

In the year 1642, an act was passed, ordaining punishment for certain greater capital offences, in which were comprised all offences done within the province, which are declared treasons by statute of 25 Edw. 3, Ch. 2, and all offences of conspiring the death or destruction, or of attempting any violence against the person of the lord proprietary, &c. or of holding any private intelligence with a declared enemy of the province, or of rising in arms or mutinying against the lord proprietor, &c. This act was at first of very short duration; but it was re-enacted at another session in the same year, and expired in 1645.

An act was passed in 1649, (Ch. 4,) for the punishment of certain offences against the peace and safety of the province, which related only to mutinous and seditious speeches, practices or attempts, with or without force.

No other act respecting treason was passed in the province, and the necessity of enacting that of 1642, arose probably from the opinion at first entertained, that in criminal cases, the statutes of England did not extend to the province; and to the change of that opinion may be attributed, the circumstance of no further acts being passed on this subject.

In 1658, there was an *information* by his lordship's attorney, against F. J. for practising of *treason* and sedition, and giving out rebellious and mutinous speeches; a part of which was demurred to, and the rest determined not to be rebellious, &c. The prosecutions against Gerard, Fendall, and others in 1660, were for mutiny and rebellion.

The act for the outlawry of Richard Clarke, (1705, Ch. 5,) recited, that there had been a very wicked and treasonable conspiracy begun and carried on by him and others, to seize upon the magazine, and upon the governor, &c. and a similar charge was made in the act, for his attainder of high treason.

In 1706 and 1707, there were indictments against several persons, for feloniously and traitorously receiving and comforting the said Richard Clarke, one of whom was pardoned, and the others acquitted.

No other cases have been found under the provincial government.

By the act of February 1777, to punish certain crimes and misdemeanours, and to prevent the growth of toryism, (Ch. 20, S. 2,) it was declared, that if any subject or inhabitant of this state, should within or without the same, and if an inhabitant of any of the other states, should within this state, levy war against the United States, or any of them, or should adhere to any person bearing arms or employed in the service of Great-Britain, against the United States, or any of them, or should afford such persons, or any of them, any aid or comfort, or should give them, or any of them, or any subject of Great Britain, any intelligence of the warlike preparations, or designs of the United States, or any of them, such person should be adjudged guilty of treason against this state, and should suffer death without benefit of clergy, and forfeit his estate; and that the several crimes aforesaid should receive the same construction that had been given to such of the said crimes as were enumerated in the statute of Edward 3, commonly called the statute of treasons. A part of this act, (although not so limited,) may be said to have been in force only during the war with Great Britain; but there is nothing in the first part but what may be applicable to our present situation, and still in force, except the levying war against the United States, which is provided for by the constitution of the general government.

The act for the better security of the government, (October 1777, Ch. 20, S. 28,) although probably made with a view to the former act, spoke generally of persons guilty of high treason, and directed how they might be outlawed; and the 29th section provided, that no person should be tried for any treason or misprision of treason against the state, unless the indictment should be found within