

Quarter-Master for whom good Bail would have been given, and an insurmountable Difficulty in his Case cured. He persisted however in bringing it against the Colonel, and at Trinity Term last requested a special Jury, and served the Issue with Notice of Trial at that Term. The Defendant's Counsel was in daily Expectation of Custom House Documents and other Proofs from Antigua. He therefore made no Objection to the Notice at the Time it was delivered, but afterwards on Mr. Taylor's pressing to have the special Jury struck, and the Day fixed, he was told a Motion would be made for a Continuance of the Cause to the next Term, the Proofs expected, not having arrived. It was made, and the Court thinking the Reasons offered, to be sufficient, ordered the Cause to stand over. The next Day Mr. Taylor came in with an angry Petition from his Client, stating the Hardships they laboured under, in having brought Witnesses from Cape Breton, at great Expence, which they were maintaining here, and further, that the Cause had been continued, without any Affidavit of the Facts alledged for it. To obviate the first Complaint, an Offer was made by the Defendant's Counsel, to consent, that the Depositions of the Witnesses attending, should be taken *de bene esse*, before a Magistrate, and be filed as Proofs in the Cause, and used at the Trial, as if the Witnesses were themselves present, and their Attendance be no longer required; and to obviate the other Ground of Complaint, an Affidavit was made by the Defendant's Counsel (his Client being in England) stating, that he was in daily Expectation of receiving the Custom House Documents, with the Manifest and Entry of the Ship, in which the Goods, (for which Payment and Freight were demanded) were said to be shipped, and which he had advised his Client to send for, as material in the Defence,—that these Papers had not arrived, but would probably be here before the next Term; and thereupon, the Continuance entered the preceeding Day was ordered to stand. It was on this Occasion, that Justice Brenton said to Messrs. *Sterns* and *Taylor*, that it was not usual, to insist on Affidavits from each other, in Cases of this Sort—that he thought the *Attorney General*, who was the Defendant's Counsel, entitled to the Continuance he had prayed for, and that the Court should always be inclined to indulge him, as far as they could, in his private Causes, on Account of the Fatigue he was obliged to go through in conducting the Criminal Business. It is this Declaration of Mr. Brenton's, which, I suppose, gave rise to the Charge against the Court of manifest and avowed Partiality towards the *Attorney General* as a Practitioner, which is stated in the Memorial to the *Lieut. Governor*.

The next Article of Charge is, That “*he had known then, after Exceptions taken to their Opinion in the Course of a Trial and fairly stated by the Council taking them, to altogether deny, or materially alter the said Opinion.*” In support of this is cited, the Case of *Copland vs. Holmes*. It is remarkable, that of the five Causes cited by Mr. Taylor, three of them were argued by Mr. *Sterns*, and Mr. Taylor has only repeated the Objections made at their Trials by his Friend; and yet, that the Cause of *Copland vs. Holmes*, is the only one in which they have concurred in complaining of the Judges conduct. That Cause was tried by a special Jury of Merchants, and a Verdict given for the Plaintiff, to the very general Satisfaction of the mercantile Interest. The Bill of Exceptions was not signed, because, as I have before observed, it was objected to by the Counsel on the other Side, and did not agree with the Notes or Recollection of the Court.

The next Allegation is, “That “*he had known them often retract, or enlarge the Rules of Practice, as he conceived for the Purpose of favoring Parties, and to justify such Conduct sometimes by applying the Rules and Practice of their own Court, and at other Times, that of Westminster-Hall, as it best suited their Purpose.*” If Mr. Taylor had been better acquainted with the Practice of the Supreme Courts of Judicature in the Colonies, than he appears to be, he would have known that the general Rule is, to make the Practice in the colonial Courts correspond, as nearly to that of the Court of King's Bench, as the local Circumstances of the Provinces would admit, and that where such Circumstances require it, Rules of Practice, applicable to the Country, are adopted, instead of the King's Bench Rules. This he will find to be the Case at Halifax, if he will give himself the Trouble to search the Book of Rules of the Supreme Court: But that this Rule, or any other, has been abused for the Purpose of favoring Parties, is a Reflection as void, I believe, of Foundation, as it is scandalous and indecent.

The next Charge is, That “*he had conceived them often to misdirect the Jury, both as to Matters of Fact and Law.*” How far Mr. Taylor is a competent Judge of these Matters let professional Men decide; but it would be hard indeed that a contrariety of Sentiment in their Accusers, should operate to the Injury of the Judges. Mr. *Sterns* says, that Juries pay no Regard to their Opinions, and therefore they are unfit for the Offices they hold; but Mr. Taylor would have them removed, because they often misdirect Juries. It is fortunate, that a Conspiracy so long in Train, as these Men have confessed theirs to be, should be so ill-concerted,

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