

presented the bill and the court was possessed of it; it was now a record and there is no averment against a record. It was ordered, that the prisoner come to trial on Monday next; to which day the court adjourned accordingly.

March 2.

*Mr. Nichol* moved that the indictment might be quashed, not being found by twelve men. The Court overruled the motion and called on the prisoner, Nicholas Bayard, to plead.

The indictment charged that he, the said Nicholas Bayard, by conspiracy as aforesaid; afterward to-wit, the said tenth day of December last past, in the year aforesaid, in the said city and county of New York aforesaid, and divers other days and times as well before as after, falsely, maliciously, advisedly, clandestinely, rebelliously and traitorously, with force of arms, etc., did use divers indirect practices and endeavors to procure mutiny and desertion among the soldiers in pay belonging to his Majesty's fort and garrison of Fort William Henry, in or near the said city of New York aforesaid, and did draw in numbers of them the said soldiers and others to sign false and scandalous libels against his Majesty's said government, as it is now and has for several years last past been established in this province; which said libels by the procurement of the said Nicholas Bayard, as aforesaid, were signed by the said soldiers and others, and were likewise signed by him the said Nicholas Bayard; in one or more of which said libels amongst other things highly reflecting on the last and present administration of the government under his Majesty in this province it is insinuated and declared that his Majesty's subjects within this province are and have been for some years last past by persons entrusted with the administration of said government under his Majesty, oppressed; and that the said government hath been and is rendered cheap and vile in the eyes of the people as also that the present general assembly of this province is not a lawful assembly. By which and divers other malicious scandals in the said libels contained he, the said Nicholas Bayard hath incited his Majesty's subjects of this province to disown the present authority and government thereof and to cast off their obedience to his Majesty's said government as it now is and hath for several years been established, against the duty of his, the said Nicholas Bayard's allegiance; against the peace of our said sovereign Lord the King that now is, his crown and dignity, as also against the form and effect of one statute or act of general assembly of this province, enacted in the year of our Lord God, 1691, entitled "An act for quieting and settling the disorders that have lately happened within this province and for establishing and securing their Majesties' present government against the like disorders for the future."

*Col. Bayard.* I plead not guilty and put myself upon God and the country.

The following petty jurors were sworn: Isaac Stoutenburgh, Jacob Vander Spiegall, Andries Marshalk, Gerret Viele, Thomas