

[1]

P E T I T I O N of WARREN HASTINGS, *Esq*; Governor General, and of PHILIP FRANCIS, and EDWARD WHEELER, *Esquires*, Counsellors for the Government of the Presidency of Fort William in Bengal,

To the COMMONS of Great Britain, in Parliament assembled,

Sheweth,

T H A T, by an Act of the 13th of his present Majesty, intituled, "*An Act for establishing certain Regulations for the better Management of the Affairs of the United East India Company, as well in India as in Europe,*" the whole Civil and Military Government of the Presidency of *Fort William* in *Bengal*, and the Ordering, Management, and Government, of all the Territorial Acquisitions and Revenues in the Kingdoms of *Bengal*, *Babar*, and *Orissa*, are vested in the Governor General and Council of the said Presidency, in like Manner, to all Intents and Purposes whatsoever, as the same were at the Time of passing the Act, or at any Time before might have been exercised by the President and Council, or Select Committee, in the said Kingdoms; and that, by the said Act, his Majesty was empowered to erect and constitute a Supreme Court of Judicature at *Fort William* aforesaid, with full Powers and Authority to exercise and perform all Civil, Criminal, Admiralty, and Ecclesiastical Jurisdiction over all *British* Subjects resident in the said Kingdoms or Provinces, under the Protection of the said *United East India Company*, and to hear and determine all Complaints against any of his Majesty's Subjects, for any Crimes, Misdemeanors, or Oppressions committed, or to be committed, and also to entertain, hear, and determine, any Suit, Action, or Complaint, against any Person who shall at the Time when such Debt, or Cause of Action or Complaint, shall have arisen, have been employed by, or shall then have been directly or indirectly in the Service of, the said *United East India Company*, or of any of His Majesty's Subjects, and against any Inhabitant of the said Kingdoms, for a Debt arising on any Contract, or Agreement, in Writing, with any of His Majesty's Subjects, where the Cause of Action shall exceed the Sum of Five Hundred current Rupees, and where the said Inhabitant shall have agreed in the said Contract, that, in Case of Dispute, the Matter shall be heard and determined in the Supreme Court of Judicature :

ture : that it appears to your Petitioners, that the above Récitals do clearly explain and define the Powers and Jurisdiction severally appertaining to the said Governor General and Council, and to the Supreme Court of Judicature aforesaid ; that is to say, that the Supreme Court of Judicature is competent to exercise every Kind of Jurisdiction over all *British* Subjects resident in the said Provinces, and also over all Persons, whether Natives of these Provinces, or others resident in the same, who shall, at the Time when the Cause of Action instituted, or Complaint made against them, shall have arisen, have been employed by, or shall then have been directly or indirectly in the Service of, the said United *East India* Company, or of any of His Majesty's Subjects, or who shall have voluntarily made themselves subject to the Authority of the said Supreme Court of Judicature, in the Case of Contracts expressing such a Subjection ; and that the said Supreme Court of Judicature hath no Power or Jurisdiction whatever over Persons not answering to these Descriptions ; and that the Governor General and Council are competent to exercise every Function of Government, and every Right of Jurisdiction, not vested in the Supreme Court of Judicature as aforesaid, over all Persons, Natives or Inhabitants of these Provinces, who are either subject to the Civil or Military Government of this Presidency, or of the Territorial Acquisitions and Revenues of these Kingdoms, it being contrary to the Nature of Things that the Governor-General and Council should exercise such Authority over the said Territory and Revenues, and not over the Persons immediately possessing such Territory and Revenues, as well as to the Rights derived by the Governor-General and Council, in virtue of the said Act, from the President and Council and Select Committee of the said Kingdoms, who did exercise such Authority ; and further to exercise every Function of Government, and every Right of Jurisdiction, absolutely and exclusively over all Persons, Natives or Inhabitants of these Provinces, who are neither *British* Subjects, nor are, nor ever have been, employed by, or directly or indirectly in the Service of, the United *East India* Company, or any of His Majesty's Subjects ; and that it is also provided by the said Act, that the said Supreme Court of Judicature shall not be competent to hear, try, or determine any Indictment or Information against the said Governor-General, or any of the said Council, for the Time being, for any Offence (not being Treason or Felony) which such Governor-General, or any of the said Council, shall or may be charged with having committed in *Bengal*, *Babar*, and *Orissa* ; and that it is further provided by the said Act, that nothing in the said Act shall extend to subject the Person of the Governor General, or any of the said Council respectively, for the Time being, to be arrested, or imprisoned, upon any Action, Suit, or Proceeding, in the said Supreme Court of Judicature ; and that in Conformity to the two preceding Clauses, and evidently to render the same both effectual and consistent with the complete Administration of Justice, His most Gracious Majesty, by His Letters Patent, establishing a Supreme Court of Judicature at *Fort-William* in *Bengal*, after reciting that it had been lawful for the Mayor's Court to
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issue their Summons to the Governor or President and Council of *Fort William in Bengal*, to appear for the said United *East India* Company, and to compel their Appearance, hath granted, ordained, and appointed, that the Governor General and Council shall and may, from Time to Time, by their sufficient Warrant to be filed of Record, name and appoint some sufficient Person, resident in the Town of *Calcutta*, to be the Attorney of the said United *East India* Company, who shall remain and act as Attorney to the said United *East India* Company so long as he shall reside in *Calcutta*, or until some other fit Person there resident shall be appointed in his Place, in Manner above mentioned; and if any Complaint shall be filed in the said Supreme Court of Judicature at *Fort William in Bengal* against the United *East India* Company, the said Supreme Court of Judicature at *Fort William in Bengal* may, and is hereby empowered to, award and issue their Precept, directed to the Sheriff, commanding him to summon the said United *East India* Company, by their said Attorney, to appear at a Time and Place therein to be specified, to answer to the said Complaint, and the Sheriff shall serve the same upon the said Attorney, and the said Attorney shall thereupon appear for the said United *East India* Company; and that, after such Appearance, the said Supreme Court of Judicature shall, and may, proceed to hear, examine, try, and determine, the said Action and Suits, in the Manner specified in the said Letters Patent; and that it appears to your Petitioners, that the two Clauses above recited from the Act aforesaid, and the preceding Extract from His Majesty's Letters Patent, do amount to a virtual, but certain, Exemption of the Persons of the Governor General and Council from the Jurisdiction of the Supreme Court of Judicature in all Causes wherein the said United *East India* Company are Parties; that is to say, in all Causes originated from, or appertaining to, the Acts of the said Governor General and Council, done by them in their Character of Managers, or Agents, for the Affairs of the said United *East India* Company, it being certain that the said United *East India* Company can do no Acts in these Kingdoms, or Provinces, but through the Agency of the Governor General and Council, and that the said United *East India* Company can therefore only be sued for the Acts of the said Governor General and Council; and that therefore in all Suits instituted in the Supreme Court of Judicature, by Persons aggrieved, or supposing themselves aggrieved, by such Acts, such Suits shall lie, and be brought against the said United *East India* Company only, and not against the Governor General and Council; and Appearance shall be entered, for the said United *East India* Company, by their Attorney, so constituted as aforesaid, he being their only efficient Representative under the said Letters Patent; and that any Attempt of the Supreme Court of Judicature, to compel the said Governor General and Council to appear, and to answer to such Suits, is illegal, and contrary to the Intent and Meaning of the said Letters Patent, which must be understood to bear the Intent and Meaning which your Petitioners have ascribed to it, or none: That, notwithstanding the clear Limitation of the Jurisdiction of the Supreme Court of Judicature, and the Privileges and Immunities

nities granted to the Governor General and Council in the above recited Provisions made by the Act and Letters Patent aforesaid, the Chief Justice and Judges of the Supreme Court of Judicature have attempted to extend their Jurisdiction over Persons not answering to the Description of such as are subject to their Jurisdiction, and have advised, admitted, and, as your Petitioners have every Reason to believe, will attempt to enforce Suits, instituted against your Petitioners for Acts done collectively by your Petitioners, as Governor General and Council: The following being a Summary Relation of the Facts to which your Petitioners allude in this Representation, craving Leave to refer, for a more circumstantial Information of the same, to the Minutes of Consultation and Letters of your Petitioners, which have been transmitted and addressed to the Court of Directors of the said United *East-India* Company, and relate thereto, to wit: In or about the Month of *September* last a Suit was instituted in the Supreme Court by *Cossinaut Bobboo*, an Inhabitant of *Calcutta*, against *Raja Soondernarain*, the Zemindar of the *Pergunnabs*, or *Great Divisions of Land*, so called, of *Cossijurab* and *Shawpoor*; and on the 7th of the same Month your Petitioners were informed that a Writ of *Capias* had been obtained by *Cossinaut*, and sent by an Officer of the Court into the *Pergunnab* of *Cossijurab*, to be served on the said *Raja Soondernarain*, who, terrified by this Act, had concealed himself, and thereby became incapable of attending to the Collection of his Revenues, and of fulfilling his Engagements to the United *East-India* Company, for their respective Share thereof; your Petitioners, alarmed for the immediate Effects of this Proceeding, and for the general Loss which such an Example was likely to produce in the public Revenue of these Provinces, and knowing that the said *Raja Soondernarain* was not subject to the Jurisdiction of the Court, being neither a *British* Subject, nor at any Time heretofore ever employed by, or in the Service of, the said United *East-India* Company, nor of any *British* Subject, nor specially subjected to the Supreme Court in the Suit which had been commenced against him by any written Contract or Agreement to that End, did accordingly cause Notice to be given to the said *Raja* that he was not subject to the Jurisdiction of the Supreme Court of Judicature, nor bound to obey its Process; and on the 30th of *November* following your Petitioners received Information that the Writ of *Capias* had been returned unexecuted, and that a Writ had since been ordered to sequester the Lands and Effects of the said *Raja*, and to compel his Appearance, and that, to enforce the Execution of this last Writ, the Sheriff had dispatched a considerable Force to *Cossijurab*, consisting of *Peons*, *Seapoys*, and *European* Sailors, all compleatly armed, and instructed to use Force for the Execution of the Process, and even to fire upon any Person who should obstruct it. Hitherto the Powers of Government, vested in your Petitioners, had never been employed in relation to the Supreme Court, but in Aid of its Authority; they now found themselves reduced to the painful Necessity of opposing it, to assert their own Civil and Military Rights, to guard the

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the Property of the United *East India* Company, and eventually that of the *British* Nation, in these Provinces, from impending Danger, and to yield their Protection to the Country and People which were placed, under the Government of your Petitioners, from the Controul of a foreign Law, and the Terrors of a new and usurped Dominion. Impelled by these Considerations your Petitioners ordered a military Force to apprehend the Sheriff's Officers who had been employed to execute the Writ of Sequestration, with all their Followers. This was effected accordingly; and the whole Body, consisting of 86 Men, armed and arrayed, were made Prisoners, and brought to the Presidency, where the first Purpose of your Petitioners, having been thus accomplished, they were, by an Order of your Petitioners immediately released. It appeared that in the Execution of the Writ the Apartments allotted to the Female Part of the Raja's Family, which are ever held sacred in this Country, were forcibly entered, his Temple broke open and polluted, and the Image of his Worship thrust into a Basket; and deposited with mixed Lumber, under the Seal of the Court. Such Acts are accounted Instances of the grossest Violation and Sacrilege, according to the Principles and Persuasions of the Inhabitants of these Provinces, and have been never known to have been authorized with Impunity by the most despotic of their *Mahometan* Rulers. It is to be lamented that such a Reproach should have fallen on the Professors of the mild and benevolent Dictates of the Christian Dispensation; not as the Effects of a wanton Abuse of Authority, but as the necessary and unavoidable Operation of a Foreign Law, in the barbarous Attempt to force it on a conquered People. The Judges of the Court, enraged at this Resistance of their Authority; have declared their Resolution of inflicting exemplary Punishment on all Persons concerned or suspected of having been concerned in it. With an undistinguishing Vengeance they have ordered Attachments to issue against the Military Officer, whose Duty it became to execute the Orders of your Petitioners, on Mr. *Naylor* the Company's Attorney, and on Mr. *Swainston*, a Servant of the United Company, whose only Offence appears to have been an unfortunate Curiosity which led him to be a Spectator of what the Court hath termed a Rescue. Your Petitioners have granted to their Military Officer the Protection of the Troops with which he is stationed against any Attempts which may be made to arrest him; the other two named Persons have been thrown into the common Jail, and Mr. *Naylor* required to answer to Interrogatories, such as your Petitioners believe to be most repugnant to the wise and humane spirit of the *English* Law, and never before practised but in the Courts of Inquisition, being filled with Suggestions of criminal Accusations against Persons unnamed, and exacting the Violation of his public Fidelity, by revealing the confidential Instructions of his Employers and Clients, and the most sacred Ties of Society, by divulging the Secrets of private Conversation on general undefined and unapplied Questions. *Coffinaut Bobbo*, the Plaintiff in the Cause against the Raja *Soondernarain*, by the Advice, as your Petitioners are well informed, of the Court, has lately instituted a Suit against your
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Petitioners, and your Petitioners have been severally served with Summonses to appear and answer to the same, but have refused to appear, both because they conceive themselves not to be answerable in their own Persons for Acts done by them as Governor General and Council, and because the Plaint which was filed against them, is founded on their Resistance to the unlawful Acts of the Judges of the Supreme Court of Judicature. Such hath been the Progress of this unhappy Division, and such is the present State of it. What the Consequences may prove your Petitioners cannot foresee; but are morally certain, that nothing but a determined and unshaken Perseverance on their Part in the Line which they have marked out can save these Provinces and the Interests of the United *East India* Company, and of the *British* Nation, which are inseparably connected with them, from the Danger of utter Ruin; and that your Petitioners are informed, that many other Suits or Actions have been commenced in the Supreme Court against other Zemindars of these Provinces; such, for Example, as the Rajas of *Tirboor*, *Daenagepoor*, and *Beerboom*, Men of high Rank, and the Descendants of Ancestors not very remote, who commanded Armies, and possessed the Rights of sovereign Dominion over the Reiats or Vassals of their respective Zemindaries; that all the Zemindars of these Provinces, and the above-named more especially, are indebted in enormous Sums, exceeding, as your Petitioners believe, the Amount of the whole Annual Revenue of these Provinces, for Debts mostly accruing from extorted Donations, from the usurious and accumulated Interest of many Years, and from other Means which are equally contrary to the Laws of *England* and to their own, but capable of being established in an *English* Court of Law, by existing Bonds or other written Agreements; that, besides the Injustice of subjecting the said Persons to a Foreign Law, with the Forms, Process, and Language, of which they are unacquainted, they would by such a Controul be wholly emancipated from the Government of your Petitioners, and their Revenues lost to the United *East India* Company, and to the *British* Nation, since it would be impossible for your Petitioners to exercise any Authority over them while they were under the actual and superior Controul of the Supreme Court; and the Decrees of the said Court, being absolute, and admitting of no Qualification, would always take Place of the Claims of your Petitioners in Behalf of the United *East India* Company, and, by the Terrors annexed to them, would be even preferably obeyed by the Zemindars themselves, and in many Cases serve by Collusions or other easy Means as a Pretext to screen them from the Authority of your Petitioners; and that, by such Effects, the whole Revenue would be lost to the United *East India* Company, and to the *British* Nation: That the Consequences, which your Petitioners have above described as likely to result from the Extension of the Jurisdiction of the Supreme Court of Judicature to the Zemindars of these Provinces, would prove at this Time the Causes of others yet more alarming, inasmuch as your Petitioners are charged with the Defence of these Provinces, in which they possess a precarious

Dominion of a few over Millions, a Dominion established by the mere Influence of Opinion and a long Season of domestic Peace, but at this Time assailed with many surrounding Dangers, in the Share which it participates with the rest of the *British* Empire in a War with the most powerful States of *Europe*, regarded with a jealous Eye by all the Nations of *Indostan*, and at this Time engaged in a War with the first in Power and Consequence amongst them: That the Loss of the Whole, or any considerable Failure in the Revenue which the United *East India* Company derives from these Provinces, would be certainly followed by that of their Existence in them, as your Petitioners do at this Time maintain a large Military Force in the Pay of the United *East India* Company, which would be excited to Mutiny and Revolt whenever your Petitioners were no longer able to pay it; and that such an Event, besides its immediate Danger, would occasion an Invasion of these Provinces, a Calamity which your Petitioners are warranted to foretel by the like Effect of a like Cause, which actually happened in the Year 1764; and that your Petitioners being in such a Case deprived of the Means of Resistance, these Provinces, and the *British* Dominion in *India*, must fall a certain Sacrifice to the ultimate Effects of the Exercise of an impolitic, unnatural, and lawless Authority: That your Petitioners are also of Opinion, that the Attempt to extend to the Inhabitants of these Provinces the Jurisdiction of the Supreme Court of Judicature, and the Authority of the *English* Law, and of the Forms and Fictions of that Law, which are yet more intolerable because less capable of being understood, would be such a Constraint on the Minds of the People of these Provinces, by the Difference of such Laws and Forms from their Laws, Habits, Manners, and Religious Principles, which under every successive Constitution of the former Governments have been respected and supported, as might inflame them, notwithstanding the known Mildness and Patience which constitute their general Character, to an open Rebellion, less indeed to be apprehended in a Time of Peace, but certain in the Event of an Invasion; and that such an Evil occurring, in Addition to the others already described, would add to the National Calamity the National Reproach of having deservedly incurred it: That your Petitioners have judged it adviseable to resort to the Means of open Resistance to the Acts of the Supreme Court of Judicature on this first Occasion, to prevent the Example from spreading, by the Encouragement which would be given to artful and rapacious Men, under the Instruction of the Attornies of the Supreme Court of Judicature, and the loud Invitations of the Judges themselves, to commence Actions against the other Zemindars of these Provinces, your Petitioners being convinced, that such would be the Effect of allowing the Judgment of the Supreme Court of Judicature to operate on your Petitioners, and equally certain that the Mischief will be in a great Measure suppressed by defeating the Ends of it, and precluding the Hopes of Gain in the Prosecution of it; that, therefore, your Petitioners have resolved, that they

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will not suffer any Judgement which may be given against them in the present Cause to be carried into Execution against either their Persons or their Property, deeming this a Case of extraordinary Urgency, which requires them to assume a dangerous Personal Hazard and Responsibility for the Defence and Preservation of the Property and Interests of the United *East India* Company, and of the *British* Nation collectively in these Kingdoms: That, in the preceding Instance, and in the Protection which they have given to their Military Officer, who was employed to apprehend the armed Force sent by the Sheriff against the Raja of *Cossijura*, your Petitioners are aware that they may be deemed to have offended against the strict Form and Letter of the Law, and are apprehensive that other Cases will multiply, which will oblige them to have Recourse to the same Means of Defence, if the Judges of the Supreme Court of Judicature shall persevere in the Course which they have begun; but your Petitioners hope, that a due Allowance will be made for the Necessity under which they act, which leaves no Alternative but Public Ruin, if they submit to the Jurisdiction assumed by the Supreme Court, or Personal Ruin if they oppose it, and are to be made liable to the same Penalties which would attend the resisting a lawful Jurisdiction; and that it will be considered, that as the constitutional and discriminating Lines by which the Wisdom of Parliament hath marked the System of Government in these Kingdoms, have been broken by the Judges of the Supreme Court of Judicature, and as a Resistance to that Violence has been a necessary Obligation on your Petitioners in the first Instance, all the irregular and extraordinary Acts which such Resistance may draw after it ought to be imputed to the first Aggression, as the primary and efficient Cause of them; that your Petitioners do not presume either to pray for a Remedy to the Evils of which they have complained, nor to point out the Means by which, in the Opinion of your Petitioners, such a Remedy might be obtained and applied, the former being, as they conceive, the proper Concern, and the exclusive Province, of the United *East India* Company, and the latter depending only on the Wisdom of the *British* Parliament; that the Design and Prayer of your Petitioners is, and your Petitioners do accordingly most humbly pray, that they, and all others acting under their Authority, may be indemnified against all the legal Consequences of their Proceedings in the Cases herein above recited and suggested, and that an Act of Parliament may be passed for that End; that your Petitioners, being freed from every Personal Concern, and from the Vexations and Anxieties incident to their present Condition, may devote their whole Time, Attention, and Labours, to the Discharge of their prescribed Duty, and to the Advancement and Prosperity of the great National Interests committed to their Charge.

March 14, 1780.

Signed, &c.