Series
IX
Mayor's Court records
Letters Sent (No. 24)

25,000—4-5-12.

Block 7
Rack No.
Shelf No.
Serial No. 55
General No.

Letters Sent

229

Settlement of Masulipatam, whereby his Seat as an Alderman is avoided.

The Court therefore direct me to give your Honble Board this Notification that you will be pleased to fill up the Vacancy so that the Court may be enabled to proceed to the Election of a Mayor for the remainder of the Year conformably to the Rule laid down in his Majestys most Gracious Charter. I have the Honor to be the greatest Respect

Town Hall
2d April 1788.

Honble Sir
Your Most Obedient Humble Servant
Signed by Order of the Corporation

To the Honble Major General Sir Archibald Campbell
K. B. President and Governor in Council

Honble Sir

I am directed by the Honble the Mayors Court to lay before your Honor Extract from the Minutes of Court of the 25th Ultimo, with Two Statements of their Servants Wages one for the Year 1774. and the other for the present Year. I have the honor to be with the greatest Respect

Town Hall
June 13th 1788.

Honble Sir
Your Most Obedient
Humble Servant

Extract from the Minutes of a Court held at the Town Hall on Saturday the 24th Day of May Anno Domini 1788.

Present
Edward Garrow Esqr. Mayor
James Call ... William Webb
Robert Ewing ... George Savage
Vincentio Corbett ... Jos. Du Pré Porcher
Andrew Ross & Robert Mitford
Aldermen

The Register acquaints the Court that the Sum of 70 Pagodas which is drawn Monthly from the Honble the Presidents and Council for the Expences of the Court is inadequate to the pay of the Servants Wages which have been increased since it was determined to draw the beforementioned Sum and begs leave to lay before the Court Two Statements of the Servants Wages one in the Year 1774. Amounting to the Sum of Pagodas 67.18. and another in the present Year Amounting to Pagodas 113.16. Ordered that the Register do send up the Two Statements to the Honble the Governor in Council & if the establishment of the Present Year be approved of that the Register do draw Monthly for the Amount.

Mr. Alderman Ross Dissents to the Resolution of the Court.

To the Honble Major General Sir Archibald
Campbell K.B. Governor in Council at
Fort St. George

Honble Sir

I am Directed by the Honble the Mayors Court to draw upon your Honor for the Sum of One Thousand three Hundred and thirty four Pagodas three fanams and fourteen Cash, to defray the Necessary Charges attending that Corporation.

I am with the greatest Respect

Honble Sir

Your Most Obedient
Humble Servant

Fort St. George
14th February 1788.

To the Honble Major General Sir Archibald Campbell
K.B. President in Council.
Fort St. George.

Honble Sir

I am directed by the Honble the Mayors Court to inform your Honble Board that I received a Letter from Edward John Holland Esquire the Mayor of Madras desiring me to inform the Court thereof intimating that he was about to proceed to Pedda pore to which place they understand he is appointed on a Publick appointment within the district of the Honble Company's Settlement

settlement of Masulipatam, whereby his Seat as an Alderman is avoided.

The Court therefore direct me to give Your Honble Board this Notification that you will be pleased to fill up the Vacancy so that the Court may be enabled to proceed to the Election of a Mayor for the remainder of the Year conformably to the Rule laid down in his Majestys most Gracious Charter I have the Honor to be the greatest Respect.

Town Hall
2d April 1788.

Honble Sir
Your Most Obedient Humble Servant
Signed by Order of the Corporation

To the Honble Major General Sir Archibald Campbell
K. B. President and Governor in Council

Honble Sir

I am directed by the Honble the Mayors Court to lay before your Honor Extract from the Minutes of Court of the 24th Ultimo, with Two Statements of their Servants Wages one for the year 1774. and the other for the present Year – I have the honor to be with the greatest Respect

Town Hall
June 13th 1788.

Honble Sir
Your Most Obedient
Humble Servant

Extract from the Minutes of a Court Held at the Town Hall on Saturday the 24th Day of May Anno Domini 1788.

Present
Edward Garrow Esqr. Mayor
James Call ... William Webb
Robert Ewing ... George Savage
Vincentius Corbett ... Jos. Du Pré Porcher
Andrew Ross & Robert Milford
Aldermen

The Register Acquaints the Court that the Sum of 70 Pagodas which is Drawn Monthly from the Honble the Presidents and Council for the Expences of the Court is inadequate to the pay of the Servants Wages which have been increased since it was Determined to draw the beforementioned Sum and begs leave to lay before the Court Two Statements of the Servants Wages one in the year 1774. Amounting to the Sum of Pagodas 67.. 18.. and another in the present Year Amounting to Pagodas 118.. 16.. Ordered that the Register do Send up the Two Statements to the Honble the Governor in Council & if the establishment of the Present Year be approved of that the Register do Draw Monthly for the Amount

Mr. Alderman Ross Dissents to the Resolution of the Court

Establishment of Servants Wages in 1774

3 Peons for the Clerk of the Market	3	"	"
Court Serjeants	6	"	"
Goaler	10	"	"
Court Dubash	2	"	"
Portuguize Interpreter	2	"	"
6 Peons for the Mayor	6	6	"
8 Palenkeen boys for Do	8	6	"
20 Peons for the Aldermen & Register	20	"	"
Registers Salary	4	24	"
Oil for the use of the Town Hall	3	"	"
Sweeper	"	18	"
Braminy	1	"	"
Mullah	1	"	"
		67	18
Pagodas		67	18

Establishment of Servants Wages for March 1788.

3 Peons for the Clerk of the Market	4	24	"
Court Serjeants	10		
Goaler	10	"	"
Court Dubash or Malabar Interpreter	15	"	"
Portuguize Interpreter	7	"	"
6 Peons for the Mayor	9	24	"
8 Palankeenboys for Do	16	"	"
20 Peons for the Aldermen & Register	30	"	"
Registers Salary	4	24	"
Oil for the use of the Town Hall	3	"	"
French & Dutch Interpreter	5	"	"
Sweeper & Tolly	"	22	"
Braminy	1	"	"
Mullah	2	"	"
		118	16
Pagodas			

To Charles Nicholas White Esqr.
Clerk of Appeals

Sir

The Honble the Mayor's Court having Received a Notice from you as Clerk of Appeals under date 26th Instant Signifying that Annah Sammy of Madras Inhabitant by his attorney Charles Darke of Fort St. George Merchant had lodged an Appeal in the said Court dated the 12th Instant that the Motion for Special Bail be overruled I am directed by the Honble the Mayor's Court to Request that the Honble the Court of Appeals will please to grant their Permission that a Copy of the said Petition of Appeal may be forwarded to them for their Perusal

I am &c
Your Most Obedint Humble
Servant
(Signed) James Taylor
Regr.

Town Hall
26th August 1788.

To Thomas Chase Esqr.
Examiner

Sir

I am Directed by the Honble the Mayor's Court to furnish you with the inclosed Extract from their Minutes

I am &c
Your Most Obedient
Humble Servant
(Signed) James Taylor
Regr.

Town Hall
27th August 1788

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 26th Day of August Anno Domini 1788.

Present

Edward Garrow Esquire Mayor
William Webb — Andrew Ross and
Robert Milford — Aldermen

Meeralabe Mastry by his attorney Thomas Monte De Castro
vers
Narrain Naick.

The Court Observing that the Depositions taken by the Examiner in this Cause are full of Repitition of the Words in the Bills of these Interrogatories Named it is Ordered that the Register do strike the same out of the Depositions and that the Examiner do pay the Costs attending it and it is further Ordered that the Register do furnish the Examiner with a Copy of this Minute—

a true Extract

/Signed/ James Taylor
Regr.

To the Honble Major General Sir Archibald Campbell K.B.
Governor in Council
of Fort St. George

Honble Sir

I am directed by the Honble the Mayors Court to lay before your Honor Two Extract from the Charter and Book of Instructions with Copies of three Rules of Practice which they have Judged it necessary to adopt and to request that you will be pleased to transmit them a Number in the Packet by the first Dispatch to the Honble the Court of Directors for their approbation conformably to the Charter

I am with the Greatest Respect

Honble Sir

Your Most Obedient
Humble Servant
/Signed/ James Taylor
Regr.

Fort St. George
5th September 1788.

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 2 day of September Anno Domini 1788

Present

Edward Garrow Esquire Mayor
James Call — William Webb
Sir John Menzies — George Savage
Josias du Pré Porcher — Andrew Ross and
Robert Milford — Aldermen

A Full Court having this day been Assembled to take into Consideration a Notice of Appeal lodged from an Interlocutory Order of this Court of the 12 Ultimo — the Mayor Submits the following Extract for their Consideration that the Court may see in one View how Competent they are by Charter to form Regulations for their Practice and to whom reference in such Cases is Necessary—

Extract from the Charter

And we do hereby Authorize the said Mayor

Mayors Court to Administer Oaths and Affirmations and to frame such Rules of Practice and Nominate and appoint such Clerks and Officers and to do all such other things as shall be found Necessary for the Administration of Justice and the due Execution of all or any of the Powers given them by these Presents so as they from time to time give an Account thereof unto the said Company and so as the same shall be Subjected to the Approbation Controul and Alteration of the said Company under the Hands of thirteen or more of the Court of Directors of the said Company whom we do likewise Will and Ordain to have full Power and Authority to make such Rules and Orders for the better Administration of Justice as they shall from time to time think fit and Necessary but such Rules and Orders so to be made by the said Mayors Court so far as the same shall not be repugnant to any Rules or Orders made by the said Company or their Court of Directors as aforesaid shall nevertheless be in force until the same shall be revoked or altered by the said Court of Directors or any thirteen or more of them and Notice thereof given unto the said Court

The Abuse which for sometime past has prevailed by the Courts having without discrimination Admitted of Appeals from their Interlocutory Orders having been the Cause of much Evil to the Community the Mayor Submits the following Order for the Boards Consideration

Order ..... That the Court taking into their serious Consideration the frequent Appeals that have been lodged from Interlocutory Orders which in this distant Colony has of late grown up into an enormous abuse disgracefull to the Authority Ruinous to its Suitors and a Total Impediment to Publick Justice, do Consider it a Duty incumbent upon them in effectual reform such Evil and in support of the high Trust with which they are Vested To Order that it be a Standing

of Practice from this Day that no Attorney do lodge a Petition of Appeal from any Interlocutory Order till he has previously made a Petition to this Court Stating the grounds of such his Appeal and has obtained permission from the Court to allow such Appeal

The Mayor also lays before the Court the following Extract from the Book of Instructions to shew to the Court the Grounds on which Original Papers in Suits have for years past been allowed to be sent up from this Court to the Court of Appeals

Extract from the Book of Instructions

9 And that the Appeals from the Mayors Court to the President and Council may be as little Expensive as possible it will be proper to say that there is no Occasion for a Transcript of the Proceedings and Depositions but the Original Ones may be made use of tho on Appeals from the President and Council it is otherwise Directed herein after.

Order ..... 2. The frequent Appeals which have been lodged from the Decrees and Orders of this Court as there is too much reason to believe from Motives of Litigation or with a View to Obstruct and delay Justice in which the Court consider the Suitors much encouraged from the Practice which has hitherto been observed in sending up the Original Proceedings of this Court to the Court of Appeals which hitherto has been done at no Expence to the Appellants (as recommended by the Book of Instructions above recited) by which mode of Practice the Parties have not been obliged to take out Transcripts of them from the Registers Office. The Court Consider it their duty to Discountenance as much as in their power all such Appeals which at this Moment Amount almost to a total Annihilation of Justice by which means the Court is made the Instrument of Oppression instead of relief to

Suitors

Suitors by the Partys removing themselves to such distant periods of time from the Efficacy of Law They do therefore Order that it be a Standing rule of Practice that the Register do not from this time send up to the Court of Appeals any of the Original Proceedings of this Court but that the Partys do upon all Appeals take out Copies of the Proceedings under the Seal of the Court and attested by the Register in like manner as on Appeals to his Majesty in Council unless the Court under Special Circumstances Stated by the Attorney of the Party Appealing should see good Cause to indulge him or them to the Contrary and in Order to remedy the Evil Practice of lodging Appeals to his Majesty in Council without any Intention of prosecuting the same but merely to gain time which is strongly Manifested by Appeals having been frequently lodged to his Majesty in Council without any Copies of the Proceedings being taken out of the Office of this Court by the Appellant—

It is Ordered that unless the Appellant apply in Writing by his Attorney to the Register for Copies of the Proceedings within one month after Lodging his Appeal to his Majesty in Council (provided he has not already taken out Copies of the Papers to lay before the Court of Appeals) that the Decrees of the Honble the Court of Appeals be immediately carried into Execution such Appeal under these Circumstances being merely a delay as for want of Prosecuting the Appeal in England Judgment in default must inevitably follow—

The time of the Court being much taken up by the Attornies frequently making any Special Motions in Causes without previously informing the Attorney on the opposite part, or the Court in Causes where no Attorney on the opposite side may appear do direct that the following be made standing Rule of Practice—

Order..... It Ordered that it be a standing Rule of Practice in future that all facts on which Special Motions are grounded be verified by Affidavit as Recommended by the Book of Instructions and the Notice of all such Special Motions be given in Writing to the opposite Attorney four days previous to the same being made in Court—

Resolved that the foregoing Orders be made Standing Rules of Practice from this Day and that a Copy thereof be sent up to the Honble the Governor in Council to be by them transmitted to the Honble Court of Directors as a Number in the first Packet—

Mr. Alderman Ross Dissents to the Resolution of the Court respecting Interlocutory Orders being of Opinion no Appeals ought to lie against an Interlocutory Order to the Court of Appeals or his Majesty in Council but only against a Judgement Sentence or Decree in which Sence he conceives his Majestys Charter should be construed—

A true Extract

To Mr. Secretary White

Sir

I am directed by the Honble the Mayors Court to acknowledge the Receipt of Your Letter of the 15th October last inclosing Copy of one from Mr. Benjamin Sullivan to the President in Council and in reply thereto I am directed to say that the Court take no Cognizance of Matters which do not come judicially before them

I am Sir

Your Most Obedient

Humble Servant

Fort St. George

December 6th 1788

To Mr. Secretary White

Sir

I am directed by the Honble the Mayor's Court to acknowledge the Receipt of Your Letter under Date the 15th of October last, and as the Court have in consequence thereof found it necessary to address the Honble Court of Directors, I am further Directed to request that Government will be pleased to transmit the accompanying Letter under the Seal of the Court to the Honble the Court of Directors by the first Dispatch

I am Sir

Your Most Obedient
Humble Servant

Fort St. George
December 6. 1788

(Signed) James Taylor
Reg.

To the Honorable the Court of Directors for Affairs of the Honorable the United Company of Merchants of England trading to the East Indies

Honorable

Under date the 5th September last, the Mayor's Court, had the Honor to Transmit to your Honble Court thro' your President and Council, Rules of Practice, and Orders which it was found necessary to Frame and adopt, to the Redress of Evils, which had grown to Enormities as to require the Remedy applied for their Reform.

The Court have now the Honor to transmit a Duplicate of the same Papers, together with a Copy of a Letter Marked A hereunto Annexed, received the 15th October last from Mr. Secretary White, by Order of the President and Council and another Letter of the same Date Marked B

which enclosed Copy of a Letter from Mr. Benjamin Sullivan to the President in Council with the Courts Answer thereto thro' their Register being the only reply that could be given to such Irregular notifications.

The Receipt of the above Letters makes it necessary for the Court to explain to your Honors, the Causes which gave rise to pass the orders alluded to but previous thereto, it may be proper to observe, that tho' the President and Council have taken the Occasion in general Terms to remark that the Orders passed were Repugnant, and in Opposition to the Rules and Declarations of the Court of Directors — a violation of the Charter — an Usurpation on the Prerogatives of the Crown, and the Powers exercised by the Court of Appeals, Yet in Support of such Assertions they have not been pleased to point out either from the Charter, the Book of Instructions, or your rules or Declarations that the Orders in repugnant or in opposition thereto.

That the Charter does not give an Authority to the President and Council, to interfere with the Rules of Practice established by the Mayors Court in any Case whatever and which Rules or Orders must be in force untile altered or revoked by thirteen or more of your Honble Court for the time being appears on the face of the Charter it self.

Agreeable to the Line of Reference therefore pointed out by the Charter as well as to preserve that propriety of Conduct so Necessary to be maintained by a Court of Judicature established Solely for the purposes of Administering Justice, the Court by immediately addressing your Honorable Board and giving the necessary Explanations for framing rules of Practice void the Indecency that would invitably be the Consequence of entering into any altercation with your President and Council.

The Members of the Mayor's Court, in their Situation of Judges consider themselves holding a Sacred Trust derived alone from his Majesty's

most

most Gracious Charter, which does not admit of any interference whatever, in the Rules of Practice which they find it Necessary to establish, they can receive no Orders from the President and Council, without submitting to an infringement of the most Serious Nature on their Chartered Rights, and altering their Situation as Judges to be no longer Independent – a Situation, the Independence of which is highly necessary necessary and therefore Established, as the Fundamental Principle of all Courts of Justice, in every Part of his Majesty's Dominions – a Situation, that all Courts must be Zealous to preserve, and without which they will at once feel themselves Degraded and not Competent to discharge that Duty both to their Sovereign and to their Country, which they are so Bound by Solemn Oath to fulfill –

The Court therefore after very Mature Consideration on Grounds which they will explain, found it necessary to Adopt the First Order on the Subject of Interlocutory Appeals, the Evils arising from them being indiscriminately admitted of gave a Sanction to the most glaring Abuses, and placed Suitors in a much worse Situation than if no Court of Judicature had existed whilst the Point in discussion on Interlocutory Orders was reduced to that State of Uncertainty, that often a Suitor was one involved in the Labarynth of Litigation (as was then the Usage) he could not expect in the nature of things to see the End of it not even if Providence had Numbered the Days of Man by Centuries instead of years –

Nor will your Honble Board deem it improper in this Court to make References to the Book of Instructions / hereunto Annexed Letter C / which accompanied the Charter – In the First Extract the Words Judgment and Decree are Used as Synonimous, and the Form Printed out is invariably adhered to in all the Courts Final Decisions –

The Second Extract Shows, that the Words "Judgments" and "Decrees" which are Stated in the Charter as appealable from, cannot be applied to Interlocutory orders – it being particularly directed, that the Words "Decreed" be not Inserted in passing an Interlocutory order –

The Court cannot but Remark, that tho' the Charter prohibits Appeals on Judgments to his Majesty in Council if within the Sum of one Thousand Pagodas yet the different Orders which may happen in every Cause as Stated under Letter D have been appealed from without Control both to the Court of Appeals, when under one Thousand Pagodas, and on all Sums above, to his Majesty in Council – That Appeals frequently lie over for a Considerable period before they are decided by the Court of Appeals, Instances within the last Seven Years being on Record, where Appeals have remained two years undetermined; that the length of time necessary for any Appeal to be carried to his Majesty in Council, must in its nature be very Considerable, and the Proceedings in the Cause here, by such Appeals are delayed by which Practice the most opulent or Designing Party must Prevail in Defiance of all right –

Admitting then that three years may be taken from an Interlocutory order first passing here, to its return to this Court, Appeals may be Continued ad Infinitum on the same Principle, which may happen daily on every Order the Court may pass in a Cause, to the utter annihilation of all Property whatever and in opposition to every Idea of Justice –

The Second Order, relative to the not sending up the Original Proceedings to the Court of Appeals, and obliging the Appellants within a limited time to take out Transcripts of the Proceedings on Appeals to his Majesty in Council, speaks so forcibly for itself, that the Court will only observe, that by the first part of the Order the Court has received the

Power

Power of sending up the Original Papers upon application being made and when the Court judge it necessary- The Order therefore for taking out Transcripts is only meant to be exercised in Checking Litigious Appeals which have heretofore been made, at no Expence to the Appellants on Account of the Original Papers having been sent up to the Court of Appeals; and this Power the Court are clearly authorized to Exercise when it finds occasion. as Extracted from the Book of Instructions under Letter **F** in the appendix which Notwithstanding the Order therein proposed declares the Court to possess the Power to alter any of the Rules of Practice therein contained if the Court judge it reasonable, and agreeable to justice so to do.

The Second part of this Order, which relates to taking out Transcripts of the Proceedings on Appeals to his Majesty in Council is meant to be rigorously observed: and goes to remedy the Evil Practice of Lodging Appeals to his Majesty in Council without any intention of Prosecuting the same, merely as Appellant, at the easy Expence of Lodging an Appeal to his Majesty in Council may evade the Decree of the Court of Appeals for many Years, on Account of the Time which is usually allowed for transmitting of Papers from India before an Appeal can be dismissed for non Prosecution the time for an appearance to prosecute an Appeal being extended to upwards of two Years as appears by the Decree of his Majesty in Council on the Records of this Court-

This part of the Second Order therefore, not only goes to the bringing of Appeals to his Majesty in Council to a Speedy Issue, but it tends to preserve the validity of the Suit filed in the Mayors Court which thro' the Death of the Defendant or Suit in the Course of tedious Litigation frequently become void.

The Court could from their Records which are lasting Monuments of the Evil Practices they wish to correct, furnish many Documents in Support of what is Suggested, but the Instances annexed to Letter **F** establish the purpose, and point out the Abuse-

The Charter does not in any part of it disclose a right in Suitors to Appeal from the Interlocutory Orders of this Court, as therefore no such Power was ever Granted no Usurpation on the Privilege of the Subject, or the Prerogative of the Crown, can possibly exist under the Orders of the Court alluded to- the Subjects for Appeal in the Words of the Charter, are from Judgments, Sentences, and Decrees and did they even allow of two Interpretations, the Court consider it a Duty incumbent on it to apply that Interpretation, which is found most for the Relief of the Subject, and the true Spirit of the Charter in the due Execution of Substantial Justice- Judgments and Decrees as already stated from the Book of Instructions are Synonimous, when applied to final Judgments in the Mayors Court, and Sentence is applicable only to Ultimate Decisions when Acting in the Capacity of Kings Ordinary in Ecclesiastical Matters-

The Court, has found it necessary to explain the Reasons which Operated so Strongly, when these Orders passed, the good Effects of which have been already experienced on Several Important Occasions- it is the furthest from the Wish of the Court to assume Power which do not belong, to it, nor is the Election left to make a Sacrifice of those Rights and Privileges which the Court hold only in Trust under the Royal Charter- and which Charter is expressly declared to be granted for the purpose of furthering Justice and cannot by any forced application of Words, whatever, be Wrested to defeat its own declared purposes-

The Court begleave to Conclude by Observing, that the Importance of the Subject merits your most Serious Consideration both

both as it respects the due Execution of its Authority, and the Interest of all Persons whomsoever who while under its Jurisdiction have an inherent Claim to the Just Administration of British Laws—

We are

Honorable

Your most Obedient

Humble Servants

Signed by Order of the Mayor's Court

Extract from the Minutes of a Court Held at the Town Hall on Tuesday the 2. day of September Anno Domini 1788.

Present

Edward Garrow Esquire Mayor

James Ball William Webb

Sir John Menzies George Savage

Josias DuPre Porcher Andrew Ross and

Robert Milford — Aldermen

A Full Court having this day been Assembled to take into Consideration a Notice of Appeal lodged from an Interlocutory Order of this Court of the 12th Instant — The Mayor Submits the following Extract for their Consideration that the Court may see in one View how Compleatly they are by Charter to form Regulations for their Practice and to whom reference in such Cases is Necessary —

Extract from the Charter

And we do hereby authorize the said Mayors Court to

to Administer Oaths and Affirmations and to frame such Rules of Practice and Nominate and appoint such Clerks and Officers and to do all & such other things as shall be found Necessary for the Administration of Justice and the due Execution of all or any of the Powers given & them by these Presents so as they from time to time give an Account thereof unto the said Company and so as the same shall be Subject to the approbation Controul and Alteration of the said Company under the hands of thirteen or more of the Court of Directors of the said Company whom we do likewise Will and Ordain to have full Power and Authority to make such Rules and Orders for the better Administration of Justice as they shall from time to time think fit and Necessary but such Rules and Orders so to be made by the said Mayor's Court so far as the same shall not be repugnant to any Rules or Orders made by the said Company or their Court of Directors as aforesaid shall nevertheless bein force untile the same shall be revoked or altered by the said Court of Directors or any thirteen or more of them said Notice thereof given unto the said Court

The Abuse which for some time past has prevailed by the Courts hearing without discrimination Admittee of Appeals from their Interlocutory Orders having been the Cause of much Evil to the Community the Mayor Submits the following Order for the Courts Consideration —

Order ..... It The Court taking into their Serious Consideration the frequent Appeals that have been lodged from Interlocutory Orders which in this distant Colony has of late grown up into an enormous abuse disgraceful to its Authority, Ruinous to its Suitors and a Total Impediment to Publick Justice, do Consider it a Duty incumbent upon them in effectual reform such

Evil

Civil and in Support of the high Trust with which they are Vested to Order that it be a Standing Rule of Practice from this Day that no Attorney do longer a Petition of Appeal from any Interlocutory Order till he has previously made a Petition to this Court Stating the grounds of such his Appeal and has obtained permission from the Court to allow such Appeal.

The Mayor also lays before the Court the following Extract from the Book of Instructions to show to the Court the Grounds on which Original Papers in Suits have for years past been allowed to be sent up from this Court to the Court of Appeals:

Extract from the Book of Instructions.

And that the Appeals from the Mayor's Court to the President and Council may be as little Expensive as possible it will be proper to say that there is no Occasion for a Transcript of the Proceedings and Depositions but the Original Ones may be made use of thô on Appeals from the President and Council it is otherwise Directed herein after.

Order ..... 2. The frequent Appeals which have been lodged from the Decrees and Orders of this Court as there is too much reason to believe from Motives of Litigation or with a View to Obstruct and delay Justice on which the Court consider the Suitors much encouraged from the Practice which has hitherto been observed in sending up the Original Proceedings of this Court to this Court to the Court of Appeals which hitherto has been done at no Expence to the Appellants (as recommended by the Book of Instructions above recited) by which mode of Practice the Parties have not been obliged to take out Transcripts of them from the Registers Office — The Court Consider it their Duty to Discountinance as much as in their power all such Appeals which at this Moment Amount almost to a total Annihilation of Justice by which means the Court is made the Instrument of Oppression instead of relief to Suitors by the Parties removing themselves to such distant periods of time from the Efficacy of Law They do therefore Order that it be a Standing rule of Practice that the Register do not from this time send up to the Court of Appeals any of the Original Proceedings of this Court but that the Parties do upon all Appeals take out Copies of the Proceedings under the Seal of the Court and Duly attested by the Register in like manner as on Appeals to his Majesty in Council unless the Court under Special Circumstances Stated by the Attorney of the Party Appealing should see good Cause to indulge him or them to the Contrary and in Order to remedy the Evil Practice of lodging Appeals to his Majesty in Council without any Intention of Prosecuting the same but merely to gain time which is strongly Manifested by Appeals having been frequently lodged to his Majesty in Council without any Copies of the Proceedings being taken out of the Office of this Court by the Appellant It is Ordered that unless the Appellant apply in Writing by his Attorney to the Register for Copies of the Proceedings within one Month after Lodging his Appeal to his Majesty in Council, provided he has not already taken out Copies of the Papers to lay before the Court of Appeals that the Decrees of the Honble the Court of Appeals be immediately carried into Execution such denier Appeal under these Circumstances being Merely a delay as for want of Prosecuting the Appeal in England Judgment in

in Default must inevitably follow

The time of the Court being much taken up by the Attornies frequently making any Special Motions in Causes without previously informing the Attorney on the opposite part, or the Court, in Causes where no Attorney on the Opposite side may appear & direct that the following be made Standing Rule of Practice

Order ..... It Ordered that it be a Standing Rule of Practice in future that all facts on which Special Motions are grounded be verified by Affidavit as Recommended by the Book of Instructions and that Notice of all such Special Motions be given in Writing to the opposite Attorney four days previous to the same being made in Court

Resolved that the foregoing Orders be made Standing Rules of Practice from this Day and that a Copy thereof be sent up to the Honble the Governor in Council to be by them transmitted to the Honble Court of Directors as a Number in the first Packet

Mr. Alderman Ross dissents to the Resolution of the Court respecting Interlocutory Orders being of Opinion no Appeals ought to lie against an Interlocutory Order to the Court of Appeals or his Majesty in Council but only against a Judgment Sentence or Decree in which Sense he conceives his Majestys Charter should be construed

A true Extract

To the Honble Major General Sir Archibald Campbell K. B. Governor in Council of

Fort St. George

Honble Sir

I am directed by the Honble Mayor's Court to lay before your Honor Two Extracts from the Charter and Book of Instructions with Copies of three Rules of Practice which they have judged it necessary to adopt and to request that you will be pleased to transmit them a Number in the Packet by the first Dispatch to the Honble the Court of Directors for their approbation Conformably to the Charter

I am with the greatest Respect

Honble Sir

Your Most Obedient Humble Servant

Signed James Taylor Regr

Fort St. George
5th September 1788

A true Copy

A

To Mr. James Taylor
Register of the Mayor's Court

Sir

Government having fully Considered the Extract from the Minutes of the Mayor's Court which accompanyed Your Letter of the 5th Septr I am directed to Communicate to You for the Information of the Honble Court that they conceive the two first Orders relative to Appeals

Appeals from interlocutory Decrees and taking out transcripts of Papers instead of sending up the Original Proceedings to the Court of Appeals to be repugnant and in opposition to the Rules and Declarations of the Court of Directors, and as such are therefore void. But Government have further to remark that, to adopt the Orders in question would be a Violation of the Charter, as also an usurpation of the Prerogatives of the Crown, and the Power hitherto exercised by the Court of Appeals — at the same time that they would tend to oppress the Suitors with an heavy and unnecessary expence, and to wrest from the Subject a right which it appears only the Supreme Authority of Parliament can deprive him of.

With this Government cannot admit of any Regulations so repugnant being carried into Practice, yet, if the Charter or the Rules laid down by the Court of Directors shall appear in any respect inadequate, or defective, and the Mayor's Court determine to suggest any alterations in their Opinion Necessary Government will take the earliest opportunity of transmitting the same for the Consideration of the Honble the Court of Directors —

Fort St. George
15th October 1788.

I have the Honor to be
Sir
Your Most Obedient Servant
[Signed] Chas. N. White
Secry.

Exam.d Dan.l Ince

A true Copy.

B

To Mr. James Taylor
Register of the Mayor's Court.

Sir

I am directed to transmit You Copy of a Letter from the Company's Attorney General, containing his opinion of the Limits of the Civil and Criminal Courts at this Presidency with respect to the Native Inhabitants, and to desire you will be pleased to lay the same before the Worlds the Mayor's Court and to furnish the Sheriff with a Copy of it that he may regulate his Conduct accordingly in the execution of future Warrants issued from that Court.

Fort St. George
15th October 1788 —

I am Sir
Your Most Obedient Servant
[Signed] Chas. N. White
Secry.

Exam.d Dan.l Ince

A true Copy.

To the Honble Major General Sir Archibald Campbell
K. B. President and Governor in Council.

Honble Sir

I am to acknowledge the receipt of Mr. Secretary White's Letter of the 8th Instant enclosing an extract of a Letter from the Board of Revenue with Copy of an Address from the Superintendant of the Company's Sayhire relative to the execution of a Warrant from the Mayor's Court and desiring my Opinion, whether Allahomabad Village Situated fourteen Miles from the Presidency, and not in the Possession of the Company

Company within the Charter of 1753 was obtained can be considered as within the limits of the Civil and Criminal Courts at Madras with respect to the Native Inhabitants

Having considered this Subject I have to Submit to it to your Honor as my Opinion that so far as regards the Native Inhabitants the Village of Allahomadie is not within the Jurisdiction either of the Civil or of the Criminal Courts at this Presidency, the Charter of 1753 extended only to the Factories then in the Company's possession and to the districts dependant on them, and the Act of 26. G. 3. Ch. 57 while it greatly enlarges the Locality of the Jurisdiction of these Courts enlarges it so far only as it may respect British Subjects, or the Servants of the Company under either of which Denominations, the Native Inhabitants are in no wise Comprehended

I have the Honor to be
Noble Sir
Your Most Obedient Humble Servant
/Signed/ Benjn. Sullivan

A true Copy
Signed/ Robert Clerk
Depy. Secy.

A true Copy.

To Mr. Secretary White

Sir

I am directed by the Honble the Mayor's Court to Acknowledge the receipt of Your Letter of the 15th of October Last inclosing Copy of one from Mr. Benjamin Sullivan, to the President in Council and in reply thereto I am directed to Say that the Court take no Cognizance of Matters which do not come Judicially before them

I am Sir
Your Most Obedient
Humble Servant
/Signed/ James Taylor
Regr.

Fort St. George
the
December 6th 1788

A true Copy

C

Form of Stating Judgments or Decrees from the Book of Instructions

Extract from the Book of Instructions which accompanied the Charter Pointing out the form for Judgments and Decrees

"Mayor's Court at Madraspatnam

"Between John Thomson of Fort Saint George Merchant Complainant
"and Richard Wilson of the same place Merchant Defendant

"This Cause Coming this Day of
"Anno Domini to be heard and Debated before this Court by the
"Parties on both sides or by the Clerks on both sides as the Case happens to be and upon
"hearing the proofs taken in this Cause and reading a Letter from
"to Dated the Day of and a Deed between &c.
"Dated the Day of and so on to all the Exhibits produced at the
"hearing and upon Examination had of the Matters in this Cause and due
"Consideration thereupon this Court doth think fit to Order and Decree
"and doth accordingly Order and Decree that &c.

A true Extract

C

Second Extract from Page 36. of the Book of Instructions.

"I shall now proceed to give Instructions for the bringing
"the Cause to hearing but before I do so I beg leave here to take notice that it
"will often be found necessary in the progress of a Cause to have Recourse to the

"the Court for many things touching which Orders must be made and
"these being only Incidental and not the final decision of the Matter
"in Difference are called Interlocutory Orders and must be drawn up
"in the same form with Decrees only the Word Decreed must not be
"inserted but Ordered only and these must be made upon motion of
"the parties or Clerks in Open Court and as to the facts on which they
"are Grounded they must be verified by Affidavit which must be
"taken notice of in the Order—
"All Interlocutory Orders must be entered in a Book to be Kept for
"that purpose"—

A true Extract.

D

Interlocutory Orders which have been appealed from—

From Bail and Exceptions to Bail—Motions for time to Plead or Demurrer beyond the Usual Rules of Court from over ruling of Demurrer—the Amendment of Bills of Complaint and other Papers on Payment of Costs—Exceptions to insufficient Answer and other Papers with the Orders thereon—Motions for further time beyond the Usual Rules of Court for filing of Answer—Replications and Rejoinders—Affidavits in support of Special Motions and the Orders thereon—praying Oyer of Papers—Opposing the Joining of Issue and the Issuing of Commissions for the Examination of Witnesses who are absent from the Residency—Witnesses objecting to being Examined—Special Motions to have Native Witnesses Sworn at the Pagon Temple as being most binding in their Conscience—Petitions from those Witnesses praying to be exempted from Swearing at the Pagon Temple and the Orders thereon—passing of Publication—Exceptions to Interrogatories Depositions and Exhibits—the Setting down Causes for Hearing and from Bills of Revivor with a Multitude of other Pretensions for Appealing which may arise out of a Cause, and to this a Renewal of the like Appeals which a Litigious Defendant has had it always in his Power to avail himself of, by Amending of Papers on Payment of Costs—

A true Extract from the Minutes of Court.

E

Extract from the Book of Instructions Authorizing the Court to alter any of the Rules of Practice therein Contained if they see Necessary—

Extract from the Book of Instructions which accompanyed the Charter Page 64.

"Having now finished what is thought Necessary
"for Practice in the pursuing or Defending Causes and the Proceedings relating
"thereto it may not be a Miss to say some thing Concerning the Court itself
"Which you will perceive by the Charter has general
"ample and Extensive powers to Administer Oaths to form Rules of
"Practice to Nominate and appoint Officers to Establish their Fees and to do all
"such other things as may be found Necessary to the Administration of
"Justice and the due Executing of all or any the Powers given by the Charter
"In Consequence of these Powers the Court may
"if they find it reasonable and agreeable to Justice alter any of the Rules of
"Practice hereby proposed and may Shorten or Lengthen any of the times
"herein before limited for the Acts of either of the parties or the Court may
"appoint their own times of Meeting which however had better be Settled
"such as Tuesday Thursday & Saturday or Monday Wednesday and Friday
"or twice once a Week as is most Convenient always observing before
"the breaking up of the Meeting to Adjourn the Court to the next Meeting
at which time they should Assemble without fail tho' there be no
business but only to adjourn again" A true Extract.

F

F

Two Cases Stated from the Records pointing out the abuse of Appeals where no Copies of Papers are taken out.

In the Cause of Shake Abdool Rozack by his Attorney John Fairney verss. Chocapah Chitty touching a Policy of Insurance to the Amount of Two thousand Pagodas and a Cross Bill brought by Chocapah Chitty Claiming three Hundred and Twenty Nine Pagodas Twenty & seven fanams and forty eight Cash a Decree passed in the Mayor's Court on the 6th September One thousand Seven Hundred and Eighty one in favor of Chocapah Chitty which was Confirmed by the Court of Appeals on the thirteenth February One thousand Seven Hundred and eighty three, on the twenty Seventh of the same Month Shake Abdool Rozack Lodged an Appeal to his Majesty in Council without taking out any Copies of the Proceedings which came on to be heard before his Majesty in Council on the first June One thousand Seven Hundred and Eighty four when it was dismissed with £30. Costs for non Prosecution and the Decree of his Majesty in Council was ordered to be exhibited to the Mayor's Court till Fourteenth December One thousand Seven Hundred and Eighty Six — And In the Cause of Charles Smith by his Attorneys Rickards & Vizedom for the Recovery of five thousand and two Hundred Pagodas and thirty three fanams upon Bond a Decree passed against the Defendant in the Mayor's Court on the twenty third May One thousand Seven Hundred & Eighty three which was Confirmed by the Court of Appeals on the twentieth May one thousand Seven Hundred and Eighty four, on the Second June following an Appeal was Lodged by the Defendant without sending home any transcript of the Papers to his Majesty in Council which Cause came on to be heard on the Fourteenth May One thousand Seven Hundred and Eighty Seven and was Dismissed with £20. Costs for non Prosecution & the Decree of his Majesty in Council was not exhibited to the Mayor's Court till the twelfth November One thousand Seven Hundred and Eighty Seven.