

*Mr. Emot.* By Your Honor's permission, I am of counsel for Colonel Bayard, the prisoner at the bar; but by reason I am unwilling to spend too much of your time, this trial already having been very long; and Mr. Nicholl, who is also of the counsel on the same side, having amongst other things made it very evident, that for the subjects to petition his majesty is their ancient and indubitable right; I shall therefore make it my business only, as near as I can, to demonstrate to this court and jury, that had the king's counsel made ample proof that all the matters of fact alleged in the indictment, as the signing the addresses, and other things therein contained, were true; yet, in point of law, they cannot amount to that grand crime of high treason.

He then made an elaborate, learned, and able argument upon the law of treason, in which he examined all the authorities upon the subject, and exposed with great clearness and force, the absurdity of supposing the acts of the prisoner to constitute the grave crime of high treason. He then commented upon the act of the assembly, arguing that it had no relation to a case like this; and contended, in conclusion, that the jury were judges of law and fact. Matters of law, he admitted, were the most common and proper objects for the determination of the judges, yet as law arose out of and was interwoven and complicated with fact, it could not but fail under the jury's consideration.

*The Prisoner.* I desire some of my evidence may be called to give an account of my life and conversation. (Which was granted.)

*Mr. Vesey.* Am minister of Trinity church; have been for six years personally acquainted with Col. Bayard; during which time his life and conversation recommended him in the world as an exemplary christian; and the frequent expressions of his zeal and affection to his majesty's person and government con-

vinced me that he was a good subject.

*Capt. Tudor.* Have known Col. Bayard 26 years; a moderate, civil, good man; has been employed in almost all offices of the greatest trust in the government; never disaffected, but stood up for the Protestant religion and King William.

*The Prisoner.* To prove that I have upon sundry emergencies, during the late war, advanced of my private fortune