Sir

The Vessell, by which this goes, being an Express sent to the Lords of the Admiralty, with an Account of the Arrival of a fleet of French Men o' War at our Neighbouring Island of Martinique, and of their daily expectation there of a reinforcement from a fleet of Spanish Ships of War, which give our Sugar Colonies great uneasyness; especially because of the Weakness of our fleet of Ships of War here which cannot look the Enemy in the face (of all which you will be more properly informed from better hands) I can now only acquaint you that I have received your Letters of the 28th. of May, 19th. of August, and 14th of November last with the Papers therewith transmitted concerning the Affair of your Brother Sir Joseph's Children and the Heir of Samuel Bruno; all which I have laid before your Lawyers here, who are considering of the proper Steps to be taken in pursuance of Mr. Attorney Generals Opinion and the other Papers sent therewith. The frequent Alarms we have had for some Months past and what we daily expect have been a great hindrance to Business and probably will greatly delay Proceedings in the Courts of Judicature till our fears are removed by a reinforcement from Home, and in the Mean time I am desired by your Lawyers here to acquaint you, that they observe from your Letter of the 28th. of May that your Lawyers in England are somewhat surprised that the Accon of Ejectment was brought in your Name and not in the name of Sir Joseph Eyles's Son and Heir But had the Kings Order on hearing the Appeal and the nature of the Proof of the Heirship transmitted hither been advertised to, his apprehended your Lawyers in England would have more fully signify'd to us their Sentiments on that Head, the whole having been thoroughly considerd by your Lawyers here before the Action was brought.

The Kings Order runs in these Words. "That the Respondents Bill be "retained for two years from the date of the said Order in which time he is to be at

Liberty

"Liberty to bring an Accon of Ejectment either in his own Name or in the Name "of the Heir at Law of Sir Joseph Eyles in the proper Court in Barbados for such "part of the Mortgag'd Premises for which an Ejectment will lye". —— This is a Mortgage in Fee forfeited; wherefore the Ejectment ought to be in the name of the Heir at Law of Sir Joseph Eyles — Two — if it could be proved that Joseph Eyles the Son is the Heir at Law of the Mortgagee. —— That can be done by the Affid.t of Edward Barrier taken before the Lord Mayor of London and transmitted under the City Seal, — No, — 'tis apprehended that Affid.t will not be received as Proof on the Trial of a Title in Ejectment because it was taken in pursuance of the Act of the 5.th of King George the 2. Intitled An Act for the more easy Recovery of Debts in his Majesty's Plantations and Colonies in America which does not include or make any express Provision how Evidence on the Trial of a Title in the Colonies is to be taken and transmitted but for the Recovery of Debts only. and therefore tis conceived that the same Evidence must be given on this Trial as would be required on a Trial of the like nature in England in Case that Act had never been made. These Considerations, and for that the Kings Order makes no distinction between a Mortgage in Fee (which was then under the Contemplation of the Lords of Appeals) and a Mortgage for a Term of years, of which they had no Notice, induced your Lawyers there to choose the Alternative and to bring the Accon in your Name to which no Exception was taken by the Deft. —— But all this is Submitted to the Consideration of your Council at Home and I humbly Request that you would Order a Case to be stated on that Head and get Mr. Atty Genl.s Opinion thereon and send it by the first Opportunity, since the same Doubts will arise on bringing a New Action in the name of the Heir &c, as did on the other, if the Court of Chancery should now change the Venue.

I now

I now beg leave to conclude with assuring you that in all other your Affairs as well as in this of so great importance you may depend on my best Services being with great Regard

Sir

Your most Oblig'd Humb: Serv:

Wm Rawlin

Barbados May 7th 1745

Sir John Eyles Baronet in London

Wm Rawlin
Barbad. May 7th 1745
recd in Lond. June 13 do.

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