

18 ACTS OF THE PRIVY COUNCIL (COLONIAL).

1702. § 80 *cont.*]

for passing an Act to settle the revenue, from March till October, as the Governor has not yet been despatched.

8 Dec. [81.] NEW HAMPSHIRE. *Allen v. Waldron*. Committee II. p. 366. report : and Allen's petition, read 17 Dec.

10 Dec. [82.] MARYLAND. *Governorship*. Petition of merchants trading to Maryland for the appointment of Captain Matthew Smyth (55 signatures).

10 Dec. [83.] ST. CHRISTOPHER. *Act*. B. of T. representation for II. p. 852. disallowing an Act for the settling and strengthening his Majesty's part of this island, in agreement with the opinion of the Attorney General. (1) Attainting persons not named is useless, as no one could be executed under such an Act without a trial ; if it were done, it would be a very bad precedent. (2) It is unjust to attain those of the conquered who remained in their habitations and submitted. (3) It is unreasonable to destroy all titles in the Crown or its grantees of over twelve years standing, the Act not being restricted to those who had not had possession or begun their suits within that time. (4) It is unreasonable to make void patents passed by the Governor without the consent of the Council ; if a previous law forbids this practice, the titles can be proceeded against at law. (5) It is unreasonable to make patents void for non-improvement in three years, as no previous law required such improvement within any limited time. (6) It is unreasonable to declare void patents passed to papists since the beginning of the war, as this would also make void assignments by them to Protestants for valuable considerations.

17 Dec. [84.] NEW YORK. *Appeal from condemnation for treason*. II. p. 414. Petition of N. Bayard ; and Order of reference to the Committee. Bayard was tried before Special Commissioners appointed for the purpose. There were only 11 jurors, several of whom were aliens. The libels on which the charge was founded were addresses to the King and Parliament containing just

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complaints lawful for English subjects to make, and an address of congratulation to Lord Cornbury on his arrival. The addresses were not produced at the trial, nor was full proof made that Bayard had signed them or caused others to sign them. Reasons offered by him in arrest of judgment were not answered, but overruled; and he was sentenced to death. Only short minutes of the trial were allowed to be taken by the Clerk, who died before the Order of 2 July for the transmission of records arrived in New York. The papers were sent up to Albany (150 miles) to be examined and signed by Lord Cornbury, but the public seal being at New York it could not be affixed in time, the ships sailing before the Governor's return from Albany.

[85.] JAMAICA. *Compensation for impressment of ship* 17 Dec.  
JOSEPH. Petition of Sir John Fleet. The owners could get II. p. 251.  
no return from the Committee to the reference of Oct. 1693  
till 10 Nov. 1702. The Committee now declare that the  
petition does not properly lie before them and they can take  
no cognisance of it; and that they cannot return the papers  
as they are fixed in the Book of their office.

[86.] VIRGINIA. *Convoys*. Admiralty memorial. 23 Dec.  
II. pp.  
425-6.

[87.] NEW YORK. *Acts*. B. of T. representation for 31 Dec.  
disallowing six Acts, and for removing five councillors and II. pp.  
appointing others. (1) An Act for continuing the revenue &c., 849-50,  
"is in effect little more than a specious pretence for giving 425.  
away divers sums out of the revenue to several persons who  
have been since discharged by his Lordship from their employ-  
ments for misbehaviour in the government, and does not  
seem to be otherwise necessary, because a former act for  
settling the revenue does continue in force till 16 May 1705,  
before which time we presume the Lord Cornbury will have  
taken further care in that matter." (2) An Act for paying  
the debts of the government &c., tends to charge the province