

complaining is made treason! Here is a strange and fatal dilemma on the subjects of the plantations. They must either suffer their oppressions, or be hanged for traitors if they complain.

The act of assembly of this country can by no natural or legal construction be extended to make the prisoner culpable. It is plain by the whole purport of the act, that it has made no new treason; it only recognizes the king and queen; and enacts, that those who shall do any thing destructive to that establishment, by force of arms or otherwise, shall be rebels and traitors; which they would be without this act. If this address and petition had been to the French king, the thing had been of another nature. By the same construction, every petty battery, or other little trespass, may be a treason.

The petition of Colonel Bayard and the other three is so far from disowning the government, that it is a direct acknowledging of the same. The direction of the petition is, to the lieutenant governor and the council. The expression "that they have advice that Lord Cornbury is to succeed the Earl of Bellamont" can with no justice or common sense be construed to be a disowning and casting off of the government.<sup>2</sup> I think it will hardly be affirmed, that the council succeeded the Earl of Bellamont, and Captain Nanfan the council; if so, after the Earl of Bellamont, who was captain general? We had seven captains-general which is an absurdity, I suppose, none will allege. A familiar example will demonstrate the weakness and falsity of this construction. If a captain of a company be killed or absent, the lieutenant or next officer has the full command of the company, as the captain had, or could have; but I think no man will say he succeeds the captain, or that when another captain is appointed he succeeds that lieutenant or other officer. So that I cannot think there is any fact or crime alleged or proved against the prisoner, to charge him with this high crime of treason, or indeed with any other crime whatsoever.

<sup>2</sup> Some time after the Earl of Bellamont's death, Captain Nanfan, the lieutenant governor, was at Barbadoes.