the said Claud Ruſsell Unjustly alledged he had Sustained by the means of your Petitioner To which said Bill of Complaint and on the Motion of the Attornies for the said Claud Ruſsell for a Summons returnable Immediately and a Warrant of Arrest your Petitioner was under the Neceſsity of appearing upon whose appearance the said Attornies for the said Claud Ruſsell did Pray Bail which the said Honble the Mayors Court directed should be given and Ordered your Petitioner to enter Bail for One Thousand Pounds altho' there was no Affidavit made of your Petitioner being about to Depart from the Jurisdiction of the said Mayors Court and altho your Petitioner did by his Attornies Object thereto Which Bail your Petitioner was obliged to give to Avoid being Arrested and Imprisoned Your Petitioner further Sheweth that finding himself so Unjustly prosecuted and held to Bail he did Demur to the said Bill of Complaint as the said Bill (in case the Allegations therein Contained were true Which your Petitioner did in no Sort Admit) contains not any Matter of Equity wherein the said Court could ground a Decree or give the said Claud Ruſsell any relief or Aſsistance as against your Petitioner wherefore and for Divers other Errors and Imperfections in the said Bill Appearing Your Petitioner did Demur in Law thereunto and did humbly demand the Judgment of the said Honorable Court whether he should be Compelled to make any further or other Answer to the said Bill and humbly Prayed to be thence Diſmiſsed with his reasonable Costs in that behalf and Wrongfully Sustained To which said Demurrer the said Claud Ruſsell did put in a Joinder and the said Demurrer and Joinder were Set down to be Argued and

Filed
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Cha

Eleventh Day of March in the Present of Year of our Lord One Thousand Seven hundred and Seventy Seven The said Court were pleased to Over rule the said Demurrer with Costs and Order your Petitioner to put in an Answer to the said Bill of Complaint in One Week Alledging that the Pleas made use of in the said Demurrer were Insufficient to Bar the said Action Whereas your Petitioner Demurred on the Equity of the Case and the Errors and Imperfections of the said Bill a Copy of which said Order Sentence or Decree is hereunto annexed for the Inspection of this Honble Court and which your Petitioner Prays may be Admitted as part of this his Petition and Appeal

From which said Order Sentence or Decree your Petitioner doth appeal to this Honorable Court as he conceives himself Aggrieved thereby for the Reasons Setforth in his said Demurrer Nor could your Petitioner at any rate put in a proper Answer to the said Bill of Complaint in the time prescribed by the said Honorable Court in the said Order Sentence or Decree

Your Petitioner therefore most humbly Prays this Honble Court of Appeals to Order and direct the said Order of the said Honble the Mayors Court to be Over ruled and the said Bill of Complaint to be Diſmiſsed with Costs both in the said Mayors Court and also in this Honorable Court of Appeals and your Petitioner doth Lastly Pray such further and other General Relief in all and Singular the Premises as to this Honble Court shall seem Meet and your Petitioner as in Duty bound shall Ever Pray &ca.

Chas. Bromley } Attys for the
Jno. Sykes } Appellant

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th day of March Anno Domini 1777

Present

Andrew Majendie Esqr. Mayor
John Turing and James Call
Aldermen

Claud Ruſsell
-vers-
Patrick Barclay

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

Filed
17
Cha

The Demurrer and Joinder Coming on to be Argued and Determined this Day in the Presence of the Attorneys on both Sides on Reading the Complainants Bill with an Affidavit annexed The Demurrer The Joinder on hearing the Pleadings made use of by the Attornies and on due Consideration had thereon the Court are of opinion that the Pleas made use of by the Defendant in his said Demurrer are insufficient to Bar the present Action. This Court doth therefore think fit to Order and Doth accordingly Order that the Demurrer be thrown out with Costs and that the Defendant be put upon his Answer Day is given the Defendant till the 18th Instant to Answer the Complainants Bill in default of which Judgment will be given for the Complainant

A true Extract
James Taylor
Regr.

Attested to be true Copy
Chas. Bromley
Jno. Sulivan } Attys. for the Appellant

Court of Appeals at Madraspatnam } Ss. Friday the 14th March 1777

The Attornies of Patrick Barclay Esqr. who is Defendant in an Action Commenced before the Honble the Mayors Court by Claude Ruſsell Esqre. deliver in a Petition of Appeal from an interlocutory Order of the said Court paſsed in this Cause on Tuesday the 11th day of March Anno Domini 1777 which they pray leave to file

As it appears to this Court that the Suit instituted in the Mayors Court by the said Claud Ruſsell against the said Patrick Barclay is founded on an Action in which the said Patrick Barclay had the Sanction and Authority of the Members of this Court in their Capacity of Members of the Government The Court Conceive from the Petition of Appeal now Delivered in that they may be Interested in the Event of the Suit

This Court doth therefore think fit to Order that the said Petition be filed but that no further proceſs be had thereon in this Court and they do further Order that the Attornies of the Appellant be furnished with a Copy of this Minute

J Hure

Between Claud Ruſsell Esq.
and Patrick Barclay Captain

To the Kings most Excellent Majesty in Council

The Humble Petition and
Appeal of Patrick Barclay Captain in
the Service of the Hon.ble United Company
of Merchants of England Trading to the
East Indies Employed under the Presidency
of Fort St. George in the East Indies

Sheweth

Filed the 17th March
1777
Chas. Oakeley
Clerk

That the abovenamed Claud Ruſsell did on the first day of January in the present Year of our Lord One Thousand Seven hundred and Seventy Seven Exhibit a Bill of Complaint in the Honorable the Mayors Court at Madraspatnam against your Appellant for the Sum of Two Thousand Pounds as the Amount of Damages which he Setforth he had Sustained by the means of your Appellant The said Claud Ruſsell did also file an Affidavit of some Circumstances on which he pretends he has Cause of Action But doth not Swear that your Appellant was about to Depart from the Jurisdiction of the said Hon.ble the Mayors Court Neverthele&s the Attornies of the said Claud Ruſsell did upon the said Bill and Affidavit being filed Pray a Summons Returnable Immediately and a Warrant of Arrest and Notwithstanding it did not Appear that your Appellant was about to Depart from the Jurisdiction of the said Mayors Court Yet the said Mayors Court thought proper to Comply with

the Prayer of the said Claud Ruſsell by his said Attornies whereupon your Appellant was under the Immediate and Indispensible Neceſsity of appearing to the said Suit by his Attornies in the said Court in Order to Save his person from being Arrested and to Prevent other Consequences arising that might be Detrimental to the Publick Welfare as also in due Submiſsion to Your most Excellent Majestys Authority Your Appellant further Sheweth that on his Your Appellants Appearance by his said Attorneys Bail was Required to the said Action by the said Claud Ruſsells Attorneys To which your Appellants Attornies Objected on account of the Nature and Uncertainty of the said Action and also as it did not appear that your Appellant was about to Depart from the Jurisdiction of the said Mayors Court Notwithstanding which the said Mayors Court Ordered that your Appellant should be held to Special Bail and that each of your Appellants said Bail should be bound in the Sum of One Thousand Pounds to Answer One Thousand Pounds Bail so Ordered by the said Court and in Default of non Appearance to Answer to the Iſsue of the said Suit as will more fully and at large Appear by an Extract from the Minutes of the said Hon.ble the Mayors Court hereunto annexed for the Inspection of Your most Excellent Majesty in Council and which Your Appellant humbly prays may be Admitted as part of this his Petition and Appeal— Your Appellant further Sheweth that the said Mayors Court having so as aforesaid Ordered him your Appellant to give Bail he was under the Neceſsity of doing so to prevent his Person being Arrested as beforementioned Your Appellant further Sheweth that finding himself so unjustly prosecuted and held to Bail he did Demur to the said Bill of Complaint as the said Bill (in case the Allegations therein Contained were true which your Appellant did in

do

no Sort Admit;' contains not any matter of Equity wherein the said Mayors Court could ground a Decree or give the said Claud Russell any Relief or Assistance as Against your Appellant wherefore and for divers other Errors and Imperfections in the said Bill appearing your Appellant did Demur in Law thereunto and did humbly Demand the Judgment of the said Mayors Court whether he should be Compelled to make any further or other Answer to the said Bill and humbly Prayed to be thence Dismissed with his Reasonable Costs in this behalf most wrongfully Sustained To which said Demurrer the said Claud Russell did put in a Joinder and the said Demurrer and Joinder were Set down to be Argued and coming on to be Argued by and before the said Mayors Court on Tuesday the Eleventh day of March in the present Year of Our Lord One Thousand Seven hundred and Seventy Seven The said Court were pleased to Over rule the said Demurrer with Costs and Order your Appellant to put in an Answer to the said Bill of Complaint in One Week Alledging that the Pleas made use of in the said Demurrer were Insufficient to Bar the said Action

Whereas Your Appellant Demurred on the Equity of the Case and the Errors and Imperfections of the said Bill a Copy of which said Order Sentence or Decree is hereunto annexed for the Inspection of your Most Excellent Majesty in Council and which Your Appellant most humbly Prays may be Admitted as part of this his Petition and Appeal

From which said Order Sentence or Decree of the said Honble the Mayors Court Your Appellant did Appeal to the President and Council of Fort St. George as a Court of Appeals who having Declared they considered themselves as Interested in the Event of this Present Suit for the reasons contained in their Resolution thereon a Copy of which is also hereunto annexed for the Inspection of your most Excellent M

in Council and which Your Appellant Prays may be Admitted as a further part of this his Petition and Appeal Your Appellant doth think proper to Appeal and doth Accordingly Appeal To Your most Excellent Majesty in Council

First Because the said Bill of Complaint so Exhibited by the said Claud Russell against your Appellant is not Agreeable to the form of Bills of Complaint Exhibited in the said Honble the Mayors Court Nor agreeable to the Nature and Constitution of the said Court as in every such Bill there should be a Prayer for the Defendant or the Person Prosecuted to Answer on Oath which Answer so to be made on Oath is as good the Testimony of One Witness So that by your Appellant not being Called upon to Answer upon Oath he would was not Answer the said Bill be Deprived of part of his Evidence which is Contrary to the Rules of Your most Excellent Majestys High Court of Chancery as well as of the said Mayors Court

Secondly Because if the matters and things alledged in the said Bill of Complaint were true which your Appellant does not admit it clearly appears by the said Claud Russells own Shewing in his said Bill of Complaint that your Appellant was not the Principal in the said Affair or the matters alledged in the said Bill of Complaint But that he was Acting in his Station of an Officer who is Obliged to Obey the Orders of his Superiors Your Appellant doth therefore humbly Conceive that no Action whatever can lay against him and that the said Claud Russell cannot nor Ought to maintain his said Action the same being altogether Injurious and Oppressive to your Appellant

Wherefore and for divers other Reasons as well as the Errors and Imperfections in the said Bill of Complaint Your Appellant doth Appeal to your most Excellent Majesty in Council from the said Order Sentence or Decree of the said Mayors Court upon the said Demurrer and Joinder for the reasons before aſsigned and also the Error of Judgment of the said Mayors Court and most humbly Prays that the Order Sentence or Decree may be Over-ruled and the said Bill of Complaint Diſmiſsed with Costs both in the said Mayors Court the said Court of Appeals and of this your Appellants Appeal To your most Excellent Majesty in Council and Your Appellant doth Lastly Pray such further and other General Relief in all and Singular the Premises as to Your most Excellent Majesty in Council may Seem Meet and Your Appellant as in Duty bound

Shall Ever Pray &c.

Chas. Bromley } Attys
Jno. Sykes } Appellt.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 21st Day of January Anno Domini 1777

Present

Andrew Majendie Esquire Mayor
John Turing and James Call
Aldermen

Claud Ruſsell
~~vers~~
Patrick Barclay

The Attorneys for the Complainant pray leave to file a Bill of Complaint and an Affidavit Sworn to in Court and Pray that a Summons returnable Immediately and Warrant of Arrest may iſsue against the Defendants Body upon the said Affidavit The Defendant appears by his Attorneys John Sykes and Charles Bromley The Attorneys for the Complainant Pray that the Defendant may give Bail to which the Attorneys for the Defendant Object as they are of Opinion that the matters Contained in the Affidavit are not Sufficient to hold the Defendant to Special Bail — The Court having taken the same into Consideration do Order that the Defendant do put in Bail for £1000 and that the same be marked on the Back of the Writ

The Attorneys for the Defendant Pray till next Court Day to put in Bail to which the Apposite Attorneys Object The Court having taken the same into Consideration it is Ordered that the Defendant be allowed till Tuesday next to put in Bail or in default thereof that a Warrant of Arrest do iſsue The Attorneys for the Defendant pray that they may be allowed till next Court day to Plead or Demur Ordered Accordingly

A True Extract
James Taylor
Regr.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 11th day of March Anno Domini 1777

Present

Andrew Majendie Esquire Mayor
John Turing and James Call
Aldermen

Claud Ruſsell
~~vers~~
Patrick Barclay

Bill with an Affidavit annexed Read
Demurrer Read
Joinder Read

The Demurrer and Joinder coming on to

Argued and Determined this Day in the Presence of the Attorneys on both Sides on Reading the Complainants Bill with an Affidavit annexed The Demurrer The Joinder on hearing the Pleadings made use of by the Attorneys and on due Consideration had thereon The Court are of Opinion that the Pleas made use of by the Defendant in his Demurr Insufficient to Bar the Present Action The Court doth therefore think fi Order and doth accordingly Order that the Demurrer be thrown out wi Costs and that the Defendant be put upon his Answer —

Day is given the Defendant till the 18th Instant to Answer the Complainants Bill in default of which Judgment will be given for Complainant

A True Extract

James Taylor

Regr.

Court of Appeals at Madraspatnam &c. Fryday the 14th March 1777

The Attorneys of Patrick Barclay Esqr. who is Defend an Action Commenced before the Honble the Mayors Court by Claud Russell Esqr. deliver in a Petition of Appeal from an Interlocutory Or of the said Court passed in this cause on Tuesday the 11th day of March Anno Domini 1777 which they pray leave to file —

As it Appears to this Court that this Suit instituted in the Court by the said Claud Russell against the said Patrick Barclay Sanction and Authority of the Members of this Court in their Capacity Members of the Government The Court Conceive from the Petition now Delivered in that they may be Interested in the Event of this

They

Petition be filed but that no further Process be had thereon in this Court and they do further Order that the Attorneys of the Appellant be furnished with a Copy of this Minute

Per Cur

Chas. Oakeley

Clk

Attested to be true Copies

Chas. Bromley

Jno. Sykes } Atty. Appts.

Between Claud Russell Esqr.
and Colonel James Stuart

In the Court of Appeals

To the Honble George Stratton Esqr.
President and Governor &c. Council of Fort St. George

The Humble Petition of Appeal of James Stuart Esqr. Colonel & Second in Command of the Troops in the Service of the Honble the United Company of Merchants of England Trading to the East Indies on the Coast of Coromandell

Sheweth

Filed the 14th March 1777
Chas. Oakeley
Clk

That the aforesaid Claud Russell did on the fourteenth Day of January in the present Year of Our Lord One Thousand Seven hundred and Seventy Seven file a Bill of Complaint in the Honble the Mayors Court of Madraspatnam against your Petitioner for the Sum of Forty Thousand Pounds as the Amount of Damages which he the said Claud Russell he had Sustained by means of your

Petr.

Petitioner Although it appears from the said Claud Ruſsells own Shewing in his Bill of Complaint that your Petitioner was acting under Orders received from his Superiors your Petitioner further Sheweth that the said Claud Ruſsell having so filed his Bill of Complaint against your Petitioner and obtained a Summons returnable Immediately and upon his Affidavit a Warrant of Arrest was granted against your Petitioner who was under the Neceſsity of Appearing and upon his Appearance was held to Bail in the Sum of Four Thousand Pounds Your Petitioner further Sheweth that on his Appearance he obtained leave of the Honble the Mayors Court to Plead or Demur Your Petitioner further Sheweth that on the Twentieth of the said Month of January he did Demur to the said Bill of Complaint of the said Claud Ruſsell who Joined in the Demurrer and the same was set down for Arguing but previous to such Arguing Your Petitioner did in due time Appeal to this Honble Court of Appeals from the Sentence or Decree of the Honble the Mayors Court respecting the Bail who were pleased to pronounce themselves interested in the Event or final Deciſsion of the Cause and therefore could not give their Opinion as to the matter Appealed from Whereupon Your Petitioner did Appeal to his Most Excellent Majesty in Council from the Sentence or Decree of the said Honble the Mayors Court within the time allowed by the Charter of which Notice was given by the Clerk of the Court of Appeals to the Honble the Mayors Court the fourth day of February last past in the Present Year Your Petitioner further Sheweth that the said Claud Ruſsells Attornies did object to any Appeal being lodged from the Order of Court made

the fourteenth Day of January as will more fully appear by a Copy of the Extract of the Minutes of the said Honble the Mayors Court hereunto annexed for the inspection of this Honble Court of Appeals your Petitioner further Sheweth that this matter of Appeal and the Arguing of the Demurrer and Joinder were deferred from time to time untill the Twenty Eighth Day of February last past when the same came on and the said Honble the Mayors Court were pleased to over rule the Objections of the said Claud Ruſsells Attorneys respecting the Appeal and set down the Demurrer and Joinder to be argued Your Petitioner further Sheweth that notwithstanding the Objections that the said Claud Ruſsells Attorneys made to the Appeal of your Petitioner being lodged were overruled Yet the said Honble the Mayors Court were pleased to Order the Demurrer and Joinder to be Argued and which on Tuesday the Eleventh of this instant March the Court proceeded to take into Consideration the Merits of the Demurrer notwithstanding your Petitioners Attorneys declined entering upon the Argument from a Self conviction of the Proceedings being Stoped by the Appeal so made to his Most Excellent Majesty in Council by your Petitioner the said Honble the Mayors Court did overrule the Demurrer and Ordered your Petitioner to put in his Answer to the said Claud Ruſsells Bill of Complaint by Tuesday next being one Week from the Day of Sentence being pronounced by the said Honble the Mayors Court from which said Order Sentence or Decree of the said Honble the Mayors Court (a true Copy whereof is hereunto annexed) your Petitioner does Appeal to this Honble Court of Appeals as immaging himself greatly agrieved and injured by the said Order Sentence or Decree of the said Honble the Mayors Court, Because as the said Honble the Mayors Court had received Notice of your Petitioners Appeal to his Most Excellent Majesty in Council being lodged and as they have over ruled the Motion made by the said Claud Ruſsells Attorneys to such Appeal being lodged they had by such Adjucation in your Petitioners humble Opinion

injoined

enjoined themselves not to Proceed further untill the Ultimate decision of the matter Appealed from was known and it also Appears to your Petitioner that the said Honble the Mayors Court proceeded to give their determination whilst such Appeal was in being and undetermined is irregular for the said Honble Court could not tell what the result of the said Appeal might be for your Petitioner Sheweth that should be his Most Excellent in Council being of Opinion that the holding of your Petitioner to Bail was irregular and that the Bill of Complaint was not drawn out according to the Rules and Practice of the said Honble the Mayors Court that then and in that case the whole of the Proceedings are quashed and the giving any Order Sentence or Decree of the said Honble the Mayors Court in the interim must be totally repugnant to the Established opinion relative to Appeals from your Petitioner is Advised and does insist that he can from any Order Sentence or Decree of the said Honble the Mayors Court Appeal and that the Merits of the Cause or any matter or thing arising in the said Cause must lay dormant untill the Order Sentence or Decree of the said Honble the Mayors Court is reversed or confirmed this being the Established and received opinion as appears by a General Letter from the Honble the Court of Directors in the Year One Thousand Seven hundred and Sixty Three in Answer to particular Questions put by the said Honble the Mayors through the Means of the Honble the President & Council of Fort St. George your Petitioner for these Several Reasons and for as much as he is greatly injured and likely to suffer considerable Damage from the Order Sentence and Decree of the said Honble the Mayors Court passed the Eleventh instant

Your Petitioner does therefore most humbly Appeal and Prays this Honble Court of Appeals to reverse such Sentence Order and Decree of the said Honble the Mayors Court from which your Petitioner Appeals and that the said Claud Russell may be restrained from Proceeding further and the said Honble the Mayors Court may be enjoyned from Proceeding therein in this Cause untill the Ultimate decision or Determination of his Most Excellent Majesty in Council is known and that the said Claud Russell may pay all Costs not only in this Honble Court of Appeals but also the Costs incurred in the Honble the Mayors Court

And your Petitioner as in Duty bound
Shall Ever Pray
Chas. Bromley
Jno. Sykes } Attys

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 4th Day of February Anno Domini 1777

Present

Andrew Majendie Esqr. Mayor
Geo Smith — Alexr. Brodie
and Benjan. Roebuck Aldermen

Claud Russell
vers
James Stuart

Letter from the Clerk to the Court of Appeals Read Setting forth that the Attornies for the Defendant had delivered in a Petition of Appeals from an Order made in this Cause on the 14th day of January last as also that they had on the 25 Jany in Consequence of a Resolution made by the Court of Appeals in this Cause a Copy of which is Enclosed lodged an Appeal to the Kings most Excellent Majesty in Council which Resolution is to the following Purport that the Suit instituted in this Court against the Defendant is founded on an Action in which he the said Defendant had the Sanction and Authority of the Members of the Court of Appeals in their Capacity of Members of the Government they therefore Conceive from the Petition of Appeal now Delivered in that they may be Interested in the Event of this Suit— The Attornies for the Complainant object to any Appeal being lodged from the Order of this Court on the 14th Instant because it does not appear by the Charter to be a matter Appealable and the Defendant having already complyed with the said Order of Court by having filed Bail agreeable thereto as also by having filed a Demurrer to which the Complainant has Joined which being now at Issue will come to be Argued. The Attorneys for the Complainant therefore humbly Conceive that the said Appeal is very irregular as the Defendant continues to defend the Suit in this Honble Court to which the Attornies for the Defendant object because they conceive the Appeal is Regular Notwithstanding the Demurrer and Joinder mentioned by the Attornies for the Complainant as the Appeal is not on Account of any Matter that can be affected by the Demurrer and Joinder and the matter of giving Bail taken Notice of by the Attornies for the Complainant was done to Prevent the Defendant from Suffering a Disagreeable Imprisonment which would have been a great Hardship on the Defendt and by which he would have Suffered Considerable Damage both in his Person and Affairs The Attornies for the Defendant do also conceive that the Merits of the Appeal cannot be Determined by this Court the said Attornies therefore object to any Motion being made for the same being taken into Consideration— Deferred taking the same into Consideration till Saturday Next at 9 Clock in the forenoon when a full Court is Ordered to be Summoned

Deferred taking into Consideration the Demurrer and Joinder till the Judgment

A True Extract

James Taylor

Extract from the Minutes of a Court Held at the Town Hall on Friday the 28th day of February Anno Domini 1777

Present

Andrew Majendie Esqr Mayor
George Smith George Savage
John Turing — James Call
George Proctor Edwd Jno Holland
Alexr Brodie & Benjn Roebuck
Aldermen

Claud Russell
vert
James Stuart

The Court proceed to take into Consideration the objections made by the Attornies for the Complainant and the Replies made thereto by the Attornies for the Defendant on the 14th February regarding the Appeals made to the Court of Appeals and his Majesty in Council on hearing Attornies for the Complainant the Attornies for the Defendant refusing Pleading for the Reasons already Assigned by them on the Minutes and the Court having had due Consideration thereon are of Opinion that the Objections made in this Cause by the Attornies for the Complainant on the 14th Instant be Over ruled with Costs—

Messrs Aldermen Smith Savage Turing & Proctor beg leave to enter their Dissents and that they may be indulged till Tuesday the 11 March next to deliver them in— Ordered Accordingly

The Attornies for the Complainant pray that the Demurrer and Joinder may now come on to be Argued which is opposed by the Attornies for the Defendant for the following Reasons because an Appeal on the Order

for

with a Copy of this Minute

J Cur

Between Claud Ruſsell Esquire
and Colonel James Stuart

To the Kings most Excellent Majesty in Council

The Humble Petition of Appeal of James Stuart Esquire
Colonel and by Commiſsion of the United English East
India Company Second in Command of the Troops in the
Service of the said Honble Company on the Coast of Coromandell
in the East Indies

Sheweth

That the abovesaid Claud Ruſsell did on the fourteenth
Filed the 17th Instant 1777. Chas Oakeley Clk
day of January last past in the Present Year of our Lord One Thousand
Seven hundred and Seventy Seven File a Bill of Complaint in the
Honble the Mayors Court of Madraspatnam against your Appellant
for the Sum of Forty Thousand Pounds for Damages which he alledged
he had sustained by means of your Appellant the said Bill of Complaint
of the said Claud Ruſsell specially reciting that he was appointed by the
Honble Court of Directors of the said United Company of Merchants of
England trading to the East Indies one of the Council of Fort St George
and took his Departure from Europe and arrived at Fort St George and
took his Seat at the Council Board that George Stratton and Henry Brooke
of the said Place Esquires being suspended from the Service of the said Honble
United Company he the said Claud Ruſsell became one of the said

Council and as such was given out and reported in the general Orders of the
said Fort St George and continued to be and Act till the Twenty fourth of August
One Thousand Seven hundred and Seventy Six that the then Governor George
Lord Pigot had been carried Prisoner to the Mount whereupon he the said
Claud Ruſsell went in Company with John Maxwell Stone also of
Council to the Fort and found it in Confusion and was informed that the
suspended Members of the Council had with some others of the Council
changed the Government by taking upon themselves the Administration thereof
the Bill further setforth that as George Lord Pigot had been sent a Prisoner
to the Mount the Government in Succeſsion devolved to the said Claud Ruſsell
according to this Idea the said Claud Ruſsell did direct the Captain
of the Main Guard to stand to his Arms with his Men but was informed
by the said Officer that he had received Orders from Colonel Stuart meaning
your Appellant that at this time a Crowd of Officers and others surrounded
him and that he was desired to go home by the Adjutant General as the
most Prudent Step he the said Claud Ruſsell could do this Recommenda
=tion of the said Adjutant General the said Claud Ruſsell in his Bill of
Complaint calls a Disobedience of Orders and denying his Authority that
during this Altercation a great part of the Guard stood to their Arms to
whom as the said Claud Ruſsell was advancing James Stuart a Colonel
in the Service of the said Honble United Company meaning your Appellant
and in an angry manner told him he must go with your Appellant to
Council which he the said Claud Ruſsell refused whereupon he says your
Appellant did by force and Arms violently Aſsault and seize him by forcibly
and violently snatching and tooking hold of the Breast of his Coat and
calling out for arming men and did with them and also by force and
Arms and Violence pulling pushing dragging and compelling the said

Claud Ruſsell to go away from the Parade and Violently pulled and dragged up
the Stairs of the Fort House in the said Fortsquare to the Council Room where
he found Sundry Persons sitting to whom the said Claud Ruſsell addreſsing
desired to know if he was a Prisoner and was acquainted he was not and upon
his retiring your Appellant is said to have Shut the Door violently in Order to
Prevent him the said Claud Ruſsells going out of the Room the said Claud Ruſsell
setting forth that your Appellant shut the Door to keep in the said Claud Ruſsell
in Order that he might hear your Appellants charge against him for exciting
Mutiny in the Garrison this Charge being made the said Claud Ruſsell was
asked what he had to say in Answer thereto the said Claud Ruſsell says he
desired their Authority that a Letter addreſsed to the said Claud Ruſsell was
reading but as he denied the Authority of the Persons who read it he would not
hear it whereupon he the said Claud Ruſsell was informed that they had
suspended him the Service of the said Honble United Company that Orders
were given to your Appellant to make known the same which was
immediately done on the Parade that in Consequence thereof and by the
means of your Appellant acknowledging the Authority of the Persons
who took upon themselves the Administration he the said Claud Ruſsell
continued and remained suspended from his Seat at the Board and also deprived
and divested of all the Powers Authorities Priviledges Emoluments and
Advantages he was entitled to and that he had suffered a great Injury
to his Damage and against the Peace of your most Excellent Majesty also that
his Damage were Forty Thousand Pounds This your Appellant sheweth
is briefly the Sum and Substance of the said Claud Ruſsells Bill of Complaint
your Appellant further Sheweth that at the time of the said Bill of
Complaint being filed the said Claud Ruſsell did make and File an Aff
Affidavit in the said Honble the Mayors Court setting forth among other
Things that he had been [illegible] that your Appellant

was immediately about to depart from the Jurisdiction of the said Honble
the Mayors Court whereby he the said Claud Ruſsell deposed that he would
be greatly injured and sustain great Damages your Appellant further Sheweth
that upon this Poſitive Affidavit of the immediate departure of your Appellant
and at the Motion of the said Claud Ruſsells Attornies for a Summons
returnable immediately and a Warrant of Arrest your Appellant thought
it neceſsary to Appear and upon whose Appearance Bail was made
for and the said Honble the Mayors Court directed your Appellant should
find Bail in the Sum of Four Thousand Pounds notwithstanding your
Appellant was at that time a Member of Council and had taken his Seat there
whereby he became vested with all the Power and Authority in his Ministerial
Capacity as a Magistrate and a Judge in the Honble Court of
Appeals at Fort St. George whereby your Appellant became priviledged
from all arrests of this Sort before the said Honble the Mayors Court your
Appellant further Sheweth that being thus obliged to give Bail he moved
for a term of Seven days to give in Bail which was refused and only
time of Twenty four hours allowed him the which your Appellant
sheweth he complyed with although your Appellant deemed it exceſsive and
oppreſsive as it evidently appears from the said Claud Ruſsells own Bill of Complaint
and Affidavit that at the time the said Claud Ruſsell was carried up to the Council
Room your Appellant was then acting under Orders a Disobedience of which
your Appellant could not as he apprehends warrant and that the said Claud
Ruſsell was the real Cause of his being so carried up by his Creating Disturbances
on the public Parade and sowing Sedition and Mutiny among the Troops in
the Garrison Your Appellant further sheweth that being thus obliged to give
Bail he did on the Twenty fourth day of January in the present Year of
our Lord One Thousand Seven hundred and Seventy Seven Petition the
Honble the President and Council of Fort St. George as a Court of Appeals in
Order to set a side the Bail and to over rule the Order thereon made by the

said Honble the Mayors Court but as the said Honble the President & Council deemed themselves interested in the Event of the Cause they declined entering on the Merits of your Appellants Appeal to them Whereupon your Appellant did Appeal from the said Order of the said Honble the Mayors Court to your most Excellent Majesty in Council as will appear by your Appellants Petition of Appeal transmitted under Seal of Office to your Most Excellent Majesty in Council by the Ship Lioneſs then under dispatch from Madras for England your Appellant further Sheweth that at the time of his Appearance the said Honble the Mayors Court did allow your Appellant one Week to Plead or Demur to the said Bill of Complaint of the said Claud Ruſsell which your Appellant did as it appeared to your Appellant there was no Ground for an Action to be brought by the said Claud Ruſsell and there appearing so much irregularity in his said Bill of Complaint and so contrary to the Form Practice and usage of the said Honble the Mayors Court in the drawing up of the Bills of Complaint presented to the said Honble the Mayors Court that your Appellant found it impoſsible with safety to himself to make any Answer as it appeared to your Appellant to be a Contrivance to deprive your Appellant of the advantage and Benefit of delivering his Answer upon Oath to this Demurrer of your Appellant a Joinder was put in and the same set down to be argued previous to which your Appellant Sheweth that his Petition of Appeal to your most Excellent Majesty in Council had been filed and Notice thereof given as usual by the Clerks of the Court of Appeals upon this Notice being given the said Claud Ruſsell by his Attornies did object to the Appeal being lodged and your Appellants Attornies replied thereto and the Matter deferred as will more fully appear by a Copy of the Extracts of the Minutes of the said Honble the Mayors Court hereto annext for the Inspection of your most Excellent Majesty to which your Appellant most humbly refers

Your Appellant further Sheweth that this Motion of the said Claud Ruſsell was Adjourned from Court day to Court day till the Twenty eighth day of February last past when the same came on and was determined in the manner set forth in a Copy of the Extract from the Minutes of the said Honble the Mayors Court hereto annext for the Inspection of your most Excellent Majesty in Council your Appellant further Sheweth that he objected to the Arguing of the Demurrer for the Reasons assigned in the said annext Copy of Extract and more Especially so as it did not appear but what there was much irregularity in Proceeding in the Cause before the said Honble the Mayors Court whilst the Appeal to your most Excellent Majesty in Council was depending your Appellant further Sheweth that notwithstanding his Objections to the Arguing of the Demurrer yet the said Honble the Mayors Court were pleased to Order the same to come on and on the Eleventh day of this Instant March the Demurrer was over-ruled and your Appellant ordered to put in his Answer in one Week or in default thereof Judgement would be given against your Appellant as will more fully Appear by a Copy of the said Order of Court hereto annext for the Inspection of your most Excellent Majesty in Council to which your Appellant humbly Craves Reference from which said Order Sentence or Decree of the said Honble the Mayors Court your Appellant does Appeal to your most Excellent Majesty in Council for the following Reasons— Because it appear to your Appellant that the proceeding on the Cause in the said Honble the Mayors Court after the Proper regular and usual Notice of an Appeal to your most Excellent Majesty in Council had been lodged was very irregular and improper and that after such Notice had been sent to the said Honble the Mayors Court the said Honble the Mayors Court ought to have considered that they lay under an Injunction not to Proceed until your most Excellent Majestys Determination in Council was had on the matter appealed from for it could not be known but that your most Excellent Majesty by the Advice of your

Gracious Councils would have Ordered the Bill of Complaint of the said Claud Russell to be dismissed as your Appellant is humbly of Opinion it will from the irregularity of its being drawn up and also of the said Bills want of form Your Appellant further Sheweth that for a second Reason why he Appeals to your Most Excellent Majesty in Council from the said Order Sentence or Decree of the sd Honble the Mayors Court of the said Eleventh of March. Because it appears supposing the Arguing of the Demurrer be regular which your Appellant does not admit to be an Error in Judgment of the said Honble the Mayors Court in determining that the Demurrer was insufficient to Bar the Complainants